

Regular City Commission Meeting

Mayor Pro Tempore Bronson presiding

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

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:** City Commissioners present: Bill Bronson, John Rosenbaum, Mary Jolley and Bill Beecher. Mayor Stebbins was excused. Also present were the City Manager, Assistant City Manager, Acting City Attorney, Directors of Community Development, Fiscal Services, Park and Recreation, Planning and Public Works, the Interim Library Director, Fire Chief, Police Chief and the City Clerk.

**NEIGHBORHOOD COUNCILS**

**Swearing In Ceremony of Neighborhood Council Representatives.**

**1. SWEARING IN CEREMONY OF NEIGHBORHOOD COUNCIL REPRESENTATIVES.**

Mayor Pro Tempore Bronson swore in 19 of the 29 elected neighborhood council representatives.

**NC 2.**

**2. Robert Mehlhoff**, NC 2, read a letter signed by representatives of NC 2 recommending that the city work with the West Great Falls Flood Control District toward a goal of requiring the Corp of Engineers to continue certifying levies.

\* Mayor Pro Tempore Bronson announced that, with no objection from other members of the Commission, he was going to skip ahead to Item 13.

**BOARDS & COMMISSIONS**

**Malissa R. Hollan appointed, and Deryk Copperwheat reappointed, to the Tourism Business Improvement District.**

**13. APPOINTMENTS, TOURISM BUSINESS IMPROVEMENT DISTRICT.**

**Commissioner Jolley moved, seconded by Commissioner Beecher, that the City Commission appoint Malissa R. Hollan to fill the remainder of a term through December 31, 2012, and reappoint Deryk Copperwheat for a four-year term through December 31, 2013, to the Tourism Business Improvement District.**

Mayor Pro Tempore Bronson asked if there was any discussion amongst the Commissioners or inquiries from the public. No one responded.

Motion carried 4-0.

**PUBLIC HEARINGS**

Res. 9867 and 9868 and  
Ord. 3046. Adopted.

**3A. RESOLUTIONS 9867 AND 9868, ANNEXES CASTLE PINES  
ADDITION, PHASE VIII.**

**3B. ORDINANCE 3046, ASSIGNS ZONING CLASSIFICATION OF  
R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT.**

Planning Director Mike Haynes reported that Castle Pines Addition Phase VIII comprises 14 single-family residential lots and extensions of ROW for 15<sup>th</sup> Street South, 16<sup>th</sup> Street South and 29<sup>th</sup> Avenue South. Neighborworks intends to acquire 10 lots in Phase 8 for construction of homes in the “self-help” program. The remaining lots will be sold for private, single-family development.

Mr. Haynes noted that the late revision to Exhibit A clearly delineates the 10 Neighborworks lots, four lots on the north side and six lots on the south side of the new 29<sup>th</sup> Avenue South ROW.

Mr. Haynes requested that the City Commission adopt Resolution 9867 to annex the ROW and four lots into the city; adopt Resolution 9868 to annex of the 10 Neighborworks lots into the city after the homes are constructed (allowing rural development funds to be used); approve the Annexation Agreement between the developer and the city; adopt Ordinance 3046 assigning R-3 zoning to Castle Pines Phase VIII consistent with earlier phases of development.

Mayor Pro Tempore Bronson asked if the Commission had any questions for Mr. Hayes. Hearing none, Mayor Pro Tempore Bronson declared the public hearing open. No one spoke in favor of or opposition to Resolutions 9867 and 9868 and Ordinance 3046.

Mayor Pro Tempore Bronson declared the public hearing closed and asked for the direction of the City Commission.

**Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission adopt Resolutions 9867 and 9868, approve the final plat of Castle Pines Addition, Phase VIII, and the accompanying Annexation Agreement.**

Mayor Pro Tempore Bronson asked if there was any discussion amongst the Commissioners. No one responded.

Motion carried 4-0.

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Ordinance 3046.**

Mayor Pro Tempore Bronson asked if there was any discussion amongst the Commissioners. No one responded.

Motion carried 4-0.

**Sale of City-Owned Park  
Land: Lot 1, Salvation  
Army Addition, 1000 17<sup>th</sup>  
Avenue South.  
Approved.**

**4. SALE OF CITY-OWNED PARK LAND, 1000 17<sup>TH</sup> AVENUE SOUTH.**

Park and Recreation Director Marty Basta reported that the Salvation Army has leased 3.68 acres in the Highland Park Addition located in the southeast corner of 10<sup>th</sup> Street and 17<sup>th</sup> Avenue South for \$1.00 per year since 1974. The Salvation Army has constructed a family and youth center on the property that has served as its headquarters, as well as installed irrigation and other improvements associated with the baseball field. The Salvation Army has expressed an interest in purchasing the property to provide security for the substantial investment made to the property since 1974. The property has been appraised at \$470,000, and the Salvation Army has agreed to pay the appraised value. Mr. Basta read 3.4.050 of the OCCGF. The determination that there was no actual potential bidders was based on (1) the length of the 35 year lease between the city and the Salvation Army; (2) the significant improvements made to the property which include a Family and Youth Center, offices, classrooms, a gymnasium, as well as a parking lot and a baseball field; and (3) that no other party has expressed an interest in leasing the area. The Park and Recreation Board recommended the sale of this property to the Salvation Army for its appraised value, and Neighborhood Council 6 also endorsed the sale of the property to the Salvation Army. Proceeds from the sale would be deposited in the Park Trust Fund.

Mayor Pro Tempore Bronson asked if the Commission had any questions for Mr. Basta. Hearing none, Mayor Pro Tempore Bronson declared the public hearing open.

Speaking in favor of the sale of Lot 1 of the Salvation Army Addition to the Salvation Army were:

**Duane Herigon**, (no address provided), encouraged the approval of the sale to the Salvation Army. Mr. Herigon commented that he has coached teams and used the facilities at the Salvation Army. He believes the Salvation Army has done a lot for kids in this community. Mr. Herigon discussed the many Salvation Army summer, sports, scholarship and daycare programs, and the positive influence it has on kids to be in a controlled environment. The Salvation Army also rents its facilities for different functions and those proceeds go back into the community.

**Major Joe Huttinlocker**, Co-Officer of the Salvation Army in Great Falls, residing at 3009 Acacia Way. On behalf of the Salvation Army, Mr. Huttinlocker expressed appreciation for the Commission's consideration of

the sale of this property to the Salvation Army. For the past 35 years the Salvation Army has been a partner in helping to make the community a better place together. It wants to continue to do that. The Salvation Army Advisory Board is developing a five and ten year plan. This property is a part of that plan to expand the programs at that facility and to meet the needs of the young people as the community grows.

**Richard Liebert**, 289 Boston Coulee Road, commented that this was a win-win situation. He was proud of the fact that Business Week named Great Falls as the best city to raise children in Montana. Mr. Liebert suggested that future staff reports address positive and negative consequences.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that the Salvation Army does a great job in the community. He inquired about the document showing the easement providing access to the Pet Cemetery.

No one spoke in opposition to the sale of Lot 1 of the Salvation Army Addition to the Salvation Army.

Mayor Pro Tempore Bronson closed the public hearing.

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission approve the sale of Lot 1 of the Salvation Army Addition to the Salvation Army, a California Corporation.**

Mayor Pro Tempore Bronson asked if there was any discussion amongst the Commissioners.

Commissioner Jolley asked if people could still visit the Pet Cemetery after the sale. Mr. Basta responded that the Salvation Army has agreed to provide a 20 foot easement to the Pet Cemetery, and said easement is shown on the re-plat prepared by a professional engineer.

Motion carried 4-0.

## **OLD BUSINESS**

## **NEW BUSINESS**

## **ORDINANCES/RESOLUTIONS**

**Res. 9872. Adopted.**

### **5. RESOLUTION 9872, ADOPTING AN IDENTITY THEFT PREVENTION PROGRAM.**

Fiscal Services Director Coleen Balzarini reported that in January, 2008, the Federal Trade Commission required businesses and organizations which regularly defer payments for goods or services, or provide goods or services

and bill customers later, to implement a written Identity Theft Prevention Program designed to protect, prevent and mitigate the warning signs or “red flags” of identity theft in the day to day operations. The city of Great Falls utility billing department falls under this classification as the billing department bills customers for utility services after the usage or service has already been provided. During the August 4, 2009, City Commission Work Session, the City Commission was briefed on the requirements by the Federal Trade Commission. This resolution will adopt a program for the city and its intent is to protect the identity of its customers.

**Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9872.**

Mayor Pro Tempore Bronson asked if the proposed agreement format was suggested by the Federal Trade Commission. Ms. Balzarini responded that certain items suggested were included that pertained to the City of Great Falls. Mayor Pro Tempore Bronson inquired if the agreement was required to be reviewed by the Federal Trade Commission even if approved by the governing body and was informed no.

Motion carried 4-0.

**Ord. 3047. Approved on first reading, and public hearing set for December 15, 2009.**

**6. ORDINANCE 3047, REPEALING TITLE 8, CHAPTER 7, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS.**

Commissioner Bronson reported that in 1999 the City Commission adopted a smoking ordinance regulating the act of smoking in public facilities. Over the last few years, the legislature decided that there was a need for more uniform standards. In 2005, the Montana Legislature adopted what is commonly referred to as the “Montana Clean Indoor Air Act.” It is designed to protect public health and welfare by prohibiting smoking in enclosed public places and places of employment. The DPHHS has adopted regulations for the purpose of carrying out the intent of the Act. Based on those legislative changes, in 2006 the City Commission adopted Ordinance 2956, which repealed most of the provisions of the previous ordinance, and adopted language prohibiting smoking within a minimum distance of 20 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking was prohibited.

The Commission recently heard comments from businesses in this community that the ordinance may be too difficult to enforce or may be inappropriate to enforce in certain instances. There has been further discussion regarding whether current state law as adopted in 2005 is sufficient to deal with any potential issues involving infiltration of smoke into public facilities or buildings. Based on those comments, the Commission placed the subject on the agenda for subsequent public discussion and debate to repeal the 20 foot rule. Commissioner Bronson further reported that it is the expectation of the City Commission that, if the

proposal is adopted, it anticipates that owners of public places will be free to adopt such policies they deem necessary to address concerns of smoking immediately outside of their premises. Further, the Commission anticipates directing the City Manager to adopt a policy that would continue the 20 foot rule for this facility and possibly other City owned buildings.

**Commissioner Jolley moved, seconded by Commissioner Rosenbaum, that the City Commission approve Ordinance 3047 on first reading, and set a public hearing for December 15, 2009.**

Mayor Pro Tempore Bronson asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Pro Tempore Bronson asked if there were any inquires from the public.

**Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE, inquired if there was an incident in violation of state law, who would it be reported to. Acting City Attorney Chad Parker responded that enforcement of the Montana Clean Indoor Air Act falls under the DPHHS. DPHHS requires that there be three violations before it is turned over to a City or County Attorney.

**Al Recke**, 609 33<sup>rd</sup> Avenue NE, commented that the City Commission is considering this ordinance based on comments from a certain type of business. Mr. Recke questioned what kind of evidence the City Commission had to back up what those businesses were requesting the Commission do. He suggested the Commission make a decision based on looking at all the facts and evidence.

**Alicia Thompson**, 3616 7<sup>th</sup> Avenue North, as the Health Officer for the City/County Health Department, provided written information to the City Clerk to provide to all the Commissioners that outlines some of the questions that have been raised and addresses some of the erroneous information that has been disseminated. Ms. Thompson commented that Great Falls' ordinance is a model for other communities. Other states have blanket setback rules and were established for the same reasons that Great Falls established a setback rule. The major objective of the CCHD regarding enforcement of the Montana Clean Indoor Air Act is education. Ms. Thompson emphasized that the Montana Clean Indoor Air Act and the City's Ordinance 2956 do not keep smokers from smoking. They just restrict where smoking can occur, just as other laws restrict where activities can occur in public. In a society where thousands of people coexist together, policy must be set to protect the rights of all people. In conclusion, Ms. Thompson discussed the funding DPHHS has in place for the tobacco program and this effort.

**Steve Malicott**, 100 1<sup>st</sup> Avenue North, on behalf of the Chamber of Commerce, urged the Commission to hold a public hearing on this proposal

and hoped that the City Commission would repeal the existing ordinance. Mr. Malicott reported that the Chamber is in full support of the Montana Clean Indoor Air Act and encourages full compliance with its members. He further expressed that the City's ordinance places an additional burden on businesses in Great Falls to regulate what happens outside of their building. He believes it to be a business and enforcement decision of the owner.

**Richard Calsetta**, 5630 2<sup>nd</sup> Avenue NE, discussed his wife being a steroid dependent asthmatic since age three. She is a registered nurse and respiratory therapist and had been affiliated with the medical community over 30 years. She is now oxygen dependent, walks with a cane and has brittle bone disease because of steroid use. His two daughters are also asthmatics. Mr. Calsetta commented that when he and his wife walk into a grocery or department store, or any public building to do business or pleasure, if his wife has to walk through smoke to get into that facility, she is not hurting anybody walking into that facility or doing harm to anyone else. However, the person(s) smoking are doing harm to his wife. He explained the process she has to go through when she gets home to open her lungs back up again. Mr. Calsetta encouraged the Commission to take into consideration all businesses, not just a few bars or business complaints, and that the Commission take his story into consideration during the public hearing. He urged the Commission to keep the 20 foot rule.

**John Hayes**, 619 Carol Drive, Executive Director of the Cascade County Tavern Association, commented that the 20 foot rule wasn't complained about or an issue until October 1<sup>st</sup>. He doesn't believe the Ordinance is necessary and believes any business person could set their own rules regarding smoking. He encouraged the Commission to vote affirmatively to set this matter for public hearing.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, reminded the Commission that the social host ordinance was passed a few weeks ago because state law was not adequate enough to provide for the regulation of alcohol. Now, the Commission is being asked to remove a local ordinance regarding a restriction on another substance. If the City already said state law was not adequate in one case, Mr. Gessaman inquired why it would say it was adequate in another case. His belief is that the tavern owners are not suffering because of the 20 foot rule, but because of the economy.

**Ronda Wiggers**, 3208 2<sup>nd</sup> Avenue South, on behalf of the Montana Coin Machine Operators, expressed that state law covers this issue. The CCHD and DPHHS have done an outstanding job supplying information and meeting with businesses to get ready for implementation of the smoking ban. She doesn't believe the existing ordinance is clear regarding who should be cited, the smoker or business owner. Ms. Wiggers expressed that it is the goal of business owners to have happy customers by accommodating those that smoke, while not offending those that don't. She requested that the City Commission take the necessary steps to repeal the

ordinance.

**Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, commented that he doesn't believe the ordinance should be changed except, perhaps, to make it more easily enforceable and clear who is responsible for a violation. He shared that he is not a drinker, but does frequent an establishment close to his residence. After October 1<sup>st</sup>, he noticed that the bartender, who used to smoke more than a pack per day, was down to smoking just a few cigarettes per day. The bartender was happy about the thought of quitting smoking. Mr. Lewin commented that the ordinance helps the citizenry and encouraged the Commission to not appeal the ordinance.

Motion carried 4-0.

**Consent Agenda.  
Approved.**

**CONSENT AGENDA**

7. Minutes, November 17, 2009, Commission meeting.
8. Total expenditures of \$1,082,287 for the period of November 7-19, 2009, to include claims over \$5,000, in the amount of \$992,380.
9. Contracts list.
10. Set public hearing for January 5, 2010, on Res. 9870, Conditional Use Permit to allow worship facility at 111 6<sup>th</sup> Street South.
11. Approve acceptance of a trail easement from Zara Renander for extension of the River's Edge Trail.
12. Set public hearing for December 15, 2009, for the CDBG/HOME community needs.

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

Mayor Pro Tempore Bronson asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Pro Tempore Bronson asked if there were any inquiries from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, referred to Item 8 and the payment of energy supply expenses and indicated that the cash on deposit payment has been decreasing. Mr. Gessaman asked what the blended rate was initially, how many increases there have been in nine months, and what the current blended rate was. Fiscal Services Director Coleen Balzarini responded that she doesn't have that information with her. The information is provided on a monthly basis through the ECP Board meeting. She will compile that information for Mr. Gessaman.

Motion carried 4-0.



**BOARDS & COMMISSIONS**

13. (\*Commission action after Item 2.)

**14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.****CITY MANAGER****15. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Gregory T. Doyon reported that the Commission is in receipt of the consultants' report regarding ECP. In the upcoming weeks, he hopes to set up a video conference so that the ECP Board and Commission members can have an opportunity to ask the consultants questions about their findings.

In response to comments made by Mr. Mehlhoff of Neighborhood Council 2, Mr. Doyon commented that the City has sent a letter that he will make available to Patty Cadwell. Regarding that same issue, Mr. Doyon also shared that an economic resource council in Twin Rivers has also expressed concerns regarding implications of the accreditation process of the levies. The council is attempting to initiate a statewide response. Mr. Doyon reported that he has offered his assistance to facilitate that process. He has made appeals to the congressional representatives in Montana indicating that this will be an issue.

**PETITIONS AND COMMUNICATIONS****16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Pro Tempore Bronson opened the meeting to Petitions and Communications.

**Grant Agreement for the Downtown Loan Fund update, thank you to outgoing Mayor and Commissioners, and Baseball Club proposal.**

**16A. Brett Doney**, Great Falls Development Authority, residing at 3048 Delmar Drive, provided an update regarding a draft grant agreement for the downtown loan fund that City staff is reviewing. He indicated there are initial prospects for that and hoped the agreement would be in place soon. He extended a thank you to Commissioners Beecher and Rosenbaum and Mayor Stebbins for their hard work, many hours meeting with businesses and serving on other boards. Mr. Doney urged the Commission to take advantage of working with the Baseball Club. He believes the baseball park to be a wonderful economic and city asset that provides affordable recreation to the community.

**Sign Ordinance.**

**16B. Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, discussed a sign on 10<sup>th</sup> Avenue South determined to be taken down. The appeal time has lapsed and the sign is still blowing in the wind causing a dangerous situation. Mr. Lewin doesn't believe the sign code is being adequately enforced. With regard to

the Burns & McDonnell recommendation to hire someone to handle the accounting for ECP, Mr. Lewin expressed that figures have not been made available to make good decisions. He believes the focus should be on green energy. He would like to see better direction from staff so the city does a better job.

**Agenda items and election results.**

**16C. John Hubbard**, 615 7<sup>th</sup> Avenue South, commented that he agreed with the land sale to the Salvation Army, but was not sure about the smoking ordinance. He discussed a fine against ECP, as well as his disappointment with the PSC. Mr. Hubbard also discussed the election results and expressed that there will be new direction.

**DOE grant, energy conservation and efficiency.**

**16D. Richard Liebert**, 289 Boston Coulee Road, commended staff for securing the \$570,000 grant from the Department of Energy. For every dollar spent on energy conservation and efficiency, three dollars is saved on energy transmission. He also commended CTA Architects for helping downtown by restoring a downtown warehouse to a standard building. Mr. Liebert announced that, at the Underground Lounge on December 8<sup>th</sup>, other architects will be hosting "Green Drinks" to invite people to talk about sustainability for the community. He also discussed the MATL and Montgomery Energy's gas plant, a proposed wind farm and the College of Technology's wind technician training program.

**Burns & McDonnell report.**

**16E. Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, opined that there was information missing from the Burns & McDonnell report, but commented that the report contained valuation information about the breakdown of energy consumption of ECP's customers. Mr. Gessaman discussed an ECP customer contract and the blended rate amount, and finds it hard to believe that ECP was making money if the City was paying more for the electricity than the customer. He asked what the city was paying, because all of the contracts reference a Schedule B that he hasn't seen.

Fiscal Services Director Coleen Balzarini pointed out that the blended rate includes administrative and general costs, transmission and energy costs. The contract rate discussed by Mr. Gessaman was for energy only.

**Burns & McDonnell report.**

**16F. Aart Dolman**, 3016 Central Avenue, commented that there was nothing surprising to him in the Burns & McDonnell report. Everyone knows money was lost on ECP. He asked what it was going to take to get moving on this matter and accept the report and do what was recommended.

**CITY COMMISSION**

**17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

In response to Mr. Dolman, Commissioner Rosenbaum commented that action on the report was delayed until the new commission is seated, and that a video conference will be scheduled to ask questions about the

consultant's findings and recommendations.

**ADJOURNMENT**

**Adjourn.**

There being no further business to come before the Commission, **Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the regular meeting of December 1, 2009, be adjourned at 8:35 p.m.**

Motion carried 4-0.

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Mayor Pro Tempore Bronson

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City Clerk

Minutes Approved: December 15, 2009