

Regular City Commission Meeting

Mayor Stebbins presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

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

NEIGHBORHOOD COUNCILS

NC 4.

1. Sandra Guynn, Chair NC 4, reported that the council unanimously endorsed the Steel, Etc. project at its December meeting. The council would like nominations sent to NC 4 for the Good Neighbor Award. Anybody can nominate an individual, business or organization, and they do not have to live within NC 4 boundaries. It is a great way to acknowledge somebody going above and beyond to be a good neighbor and make Great Falls even better. Nominations can be sent to Patty Cadwell or Sandra Guynn.

PUBLIC HEARINGS

Ord. 3026. Public Hearing Vacated.

2. ORDINANCE 3026, ADOPTING 40 CFR, PART 403, SUPPLEMENTING ORDINANCE 2645 PERTAINING TO TITLE 13, CHAPTERS 2, 12, 14, 18, 20 AND 22 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS.

Public Works Director Jim Rearden reported that the Environmental Protection Agency (EPA) audited the City's Industrial Pretreatment Program in April, 2008. One of the requirements of the audit was to update and strengthen the City Codes regarding the program. On November 18, 2008, the EPA approved the format the City proposed to incorporate the relevant EPA Federal Code by reference. On December 16, 2008, the City Commission set public hearing for this evening. On December 29, 2008, EPA contacted City staff and advised it wanted to review the proposed documents prior to submittal for official action. Staff is recommending the public hearing be vacated pending EPA review.

Commissioner Bronson moved, seconded by Commissioners Beecher and Rosenbaum, that the City Commission vacate the public hearing on Ordinance 3026 pending a review by the Environmental Protection Agency.

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

Motion carried 5-0.

**Res. 9788 and Ord. 3023.
Adopted.**

3A. RESOLUTION 9788, ANNEXES TYNDALL ADDITION, PHASE 1, LOCATED ALONG THE WESTERLY EXTENSION OF 37TH AVENUE NORTHEAST CONSISTING OF 10 SINGLE-FAMILY LOTS.

3B. ORDINANCE 3023, ASSIGNS ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH-DENSITY DISTRICT.

Interim Planning Director Bill Walters reported that in August, 2008, the City Commission approved the preliminary plat for Tyndall Addition, Phase 1. Kendall and Maxima Cox are the property owners and developers of this subdivision, located in northwest Great Falls near the former Skyline Education Center. It consists of 10 single-family residential lots.

The Zoning Commission has recommended the City Commission assign a zoning classification of R-3 Single-Family High Density District to Tyndall Addition, Phase 1, upon annexation to the City. The Planning Board has recommended the City Commission approve the final subdivision plat and annex Tyndall Addition, Phase 1. During the Planning Board/Zoning Commission hearing held July 22, 2008, on the development proposal, no citizens spoke as proponents or opponents.

After conducting a public hearing, the City Commission is requested to:

- 1) Adopt Resolution 9788 annexing the subdivision;
- 2) Approve the subdivision plat of Tyndall Addition, Phase 1;
- 3) Approve the accompanying Annexation Agreement; and
- 4) Adopt Ordinance 3023 assigning City zoning to the subdivision.

Mayor Stebbins declared the public hearing open. No one spoke in support of or opposition to Resolution 9788 and Ordinance 3023.

Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

Commissioner Beecher moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9788 and approve the Subdivision Plat of Tyndall Addition, Phase 1, and the accompanying Annexation Agreement.

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

Commissioner Jolley inquired if the surface drainage to unincorporated property would be a problem. Mr. Walters responded that the unincorporated property is owned by the applicant/developer. The

applicant/developer has provided an easement to the City for the unincorporated area to accommodate the storm water run-off.

Motion carried 5-0.

Commissioner Bronson moved, seconded by Commissioners Beecher and Rosenbaum, that the City Commission adopt Ordinance 3023.

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

Motion carried 5-0.

Res. 9802. Adopted.

4. RESOLUTION 9802, CONDITIONAL USE PERMIT TO ALLOW A WORSHIP FACILITY ON LOT 8, BLOCK 307, ORIGINAL TOWNSITE TO GREAT FALLS (525 1ST AVENUE NORTH).

Interim Planning Director Bill Walters reported that Heartland Community Fellowship has applied for a conditional use permit to allow a worship facility at the northwest corner of the intersection of 1st Avenue North and 6th Street in downtown Great Falls. The property is zoned C-4 Central Business District which allows worship facilities upon processing and approval of a conditional use permit.

The Zoning Commission held a public hearing November 12, 2008, and recommended that the City Commission grant the conditional use permit. The owner of the abutting property occupied by Little's Lanes/Tavern and Casino and the operator of the business asked some questions about the zoning of their property which staff responded to. No proponents or opponents spoke at said hearing.

After conducting a public hearing, the City Commission is requested to adopt Resolution 9802 granting the conditional use permit.

Mayor Stebbins declared the public hearing open. No one spoke in opposition to Resolution 9802. **Dave Bennyhoff**, 416 34th Street NW, spoke in support of Resolution 9802.

Mayor Stebbins 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 Resolution 9802.

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

Motion carried 5-0.

Res. 9803. Adopted.

5. RESOLUTION 9803, CONDITIONAL USE PERMIT TO ALLOW A CONTRACTOR YARD, TYPE I ON LOT 3, BLOCK 754, GREAT FALLS TENTH ADDITION (1308 6th AVENUE SOUTH).

Interim Planning Director Bill Walters reported that Norris Wall Covering & Painting has applied for a conditional use permit to allow a contractor yard, type 1, to occupy the shop building at 1308 6th Avenue South. The subject property is zoned R-3 Single-Family High Density District wherein a contractor yard, type 1, is not permitted. However, the property has a legal nonconforming designation upon it from the previous land use of a vehicle repair shop (First Class Auto Body). The change of the current nonconforming use to another nonconforming use could not be approved administratively, as all three criteria cited in Code for such a procedure, could not be met. However, Code provides that a legal nonconforming use may be changed to another nonconforming use upon processing and approval of a conditional use permit.

The Zoning Commission held a public hearing November 25, 2008, and recommended that the City Commission grant the conditional use permit. One neighboring property owner expressed concern about traffic in the alley, but it is anticipated the wall covering and painting contractor will not generate any more traffic than what the previous auto body repair shop did.

After conducting a public hearing, the City Commission is requested to adopt Resolution 9803 granting the conditional use permit.

Mayor Stebbins declared the public hearing open. No one spoke in support of or opposition to Resolution 9803.

Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9803.

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

Motion carried 5-0.

OLD BUSINESS

CDBG Policies and Citizen Participation Plan Reaffirmed, and 2009-2010 CDBG Funding Priorities Approved.

6. CDBG POLICIES AND CITIZEN PARTICIPATION PLAN AND APPROVE THE 2009-2010 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING PRIORITIES.

CDBG Administrator Chris Imhoff reported that staff is asking the City Commission to reaffirm the Community Development Block Grant (CDBG)

policies and the Citizen Participation Plan, and approve the 2009-2010 funding priorities. The CDBG policies date back to 1994 and have been reaffirmed annually since then with one amendment. The Citizen Participation Plan was adopted with the HUD Consolidated Plan in 2005 and has been reaffirmed by the City Commission annually since then.

Acceptance of the CDBG policies and the Citizen Participation Plan for use in the 2009-2010 allocation process is required by HUD. Based on the national objectives and the regulations of the CDBG program and the testimony provided at the community needs hearing held by the City Commission on December 16, 2008, staff is recommending the priorities for the 2009 program year. Approval of the funding priorities will set the base for the 2009-2010 Annual Action Plan to be submitted to HUD by May 15 for use of the 2009 funds.

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission reaffirm the CDBG Policies and Citizen Participation Plan, and approve the 2009-2010 Community Development Block Grant funding priorities.

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

Commissioner Jolley commented that the City Commission appoints 10 citizens to review public service and public facility projects submitted for CDBG funding. She inquired what might not be reviewed by the Community Development Council. Community Development Director Mike Rattray answered that this year all of the applications will be reviewed by the Community Development Council. The reason the provision was in there was because several years ago the City Commission wanted staff to review everything except for the public service projects. This allows the City Commission to go either way in the future without amending the policy.

Commissioner Jolley asked to see the annual performance evaluation report. Mr. Rattray responded that the report is submitted to HUD mid-summer of every year.

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

Brett Doney, GFDA, residing at 3048 Delmar Drive, appreciates staff's recommendation that economic development be part of the CDBG priorities. GFDA had hoped that economic development would have been a higher priority than five percent, and hopes the percentage will increase in the future. Mr. Doney expressed concerns about the only national objective for economic development was job creation for low to moderate income persons. GFDA is seeing incredible pressure on its loan funds. He reported that GFDA would soon be running out of loan funds that could have been

used in the City of Great Falls. If the slum and blight designation was included in the CDBG national objectives, then GFDA could use those funds to renovate downtown properties, designate funds for other economic development projects and try to build up a revitalization fund.

Commissioner Jolley inquired if there was money left over from last year's administration allocation. Mr. Rattray responded that, with HUD's requirement of more and more documentation, staff was added and the 20% cap on the administration allocation is expended. No monies will be left over this year and the City may be in a position to cut a staff person, even with the 20% allocation.

Motion carried 5-0.

NEW BUSINESS

ORDINANCES/RESOLUTIONS

Ord. 3029. Accepted on first reading and set public hearing for February 3, 2009.

- 7. ORDINANCE 3029, REZONE PARCEL MARK NO. CC, SECTION 14, T20N, R3E (CITY-OWNED PARCEL ALONG OVERLOOK DRIVE). REZONE PROPERTY FROM PLI PUBLIC LANDS AND INSTITUTIONAL DISTRICT TO M-2 MIXED-USED TRANSITIONAL DISTRICT.**

Interim Planning Director Bill Walters reported that the City owns a vacant 2.67 acre tract of land along Overlook Drive between the City Water Treatment Plant and the Warden Bridge. The City is interested in having the parcel rezoned from PLI Public Lands and Institutional District to M-2 Mixed Use Transitional District to make the property more marketable for development. The M-2 Mixed Use Transitional District designation allows commercial, residential, and institutional uses and public spaces. The zoning does not permit light or heavy industrial uses.

The City acquired subject parcel from the Great Northern Railroad in 1972. The City Public Works Department has used the property for several years as a site for depositing snow removed from City streets, although that has not been the case this winter season because of limited accessibility due to the reconstruction of Overlook Drive. Rezoning of the parcel will not affect the City's ability to use the property for depositing snow. Mr. Walters reminded the Commission that the potential sale of the parcel will be addressed separately at a future date.

Mr. Walters requested that the City Commission accept Ordinance 3029 on first reading, and set a public hearing for February 3, 2009.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission accept Ordinance 3029 on first reading, and set a public hearing for February 3, 2009.

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

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

Stuart Lewin, 615 3rd Avenue North, commented that he was a member of the Missouri River Corridor Plan. Mr. Lewin is opposed to rezoning this parcel due to inadequate consideration of the area and what its use ought to be. He doesn't believe certain goals of the Plan have been considered by City staff on this project. He suggested that the road be removed going down to the river, stop all traffic under the Warden Bridge to protect the environmental integrity of the river and to preserve the area. Mr. Lewin urged the City Commission to set this matter aside and not set a public hearing.

Kathy Gessaman, 1006 36th Avenue N.E., commented that she believes the corner to be rather dangerous and the acreage would be an ideal park situation. Mrs. Gessaman stated that it would be wiser not to have additional traffic on that section of the road.

Ron Gessaman, 1006 36th Avenue N.E., commented that this particular parcel is within the Missouri River Corridor Plan. He pointed out that it has been studied and included for a specific purpose within that Plan. Mr. Gessaman commented that he hasn't heard a word about the State agency opposing this change in zoning.

Brett Doney, GFDA, residing at 3048 Delmar Drive, thanked the City for what staff and City departments are doing for the river corridor, particularly on the West Bank project, and expanding river trails.

Mayor Stebbins stated that a meeting would be held with the Montana Department of Transportation to discuss this issue.

Motion carried 4-1 (Commissioner Jolley dissenting).

Res. 9785. Adopted and set public hearing for February 3, 2009.

8. RESOLUTION 9785, INTENT TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT – CITY-OWNED RESIDENTIAL LIGHTING DISTRICT NO. 1305, WATER TOWER PARK ADDITION.

Fiscal Services Director Coleen Balzarini reported that the developer of 16 parcels of Water Tower Park Addition has requested the installation of five 100 watt lights mounted on 16 foot poles. Approval of this resolution will set the public hearing, and allow staff to move forward with the intent to create and final creation of this district as requested by the property developer.

Commissioner Beecher moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9785, and set a public hearing for the creation of Special Improvement Lighting District – City-Owned Residential Lighting District No. 1305 for February 3, 2009.

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

Commissioner Jolley asked if the 5% interest could be added to the assessment. Ms. Balzarini answered that the 5% is added to the assessment. The word exclusive means the principle payment will be an average of \$108. The reason the City did not put in 5% for the entire loan is because it is a declining principal balance loan and would have misstated the amount they would be paying.

Commissioner Jolley inquired if the total operating maintenance cost per year by the City was \$990, and NorthWestern Energy would be \$710. Ms. Balzarini reminded Commissioner Jolley that the City's cost for street lighting energy is more expensive than NorthWestern Energy, but the City's cost for maintenance on the poles is less than NorthWestern Energy.

Commissioner Jolley asked if the developers were allowed to call NorthWestern Energy and ask for poles. Ms. Balzarini answered that the City adopted a policy of any new lighting that is installed within new developments would be owned by the City. That option is not available to the developers under the existing policy adopted by the City Commission.

Commissioner Jolley asked if the City was able to supply them with energy in light of the Public Service Commission's ruling. Ms. Balzarini answered probably not at this point. What the City is able to do is own the lights, poles and wires. The final outcome of the Public Service Commission's ruling is still ongoing.

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

Kathy Gessaman, 1006 36th Avenue NE, objected to additional lighting being installed within the City due to health issues caused over time.

Ron Gessaman, 1006 36th Avenue NE, commented that he resides down the street from this development. Mr. Gessaman believes the developer is making his property relatively unattractive by attaching extra costs to each lot. He also objects to the characterization that the developer has asked for five lights. The petition requested the installation of four lights.

Stuart Lewin, 615 3rd Avenue North, commented that lights were recently installed at a church parking lot across the street from his house. Since then, his house was broken into several times and he believes it was due to being

able to see into his house because of the lights. Mr. Lewin suggested adjusting lifestyles and adopting a policy that would make it softer on the planet.

Commissioner Jolley commented that it was a developer's choice to request street lighting.

Motion carried 5-0.

Res. 9808. Adopted

9. RESOLUTION 9808, RECOVER COSTS INCURRED IN REMOVAL AND DISPOSAL OF NUISANCE WEEDS LOCATED AT 3425 4th AVENUE NORTH.

Fiscal Services Director Coleen Balzarini reported that this resolution is on one specific property located at 3425 4th Avenue North. There is a pending trustee's sale. Adoption of this resolution will allow the City to assess and recover the \$200 cost for cutting weeds prior to the sale.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9808.

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

Mayor Stebbins asked if there were any inquiries from the public. **Stuart Lewin**, 615 3rd Avenue North, spoke in support of the passage of this resolution.

Motion carried 5-0.

**Consent Agenda.
Approved.**

CONSENT AGENDA

10. Minutes, December 16, 2008, Commission meeting.
11. Total expenditures of \$3,499,287 for the period of December 12-31, 2008, to include claims over \$5,000, in the amount of \$3,243,490.
12. Contracts list.
13. Set public hearing for January 20, 2009, for Neighborhood Stabilization Program (NSP) Community Housing Needs.
14. Award construction contract to James Talcott Construction in the amount of \$208,000 for the Water Treatment Plant Backwash Clarifier Modifications.

Commissioner Jolley moved, seconded by Commissioner Bronson, with the exception of Item 11, that the City Commission approve the Consent Agenda as presented.

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

Motion carried 5-0.

With regard to Item 11, Commissioner Jolley inquired about the payment to the Great Falls Development Authority for development costs for the Ag Tech Park. Ms. Balzarini responded that the City Commission approved a Memorandum of Understanding between the GFDA and the City. This payment was the first draw on the preliminary design work that is being done in the area.

Commissioner Jolley asked if the City had purchased fuel for a set price for a certain number of years. Public Works Director Jim Rearden answered that a fuel contract was purchased that is adjusted by an index. The price does fluctuate.

Commissioner Jolley asked what ULRRWS meant on page 4 of the report. Ms. Balzarini responded that it meant Upper Lower River Road Water Sewer District. The City is acting as an agent for that entity in collecting and paying this debt.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission approve Item 11 of the Consent Agenda as presented.

Motion carried 5-0.

BOARDS & COMMISSIONS

**Jeff Mangen and
Raymond Wahlert
reappointed to the
Regional Airport
Authority Board.**

15. REAPPOINTMENTS, REGIONAL AIRPORT AUTHORITY BOARD.

Commissioner Bronson moved, seconded by Commissioner Beecher, that the City Commission reappoint Jeff Mangen and Raymond Wahlert to three-year terms through December 31, 2011, to the Regional Airport Authority Board.

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

Commissioner Rosenbaum commented that he received a call pointing out that other people are waiting for the opportunity to serve on boards.

Mayor Stebbins stated, in this case, there were two very qualified candidates that did excellent work in the past. She found their interviews with the Commission to be very informative, and has a better idea now where the Airport Authority is headed. That entity has a powerful economic impact on this community and the City Commission needs to be apprised of what is happening up there.

Commissioner Rosenbaum added that the semi-annual reports that the Commission will get from the appointees will help keep the Commission in touch with the Airport Authority.

Commissioner Jolley inquired if semi-annual reports would also come from the Electric City Power Board and was informed only reports from City appointees on County boards.

Mayor Stebbins asked if there was any further discussion amongst the Commissioners or inquiries from the public. No one responded.

Motion carried 5-0.

16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

CITY MANAGER

17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Assistant City Manager Cheryl Patton reported that City Manager Gregory Doyon was absent because he was ill. She thanked Interim Planning Director Bill Walters and welcomed him aboard.

PETITIONS AND COMMUNICATIONS

18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Stebbins opened the meeting to Petitions and Communications.

ECP.

18A. Kathy Gessaman, 1006 36th Avenue N.E., thanked the ECP Board for listening to public comments. She also thanked Coleen Balzarini for saying she would try to find the membership certificate representing membership in the SME Cooperative.

**Public Comment, ECP,
Law Enforcement
Officers.**

18B. Ron Gessaman, 1006 36th Avenue N.E., commented on the following: (1) he noted that there was no public comment asked for on the consent agenda; (2) he noted that he was unable to find the rules of operation with regard to the City's involvement in the electric business. He read OCCGF 5.20.080, and stated he believes the City is in violation of Title 69, Chapter 7, Part 2, MCA; (3) he stated he is confused as to the position of the executive director for ECPI. ECPI is represented in the lawsuit filed against SME as having the executive director represent them at the meetings. According to SME's bylaws, only a member can be represented at SME's meeting. He is confused who the member is. In the Assignment and Assumption Agreement, the City stated it maintained its membership in SME. Mr. Gessaman requested a written response whether the executive director of ECPI is representing the member of SME, the City, or is she representing ECPI; and, (4) he thinks it is ridiculous to have two

law enforcement officers in the chambers during Commission meetings. Additionally, he thinks it is completely wrong to have undercover officers and would like to see a uniformed officer instead.

ECP.

18C. Stuart Lewin, 615 3rd Avenue North, read a portion of page 2 of the Assignment and Assumption Agreement. Mr. Lewin commented that there are different obligations of what the ECP Board and the City must do. He expressed concern about the recent litigation and stated the City and ECP Board should have separate attorneys. He believes this is important because the ECP Board has been losing money and the City has done nothing to enforce the contract against the ECP Board. Mr. Lewin does not believe the City Commission is assuming the responsibility of getting a handle on this and is unacceptable to him.

ECP, SME.

18D. Aart Dolman, 3016 Central Avenue, concurred with Mr. Lewin's comments. Mr. Dolman is concerned about the secretiveness of SME. It is not acceptable to send a public employee to a meeting that is held in secret. He stated that he disagreed with City Attorney Gliko's comments to the ECP Board at Monday night's meeting. Mr. Dolman recommended that the City Commission hire a capable attorney separate from SME's attorneys that can do an independent investigation and represent the City.

**Pine Beetles,
Condolences, Federal
Courthouse, Federal
Judge.**

18E. John Hubbard, 615 7th Avenue South, inquired what could be done about Pine Beetles. Mr. Hubbard expressed condolences to the Jerre Carpenter family. He commented that the new Federal Courthouse being built should be a museum instead, and West Bank should be left a park. Mr. Hubbard expressed his dissatisfaction with Federal Judge Sam E. Haddon.

CITY COMMISSION

19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Commissioner Jolley suggested re-evaluating the ordinance regarding City street lighting. She stated that there are loans to build and costs to maintain the poles, and is not sure she wants to own the poles.

Mayor Stebbins nominated the staff of Golden Corral for the Good Neighbor Award.

ADJOURNMENT

Adjourn.

There being no further business to come before the Commission, **Commissioner Bronson moved, seconded by Commissioner Beecher, that the regular meeting of January 6, 2009, be adjourned at 8:25 p.m.**

Motion carried 5-0.

Mayor Stebbins

City Clerk

Minutes Approved: January 20, 2009