

JOURNAL OF COMMISSION PROCEEDINGS
January 15, 2019

Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

Commission Chambers Room 206

PLEDGE OF ALLEGIANCE

ROLL CALL/STAFF INTRODUCTIONS: City Commission members present: Bob Kelly, Tracy Houck, Owen Robinson, Bill Bronson, and Mary Sheehy Moe. Also present were the City Manager Greg Doyon and Deputy City Manager Chuck Anderson; City Clerk Lisa Kunz; Public Works Director Jim Rearden; Planning and Community Development Director Craig Raymond; Fire Chief Steve Hester; Finance Director Melissa Kinzler; and, Police Chief Dave Bowen.

AGENDA APPROVAL: There were no changes proposed by the City Manager or the City Commission. The agenda was approved as submitted.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: Commissioner Bronson noted that he and the City Attorney have been involved in communications with an interested party regarding Item 12, and there has been a request to consider an alternative motion for postponement.

1. **PROCLAMATIONS**

Commissioner Moe read a proclamation proclaiming January 27 through February 2, 2019, as National Catholic Schools Week in the City of Great Falls.

PETITIONS AND COMMUNICATIONS

2. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Richard Liebert, 289 Boston Coulee Road, commented that Central Catholic School kids sang at the Veterans Day Ceremony and they are very active in science fairs. He encouraged the Great Falls Public Schools to also participate in the Region II science fair. As a cattle rancher, he is excited to hear about the new butcher shop coming to downtown. He encouraged everyone to help those that are furloughed during the government shutdown. He also commented that Great Falls' economy includes healthcare, agriculture, and Malmstrom Air Force Base.

Jeni Dodd, 3245 8th Avenue North, commented there are no forms or contact information for the Ethics Committee on the City's website to initiate a complaint. She has an issue of concern with Commissioner Houck posting the Women's March on her Commission Facebook page. She feels Commissioner Houck is in violation of Mont. Code Ann. Rules of Conduct for Public Officials and the City of Great Falls Code of Ethics. She believes it is wrong to support a political organization on an official Commission Facebook page. Also, the founder of the Women's March is an Anti-Semite.

Mayor Kelly suggested Ms. Dodd submit her concerns in writing to the City Attorney.

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Brett Doney, Great Falls Development Authority, 405 3rd Street NW, Suite 203, commented that there were 17 presentations at Ignite Great Falls about new things happening in town; two members of GFDA are in San Francisco attending the first ever Alternative Protein Show; the Brownfield Advisory Committee approved six Brownfield assessment projects to kick off a recently received grant; the Chamber's relocation website has a new digital logo to pitch Great Falls for talent: Choose Great Falls, Montana, Live • Play • Create; and, that nominations are open for the Fire Within awards.

John Hubbard, 615 7th Avenue South, discussed a conversation he had with the Water Department regarding the City's drinking water and water system. With regard to the government shutdown, he suggested contacting President Trump to utilize drug money being held as evidence in every Police Station across the country to build the wall.

NEIGHBORHOOD COUNCILS

3. Mayor Kelly reported that this item is an appointment of two Commission members to serve on the Great Falls Citizen's Council, also known as Council of Councils, for a one-year term ending on December 31, 2019, or appoint two members to serve the January 29, May 29, and October 29, 2019, meetings.

For discussion purposes, Mayor Kelly moved, seconded by Commissioner Robinson, that the City Commission appoint Mayor Kelly and a person to be named to serve on the Great Falls Citizen's Council, also known as the Council of Councils, for the January 29, 2019 meeting, and then appoint two others to serve on the Council for the May 29 meeting, and two others to serve on the Council for the October 29 meeting.

Mayor Kelly commented that he hasn't discussed this matter with his colleagues, and that there are some out of town issues with some people traveling during these particular dates.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly asked if there was any discussion amongst the Commissioners.

Mayor Kelly and Commissioner Robinson noted they are available on January 29th to serve on the Council. The May and October meeting dates were too far out to determine calendaring conflicts.

Mayor Kelly moved, seconded by Commissioner Moe, that the City Commission appoint Mayor Kelly and Commissioner Robinson to serve on the Great Falls Citizen's Council, also known as the Council of Councils, for the January 29, 2019, meeting, and that appointments to the May and October meetings be made at later dates.

Mayor Kelly asked if there was any further discussion. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

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4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

There were no miscellaneous reports and announcements from Neighborhood Council representatives.

BOARDS & COMMISSIONS

5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM BOARDS AND COMMISSIONS.

There were no miscellaneous reports and announcements from members of boards and commissions.

CITY MANAGER

6. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon announced:

- The City received a Montana Main Street Program grant award in the amount of \$20,000 for a downtown block revitalization study.
- Great Falls Fire Rescue participated in a tabletop exercise with Calumet that was required by the EPA that modeled a ruptured pipeline outside of the refinery. Calumet appreciated Battalion Chief Bob Shupe's participation.
- Staff attorney Mark Dunn attended a prosecution boot camp provided by the Montana Office of the Attorney General, County Attorney's Association, and the Department of Transportation.
- Interviews for the Library Director position are being coordinated with five finalists for the end of the month.
- Great Falls Fire Rescue participated in a mutual aid request from Vaughn on January 11th and were the first vehicles on scene to a mobile home fire.
- Steel Etc. provided a significant donation for Park and Recreation's Electric City Winter Classic basketball event. There were 104 participating teams, 80 of which were from out of the City.
- Pool use at the Montana School for the Deaf and Blind has been postponed for a week due to a leaky seal issue. Program participants were notified.
- Manager Doyon and Deputy Manager Anderson attended leadership training with author Ronnie Doss of the book "Leading Lions" at Malmstrom Air Force Base.
- The Great Falls Police Department held a ceremony today for promotion of six Senior Police Officers to the positions of Master Police Officer: Joseph Dusatko, Scott Bambenek, Rick Brinka, Jesse Rosteck, Phil Wilberding, and Josh Garner.

CONSENT AGENDA.

- 7. Minutes, January 2, 2019, Commission meeting.**

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8. Total expenditures of \$4,413,564 for the period of November 30, 2018 through January 2, 2019, to include claims over \$5,000 in the amount of \$4,225,686.
9. Contracts list.
10. Set public hearing for Resolution 10282 Establishing Sanitation Service Collection Rates for February 5, 2019.

Commissioner Moe moved, seconded by Commissioner Bronson, that the City Commission approve the Consent Agenda as presented.

Mayor Kelly asked if there were any comments from the public, or any discussion amongst the Commissioners.

Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

PUBLIC HEARINGS

11. **RESOLUTION 10276, VACATING (A PORTION OF) 1ST ALLEY SOUTH BETWEEN 14TH STREET SOUTH AND 15TH STREET SOUTH.**

Planning and Community Development Director Craig Raymond reported that this agenda item is a request to conduct a public hearing and to consider the vacation of approximately 76 feet of city rights-of-way, known as first alley south located just west of 15th Street South.

The applicant, Montana Federal Credit Union, owns property on both sides of the alley and will be the sole beneficiary of obtaining these rights-of-way. The primary motivation for requesting this small alley vacation is related to an expansion which the bank building is currently undergoing. Through the course of performing a plan review on the permit application, staff and the applicant became aware that a vacation of the alley would provide some flexibility of how the addition is to be constructed. It was at that point that staff and the applicant began discussions about vacating this small portion of rights-of-way.

Due to existing above and below ground utilities, a utility easement will be maintained in order to support the maintenance of the City infrastructure.

Mayor Kelly declared the public hearing open.

No one spoke in opposition to or in support of Resolution 10276.

Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Moe moved, seconded by Commissioner Robinson, that the City Commission adopt Resolution 10276.

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

Mayor Kelly congratulated Montana Federal Credit Union for its expansion and \$6 million dollar investment.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0.

12. RESOLUTION 10280, TO ANNEX A PORTION OF A TRACT OF LAND EQUALING ± 6.254 ACRES ADDRESSED AS 4415 RIVER DRIVE NORTH CURRENTLY OWNED BY TALCOTT HOLDINGS, INC., AND ORDINANCE 3195 TO ESTABLISH I-2 HEAVY INDUSTRIAL ZONING.

Planning and Community Development Director Craig Raymond reported that this agenda item was a request to conduct a public hearing and to consider Resolution 10280, Ordinance 3195, the associated Findings of Fact, and the Annexation Agreement.

The applicant, Talcott Holdings, LLC, filed a formal request today to postpone tonight's public hearing and any action on the annexation until February 19, 2019, while they work through some pending issues on the property. Staff requests that the City Commission move to postpone the public hearing to a date certain and staff will re-notice the public hearing as appropriate.

Commissioner Bronson moved, seconded by Commissioner Houck, that the City Commission vacate the public hearing and reset the same for February 19, 2019, for consideration of Resolution 10280, Ordinance 3195, Annexation Agreement and Findings of Fact/Basis of Decision.

Mayor Kelly asked if there were any comments from the public, or discussion amongst the Commissioners regarding this postponement.

Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

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13. RESOLUTION 10268, TO ANNEX A 21.10 ACRE TRACT IDENTIFIED AS PARCEL 1 ON CERTIFICATE OF SURVEY #5162, ORDINANCE 3180 TO ESTABLISH PLANNED UIT DEVELOPMENT ZONING, AND PRELIMINARY PLAT FOR A MAJOR SUBDIVISION TO CREATE 40 LOTS FOR WHEAT RIDGE ESTATES, PHASE I.

Planning and Community Development Director Craig Raymond reported that this agenda item is a request to postpone action on Resolution 10268, Ordinance 3180, and the Preliminary Plat for a Major Subdivision all related to the project commonly known as Wheatridge Estates Phase I.

For background, the applicant, KYSO Corporation, is requesting annexation, zoning, and subdivision of a 21.10 acre parcel located south of the East Great Falls Retail Center anchored by the Walmart Superstore. Currently, these tracts are zoned Agricultural, which restricts development outside of farming, to single family detached units or two-unit dwellings on parcels that must be at least 20 acres in size. Because the 21.10 acre parcel is contiguous to the City limits as a result of the East Great Falls Retail Center annexation, it is eligible to be considered for annexation.

On September 18, 2018, the City Commission held a public hearing on the proposed annexation and subdivision. The Commission postponed action on the applicant's request until January 15, 2019. The purpose of tabling the request until January 15, 2019, was to allow the applicant the opportunity to provide the City with a new alternative storm water drainage concept for the proposed development. The alternative storm water drainage concept had not been previously submitted to City staff and, therefore, staff could not provide input about the new alternative. Additionally, the Commission requested additional information regarding an emergency access to the proposed subdivision.

On January 2, 2019, the applicant requested that the City postpone the decision on the application and set another public hearing for March 5, 2019. Upon staff's request for additional clarification regarding the requested extension, a second letter was provided on January 8, 2018.

It is staff's understanding at this point that the applicant is not necessarily vetting a new proposal for consideration. Rather, it's understood that the applicant desires to provide additional detailed information to support the original storm water proposal.

Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission remove from the table Resolution 10268, Ordinance 3180, and the Preliminary Plat for Major Subdivision for discussion.

Mayor Kelly asked if there were any comments from the public, or any discussion amongst the Commissioners. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

Commissioner Moe moved, seconded by Commissioner Robinson, that the City Commission postpone action on Resolution 10268, Ordinance 3180, and the Preliminary Plat for Major Subdivision and set a new public hearing date of March 5, 2019, to reconsider the Resolution, Ordinance, and Preliminary Plat.

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Mayor Kelly asked if there were any comments from the public regarding postponing this matter until March 5, 2019. Hearing none, Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Bronson noted that nearly 120 days have passed since the September hearing. He requested additional explanation why it has taken applicant four months to come forward to request additional time to present to the Commission.

Spencer Woith, C&W Development, 1725 41st Street South, commented that at the last hearing the Commission requested additional information. Since that time there has been a lot of turnover in his firm. He is lacking employees that has resulted in putting him behind on a number of different jobs. He is at the point of requesting additional time and has subcontracted the storm water design to a separate engineering firm to help him. By hiring a separate engineering firm he is hoping the matter will be expedited. In addition, the request for the March 5th meeting date was to allow City staff time to vet their submittals.

Commissioner Bronson asked if it was correct that Mr. Woith would have his proposal ready in about a week.

Mr. Woith responded affirmatively that the proposal will be before City staff to review and vet.

In response to Commissioner Bronson's inquiry, Mr. Woith reported that he subcontracted this work to Big Sky Civil Engineering.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 4-1 (Commissioner Bronson dissenting).

OLD BUSINESS

NEW BUSINESS

14. MINOR SUBDIVISION – HOLIDAY VILLAGE MALL, ADDRESSED AS 1200 10TH AVENUE SOUTH.

Planning and Community Development Director Craig Raymond reported that this agenda item is a request to approve a Minor Subdivision of property legally described as Lot A-1 of the Amended Plat of portions of Block 3, Fifteenth Addition, and Blocks 1, 2 and 3, Hillcrest First Addition, located in the NE1/4 of Section 13, Township 20 North, Range 3 East, PMM, City of Great Falls, Cascade County, Montana. This plat amendment is unique, but not completely unheard of. An agreement, as required in this action, already exists between the Holiday Village Mall and other spaces adjoining the building such as the former Herberger's site.

The owners of Holiday Village Mall have requested a minor subdivision of their property to split off certain portions of the mall building.

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The proposed newly created lots conform to the C-2 General Commercial zoning district development standards outlined in the Land Development Code. The proposed subdivision will create lots where buildings have no setback from property lines. Typically, a zero lot line configuration would require fire separation per the 2012 International Building Code. However, after review of the subdivision by the City Building Division, approval is recommended based on conformance with the 2018 International Building Code. Per this code requirement, a Reciprocal Easement Agreement (REA) has been submitted for review.

Due to the configuration of the lots, parking and access are proposed to be shared between the owners of the five lots. Also, maintenance of the parking lot, drive aisles, landscaping and utilities would be shared between owners. As a recommended condition of approval of the minor subdivision, a Declaration of Covenants, Conditions, and Restrictions is required to be filed with the Amended Plat. This can be completed as a stand-alone document or added into the Reciprocal Easement Agreement document. Also, staff will work with the applicant to ensure that the Agreement addresses all City code requirements for future development or alterations to the site and existing buildings.

The basis for a decision to approve, conditionally approve, or deny a proposed subdivision is whether it is demonstrated that development of the proposed subdivision meets the requirements of the Montana Code Annotated. Staff has developed Findings of Fact for the proposed subdivision, and Staff concludes the subdivision meets the basic requirements provided by Mont. Code Ann. § 76-3-608(3). The full Findings of Fact are included in the attachments of this report.

The Planning Advisory Board, during a meeting held on December 11, 2018, passed a motion recommending the City Commission approve the minor subdivision of the subject property. Staff recommends approval of the proposed minor subdivision request with the following conditions:

1. The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
2. The applicant shall provide an Amended Plat of the subject property which shall incorporate corrections of any errors or omissions noted by Staff.
3. The applicant shall provide a Reciprocal Easement Agreement for the subject property which shall incorporate corrections of any errors or omissions noted by Staff. In addition, a Declaration of Covenants, Conditions and Restrictions is required to be provided that addresses shared parking, access, landscaping, and maintenance. This information can also be submitted as a portion of the Reciprocal Easement Agreement document.

Commissioner Bronson moved, seconded by Commissioner Houck, that the City Commission approve the Amended Plat of the Minor Subdivision as legally described in the staff report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the Applicant.

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Mayor Kelly asked if there were any comments from the public, or any discussion amongst the Commissioners.

Commissioner Bronson commended the developer for this innovative approach for sustaining the Holiday Village Mall.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0.

ORDINANCES/RESOLUTIONS

15. RESOLUTION 10278, INTENT TO RE-CREATE A BUSINESS IMPROVEMENT DISTRICT (BID) WITHIN THE CITY OF GREAT FALLS.

Finance Director Melissa Kinzler reported that the City is authorized by state law to create a business improvement district for the purpose of promoting the health, safety, prosperity, security and general welfare of the inhabitants of the district and to provide special benefit to the property owners located within the boundaries of said district. The goal of the BID is to maintain, beautify, and stimulate development in Great Falls' historic downtown district.

The BID in the City of Great Falls was originally created in May 1989, re-created in July 1999, and again in July, 2009. Mont. Code Ann. § 7-12-1141 specifies that BID's shall not be for a period longer than ten (10) years unless the duration of the district is extended in compliance with the provisions for the creation of the district.

The City of Great Falls has been presented with petitions/ballots signed by 82.75% of the property owners within the district as shown on Exhibit "A" of the Resolution and on file in the City Clerk's Office. The petitions/ballots more than exceed the statutorily required percentage of 60% of the area of the property owners asking for the re-creation of the BID.

The boundary lines of the District are outlined on Exhibit "B" of the Resolution. The boundary lines have not changed since the BID's initial creation in 1989.

Property owners as listed on Exhibit "C" of the Resolution have fifteen days after the date of the first publication of the Legal Notice as shown on Exhibit "D" of the Resolution, to make a written protest to the City Clerk of the City of Great Falls against the proposed re-creation of the BID.

Commissioner Moe moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 10278, and set a public hearing to Re-Create the Business Improvement District (BID) for February 19, 2019.

Mayor Kelly asked if there were any comments from the public.

Brett Doney, Great Falls Development Authority, 405 3rd Street NW, Suite 203, commented that the BID has been a tremendous leader in downtown revitalization. GFDA considers the BID to be a valuable partner.

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Sheila Rice, 913 3rd Avenue North, member of the Business Improvement District Board of Directors, commented that the BID was started by the Commercial Task Force in 1988 that was a project of NeighborWorks Great Falls. The BID catalyzes a lot of activity.

Shane Etzweiler, President/CEO Great Falls Area Chamber of Commerce, 100 1st Avenue North, commented that the over 80% vote in favor of the BID continuing says enough. He believes that expresses confidence in what is happening in Great Falls, as well as confidence in Joan Redeen's leadership in continuing to do a great job downtown.

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

Commissioner Houck thought it incredible that 80% affirmatively voted for renewal. It exhibits confidence in the growth, and maintaining the projects in place.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0.

CITY COMMISSION

16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

In response to Ms. Dodd's previous comments, Commissioner Houck responded that she does often post many things that are happening within the City and the community on her Facebook page. There is a women's march that is being organized in Great Falls by an independent group. It is not listed as an affiliate march. She is not aware that this group is acting under any political or action group whatsoever. She was asked to emcee this year's event as she did last year.

Commissioner Moe commented that she and Mayor Kelly were part of a community group this morning that was asked to sit in on the final interviews for the candidates for the School Superintendent position. She added that Great Falls is fortunate to have attracted candidates of such high quality. It was inspiring to see the 14 community members that gave up their time, asking good questions, and making a heartfelt effort to choose the best person to lead our public schools.

Commissioner Houck commented that Longfellow School kids have been relocated to the Roosevelt School. She reminded people to slow down on 2nd Avenue North, and to watch out for the kids being bused. There is also a crossing guard on 1st Avenue North to remind everyone that children are passing to get to the new Giant Springs School.

17. COMMISSION INITIATIVES.

There were no Commission initiatives.

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ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Robinson moved, seconded by Commissioner Houck, to adjourn the regular meeting of January 15, 2019, at 7:56 p.m.**

Motion carried 5-0.

Mayor Bob Kelly

City Clerk Lisa Kunz

Minutes Approved: February 5, 2019