

Regular City Commission Meeting

Mayor Winters presiding

**CALL TO ORDER:** 7:00 PM

**PLEDGE OF ALLEGIANCE** – Cub Scout Troop 26

**ROLL CALL:** City Commissioners present: Michael J. Winters, Robert Jones, Bill Bronson, Mary Jolley and Fred Burow. Also present were the City Manager, Acting City Attorney, Directors of Fiscal Services, Park and Recreation, Planning and Community Development and Public Works, the Executive Director of the Housing Authority, Interim Library Director, Fire Chief, Police Chief and the City Clerk.

**PROCLAMATION:** Mayor Winters read a Proclamation for Black History Month.

## **NEIGHBORHOOD COUNCILS**

### **1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

**NC 7.**

**1A. Aaron Weissman**, Chair NC 7, encouraged the Commission to take slow, reasoned action on the medical marijuana issue due to the complexity and lack of information of the subject.

**NC 8.**

**1B. Karen Grove**, Chair NC 8, encouraged attendance at the next regular meeting of NC 8, February 18, 2010, at 6:00 p.m. at the Great Falls Pre-Release Center. The Council will discuss problem homes in the neighborhood, and Sheriff Castle will provide an update of his department.

## **PETITIONS AND COMMUNICATIONS**

### **2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters opened the meeting to Petitions and Communications.

**Executive Session.**

**2A. Travis Kavulla**, 725 49<sup>th</sup> Street South, expected the City to take action at this meeting to appoint a representative to attend a special SME meeting. Acting City Attorney Chad Parker explained that litigative interests have been implicated by that matter and it was withdrawn from the agenda. Mr. Kavulla continued that any move to executive session has to be confined to a particular matter of litigation as well as an issue raised within that lawsuit. Mr. Parker responded that the matter of litigation is the Yellowstone Valley lawsuit.

**Black Eagle Road, North Point Industrial Park.**

**2B. Brett Doney**, Great Falls Development Authority, residing at 3048 Delmar Drive, reported that the U.S. Department of Housing and Urban Development has given final approval for a \$950,000 grant to the Great Falls Development Authority for the first improvements to Black Eagle Road. He thanked the City for its initial \$26,000 investment from the Malt

Plant Tax Increment Financing District to hire an engineering firm to look at transportation access to open up the area for industrial development. Two businesses have built facilities in the North Point Industrial Park. Through the efforts of the congressional delegation, GFDA also received \$500,000 to build the second part of the park. An engineering firm will be hired and will oversee the bid process. He hoped to have the first improvements under construction by mid-summer.

**SME, ECP.**

**2C. Larry Rezendes**, reported that he is a CPA residing at 2208 1<sup>st</sup> Avenue North. Mr. Rezendes referred to a *Tribune* article and expressed disapproval of what was reported to be agreed to, which he believed was to accept substantially all of the development arm's personal property and agree to a lease by the members of SME Electric of the plant's site and to authorize the execution of financing documents. Mr. Rezendes expressed concerns about the lack of information regarding the terms of financing, terms of the lease, and the inconsistency now that the City is only an equity participant in the outcome of the HGS project. He doesn't believe the City should pursue that opportunity and encumber the City with respect to its future options and consideration of the termination of ECP.

Mr. Rezendes asked what the amount of the deposit was that remains to be provided for one month's payment.

Finally, Mr. Rezendes requested that the Commission consider changing the format of the meeting with Burns & McDonnell to allow the public an opportunity to exchange views freely with the consultants.

In response, Mayor Winters noted that all public comments have been taken into consideration by the Commission. The Commission has not given consideration to closing down ECP, the Commission is studying the process. After the facts and figures are studied, then a conclusion will come about.

Fiscal Services Director Coleen Balzarini explained that the amount of the deposit is the total of twelve months divided by 12 to determine what the average utility payment is. She doesn't have the numbers with her, but the number was less than \$800,000 and the City had about \$175,000 remaining to pay on the deposit.

Mr. Rezendes responded that was inconsistent with the numbers he has seen. He stated his position that the City has been in violation of Ordinance 2925 and with these amounts of deposits and capital outlays, it underscores the proposition that the City is draining cash to support Electric City Power.

With regard to the format of the Burns and McDonnell meeting, Commissioner Bronson commented that Burns and McDonnell will be given an opportunity to publicly respond to the collection of questions from the Commission and ECP Board members. During that time a lot of the

answers people are looking for will come out. Time will be left at the end for the public to ask questions or make comments. He further explained that this meeting is just one step in a long process. The Commission is ultimately going to have to make decisions that require public hearings and the public will have ample time to comment during those sessions as well.

**Cable 7, SME.**

**2D. Aart Dolman**, 3016 Central Avenue, introduced two Cable 7 applicants and noted that Richard Liebert applied as well. He and others had the opportunity to review the Cable 7 files. Mr. Dolman reported that the members will submit a business plan and proposed budget on February 26<sup>th</sup>. He requested the Mayor direct him to the City's legal staff to answer questions the new Board members have regarding Cable 7. City Manager Greg Doyon suggested Mr. Dolman meet with him to assess whether or not it would be appropriate for City staff to assist an independent board with legal questions.

Mr. Dolman commented that he hasn't received a response to his request for SME's policy for records retention and destruction. He asked if the delegate that attends the SME Board meeting this week could bring the issue up to the that Board.

**Sign Code.**

**2E. Chris Kelly**, 1914 1<sup>st</sup> Avenue South, commented that Kelly's Signs is a locally owned and operated sign corporation located at 2315 12<sup>th</sup> Avenue South. Ms. Kelly read the intent and purpose of the sign code. She referenced statements from the minutes of the meetings from October and November, 2000. It appears to her now that one individual contractor has dictated the functions of the entire sign industry in Great Falls. Many individuals are now opting away from advertising via a sign because the process has become so cumbersome. Rather than adhering to the original goals of promoting a positive economic and business climate, the code now has done the opposite by creating a climate of frustration. Businesses and, particularly, the sign businesses are suffering. Ms. Kelly also discussed permits not being approved in a timely manner. The form and information required for the permit is cumbersome and time consuming which results in loss of revenue. Also, just to replace a sign front, the new regulations require professional inspectors to look at the electricity to the sign which is costly. Ms. Kelly further discussed the restrictions on allocation for allowable sign space in multi-tenant rents and requiring permission statements from property owners has become a significant burden. She suggested that the City eliminate the banner fee, multi-tenant allocation requirements, owner permission statement, and requirements to replace the face on an electrical sign.

City Manager Doyon noted that in the past month the City has heard the extremes of both sides of the issue. Ms. Kelly's suggestions are well taken. He will ask staff to review the code for necessary adjustments and provide feedback to the Commission.

**Burns & McDonnell questions, newspaper articles.**

**2F. Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, noted that the Burns & McDonnell questions submitted by the Commissioners and ECP Board members and compiled by Commissioner Bronson were not yet posted on the City's website as discussed at the February 1<sup>st</sup> meeting. Mr. Gessaman reported that he has a copy of the 2009 Annual Report of Southern. He also discussed newspaper articles regarding Google's deadline of March 26 to apply for super fast network in the community, an explosion at a Connecticut gas plant, Malmstrom's environmentally friendly sidewalk project, and Billings being ranked as the third drunkest city in the United States.

**Sign Code, newspaper articles, Yellowstone and the economy.**

**2G. John Hubbard**, 615 7<sup>th</sup> Avenue South, discussed repealing the sign fine, China receiving \$450 million in stimulus monies to build wind mill generators, funds cut from the Health Department, and his idea of an accountability law. He also expressed concern about the geothermal problem in Yellowstone, as well as taxes and recession.

### **PUBLIC HEARINGS**

**Res. 9874. Public hearing vacated and rescheduled for March 16, 2010.**

### **3. RESOLUTION 9874, ESTABLISHING WATER, SEWER AND STORM DRAIN UTILITY SERVICE RATES.**

Public Works Director Jim Rearden reported that the proposed rates were presented at the January 19, 2010, City Commission Work Session. That evening, the City Commission amended the proposal and set the public hearing date for this evening. Public notice was published three times in the *Tribune* and individual customer notices were mailed in the utility bills. However, due to the use of an incorrect insert by the mailing service, the 5% sewer increase was noticed instead of 7.5% pursuant to the City Commission's motion. Thus, staff is requesting that the City Commission vacate tonight's public hearing and reschedule the public hearing for March 16, 2010. Re-advertising will occur in the interim and the new rates will take effect approximately April 1, 2010.

Fiscal Services Director Coleen Balzarini added that the cost for printing and mailing will be absorbed by the printing company.

**Commissioner Bronson moved, seconded by Commissioners Jones and Jolley, that the City Commission vacate the public hearing on Resolution 9874 scheduled for February 16, 2010, and reschedule the public hearing for March 16, 2010, on Resolution 9874 Establishing Water, Sewer and Storm Drain Utility Service Rates effective April 1, 2010, to allow for individual customer notice requirements as set forth in § 69-7-111, MCA.**

Mayor Winters asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Winters asked if there were any inquiries from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that this was another illustration of not paying attention to detail.

**Aart Dolman**, 3016 Central Avenue, suggested the positive and negative views be noted in staff reports so the public would have a better understanding of the matter.

Motion carried 5-0.

### **OLD BUSINESS**

### **NEW BUSINESS**

**Interlocal Agreement,  
Rural Fire Districts.  
Tabled for March 2,  
2010.**

#### **4. INTER-LOCAL AGREEMENT, RURAL FIRE DISTRICTS.**

Fire Chief Randy McCamley reported that approval of the agreement will allow the Fire Department to continue to provide fire and EMS service to some county residents in 16 fire districts. There has been a contract to provide these services for 30 years. This Agreement updates some of the district identification numbers and the contract term is for three years.

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission approve the Cascade County Inter-Local Agreement for Fire Protection and Emergency Medical Services, for October 1, 2009, to September 30, 2012, and that the City Manager be authorized to execute the same.**

Mayor Winters asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Winters asked if there were any inquiries from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, again expressed his concern about attention to detail. Mr. Gessaman pointed out that page 1 referenced the City-County Planning Department which no longer exists, as well as several grammatical and punctuation errors in the Agreement. Mr. Gessaman inquired about the prior contract ending October 1, 2009. He suggested that the Agreement be tabled and sent back to the County for corrections.

With regard to the time frame, Chief McCamley responded that the County initiates the process. He explained the approval process of the County and City Commissions. He emphasized that the Agreement runs concurrently and there is no lapse in service or payments.

Acting City Attorney Chad Parker concurred and noted that it had already been vetted through the County Commission.

After further discussion regarding the suggested changes being legal or grammatical issues, it was the consensus to substitute the main motion under discussion.

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission table the Inter-Local Agreement for Fire Protection and Emergency Medical Services until the next Commission meeting.**

Mayor Winters emphasized that residents will continue to receive fire protection pending revisions to the Inter-Local Agreement.

Substitute Motion carried 5-0.

**Trail Easements  
Donation for extension of  
River's Edge Trail.  
Approved.**

**5. TRAIL EASEMENTS DONATION FROM ZARA RENANDER  
AND HUGH GWIN FOR EXTENSION OF RIVER'S EDGE  
TRAIL.**

Park and Recreation Deputy Director Patty Rearden reported that this item is to approve or deny the acceptance of trail easements from Zara Renander and Hugh Gwin for an extension of the River's Edge Trail. Zander Blewett donated \$50,000 to Recreational Trails, Inc. for purchase of the easement. However, Recreational Trails, Inc. is not equipped to manage and own the property and has asked that the City accept the easement. The City recently received a similar easement. Acceptance of the easement would provide an additional 2.45 miles of trail extending to Box Elder Creek.

**Commissioner Bronson moved, seconded by Commissioners Jones and Jolley, that the City Commission approve the acceptance of trail easements from Zara Renander and Hugh Gwin for the extension of River's Edge Trail.**

Mayor Winters asked if there was any discussion amongst the Commissioners.

Commissioner Jolley inquired if the \$50,000 donation needed to be referenced in the Easement Agreement. Commissioner Bronson responded that it wouldn't be necessary to reflect that in the Agreement given the nature of the donation.

Mayor Winters asked if there were any inquiries from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, compared the map that depicts "two fingers" of trail to the agenda report that indicates it is a return loop segment. He also noted that paragraph 6d of the Easement Agreement sets forth that transferee shall designate the trail as the Doug Wicks Trail Segment.

Commissioner Jolley inquired if this trail easement would be considered park land. Acting City Attorney Chad Parker responded that naming the segment of the trail will be done by separate Resolution and vote.

**John Juras**, 1200 25<sup>th</sup> Street South, President of the Great Falls Bicycle Club, commented that he prepared the two easement exhibits questioned earlier and that they do in fact show that they fit together to make a complete loop. He thanked the Commission for years of support to continue the efforts of Doug Wicks.

Motion carried 5-0.

### **ORDINANCES/RESOLUTIONS**

**Consent Agenda.  
Approved.**

#### **CONSENT AGENDA**

6. Minutes, February 2, 2010, Commission meeting.
7. Total expenditures of \$2,264,271 for the period of January 28 through February 11, 2010, to include claims over \$5,000, in the amount of \$2,044,847.
8. Contracts list.
9. Grants list.
10. Lien release list.
11. Set public hearing for March 2, 2010, for leases of Wadsworth Park with the Great Falls Saddle Club, Electric City Archers, and Missouri River Shooters.
12. Award contract in the amount of \$366,615 to Dick Anderson Construction, Inc., for the Wastewater Treatment Plant Miscellaneous Improvements. **OF 1374.7**

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission approve the Consent Agenda as presented.**

Mayor Winters asked if there were any inquiries from the public.

**Larry Rezentes**, 2208 1<sup>st</sup> Avenue North, inquired when the minutes of the joint City Commission/ECP Board meeting would be approved. He expressed via email to City Clerk Lisa Kunz that he believed the minutes should be corrected to include additional comments made by him.

Commissioner Bronson explained that since no substantive action is taken at work session meetings, the minutes have never been formally accepted or rejected. His comments to supplement the record were added to the numerous documents reviewed by the Commission and are available to anyone as part of the public record.

Mr. Rezentes also expressed disapproval of the January 11, 2010, joint City Commission/ECP Board work session meeting minutes.

City Clerk Lisa Kunz noted that minutes are not a record of what was said at a meeting, but what was done. Mr. Rezentos' email was forwarded to the Commission and is part of the public record.

**Aart Dolman**, 3016 Central Avenue, concurred with Mr. Rezentos.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, pointed out a typo on Item 6, page 33 of the February 2, 2010, minutes, wherein he referenced Great Falls Baseball Club (GFBC) initial lease payment in the amount of \$8,000, not \$5,000. With regard to Item 7, he inquired about the assessment refund for street maintenance. He also requested a water rights procurement update.

Public Works Director Jim Rearden responded that PBS&J has completed an assessment of water rights that are available in the immediate area. PBS&J will provide a progress report to the Commission in the near future.

With regard to the assessment refund, Fiscal Services Director Coleen Balzarini explained that the property was determined to be listed under an incorrect category. The taxes and assessments have been paid. The amount listed was a refund due to the misclassification.

With regard to Item 9B, Mr. Gessaman inquired if the public would be given an opportunity to provide input concerning the downtown master plan. Planning and Community Development Director Mike Haynes responded that this is a grant request to EDA for \$50,000 to help defray the cost of a downtown plan. City Manager Doyon added that any plan would include an opportunity for the public to comment.

With regard to Item 11, Mr. Gessaman stated his opposition to leases longer than two or three years. Park and Recreation Deputy Director Patty Rearden responded that the users are good caretakers of the park and it was simpler for the users to issue five year leases. The users are aware of the 60 day escape clause.

With regard to Item 12, Mr. Gessaman commented that three of the four bids were below the engineer's estimate.

Motion carried 5-0.

### **BOARDS & COMMISSIONS**

**Amended Plat, Lot 1A,  
Block 418, Great Falls  
Original Townsite.  
Approved.**

#### **13. AMENDED PLAT, LOT 1A, BLOCK 418, GREAT FALLS ORIGINAL TOWNSITE.**

Planning and Community Development Director Mike Haynes reported that this item relates to an amended plat for the 5.854-acre subject property located on the west side of 3<sup>rd</sup> Street South between 2<sup>nd</sup> Avenue South and 5<sup>th</sup> Avenue South. This site was formerly occupied for many years by two



salvage and recycling businesses called Carl Weissman & Sons, Inc. and Steel Etc. whose operations included crushing and recycling of cars, trucks and machinery, and recycling of batteries.

The property owner is now requesting to subdivide the subject property into two lots to accommodate the sale of the 2.83-acre north lot to Northwest Fencing who already occupies the site, and to allow the future sale of the 3.024-acre south lot.

The subject property has M-2 (Mixed-Use Transitional) zoning that allows existing industrial/warehouse uses to remain and expand, but also allows for a transition to commercial and residential uses.

On January 10, 2010, the Planning Advisory Board recommended approval of the amended plat with two technical conditions related to the final plat and certificate of title.

Given the previous uses on the site, Planning staff has been in contact with MDEQ regarding potential soil contamination on the property. DEQ provided staff a copy of a 2005 Environmental Site Assessment (ESA) conducted by an independent consultant that found the presence of hazardous substances in the soil.

While some surface soil was removed from the site and disposed of in 2007, DEQ advised staff that it is conducting ongoing investigations and may take future action with regard to clean-up. DEQ did confirm to staff that Northwest Fencing, the prospective buyer of the north lot, is fully aware of the potential soil contamination on the subject property.

While the environmental conditions on the site are unrelated to the platting process and outside the immediate jurisdiction of the City of Great Falls, given that the replat is to accommodate a property sale, staff included the additional information in the report to ensure all parties are aware of the status of the property.

Mr. Haynes requested the City Commission's approval of Amended Plat for Lot 1A with conditions recommended by the Planning Advisory Board.

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission approve the Amended Plat of Lot 1A, Block 418, Great Falls Original Townsite and the accompanying Findings of Fact, subject to applicant fulfilling stipulated conditions.**

Mayor Winters asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Winters asked if there were any inquiries from the public.

**John Hubbard**, 615 7<sup>th</sup> Avenue South, reported that was the yard where he

lost his arm. He tried to file a lien against the property. Mr. Hubbard provided maps where he believed the ground was contaminated. Commissioner Jolley provided Mr. Hubbard with a copy of the agenda report and colored map.

Mr. Haynes commented that the action before the Commission was to consider subdividing the property into two lots. The appropriate agencies are aware of the concerns.

Fire Chief Randy McCamley reported that he spoke with DEQ regarding this matter. DEQ is very familiar with Mr. Hubbard's allegations regarding this property. DEQ continues to monitor the property and work with the current property owners. If the issues were made known 20 years ago, the City may have been able to do something more about it.

Mayor Winters acknowledged and sympathized with Mr. Hubbard's situation, but noted at this point the City has no authority to assist him.

**Brett Doney**, Great Falls Development Authority, residing at 3048 Delmar Drive, reported that the GFDA is in a cooperative agreement with the Environmental Protection Agency to operate the Brownfield Revolving Loan Fund. Redevelopment of that site is a particular concern of the Downtown Alliance. GFDA has discussed the Brownfield Revolving Loan Fund with the developers to help clean the property up.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, also provided Mr. Hubbard with a colored map of the property. He believes that DEQ is moving toward an enforcement action on the property and stated his opposition to subdividing the property because it will make the enforcement action more difficult.

Motion carried 5-0.

#### **14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

##### **CITY MANAGER**

#### **15. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Gregory T. Doyon announced that he will be out of the office Monday through Wednesday next week attending the Association of Defense Communities Conference. In his place, he appointed Coleen Balzarini. He asked staff that has items on the agenda to attend the agenda meeting to report to the Commission.

Mr. Doyon reported that combining the Planning and Community Development Departments has transitioned into the physical phase. He asked for everyone's patience as they reorganize.

**CITY COMMISSION****16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters deferred to Acting City Attorney Chad Parker to address the next item on the agenda.

Acting City Attorney Chad Parker reported that the next item is a motion to adjourn to Executive Session to discuss litigation strategy pursuant to § 2-3-203, MCA. Staff has requested a non-public executive session with the Commission in order to allow legal counsel an opportunity to conduct a briefing on litigation matters relating to the Yellowstone Valley lawsuit. He concluded that a majority vote of the Commission is required.

**ADJOURNMENT****Adjourn to Executive Session.**

There being no further business to come before the regular Commission meeting, **Commissioner Burow moved, seconded by Commissioner Jolley, that the regular meeting of February 16, 2010, be adjourned at 8:55 p.m. and that the Commission immediately reconvene into Executive Session to discuss litigation strategy pursuant to § 2-3-203, MCA.**

Motion carried 5-0.

Mr. Doyon clarified that the Commission is not going to come back to Commission Chambers to adjourn the meeting.

**Aart Dolman**, 3016 Central Avenue, protested the adjournment.

Acting City Attorney Chad Parker noted that he has reviewed Robert's Rules of Order and past Commission Minutes regarding executive sessions. When the Commission adjourns to an executive session, the Commission is actually adjourning the meeting and having a non-public meeting at that point in time. Mr. Dolman's objection is noted, but the motion is non-debatable.

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Mayor Winters

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City Clerk

Minutes Approved: March 2, 2010