

JOURNAL OF COMMISSION PROCEEDINGS
March 5, 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 Deputy City Manager Chuck Anderson; Deputy City Clerk Darcy Dea; Public Works Engineer Dave Dobbs; Finance Director Melissa Kinzler; Planning and Community Development Director Craig Raymond; City Attorney Sara Sexe; and, Police Captain Rob Moccasin.

AGENDA APPROVAL: Deputy City Manager Chuck Anderson noted that there was a minor correction to item #8, the correct public needs hearing date is April 2, 2019 for Item #15, and additional correspondence for Item #16 was received after original posting of the Agenda. The revised agenda was approved as submitted.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: Commissioner Bronson announced that he would be abstaining from the discussion and vote on Item #14.

1. PROCLAMATIONS

Commissioner Houck read Respect & Inclusion Day; Commissioner Robinson read Charles M. Russell Month; and Commissioner Moe read Montana Retired Educator Day.

PETITIONS AND COMMUNICATIONS

2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Brett Doney, Great Falls Development Authority, 405 3rd Street Northwest, reported that Great Falls has been named one of the “2019 Top 100 Best Places to Live” by Livability.com.

John Hubbard, 615 7th Avenue South, inquired the status of the water quality, as well as the purpose of the ultraviolet system. Mr. Hubbard expressed concern about to ice build-up on rooftops.

Referring to Mr. Hubbard’s inquiries, Public Works Engineer Dave Dobbs responded that the ultraviolet system has reduced the amount of chlorine added to the water by 72%. The last eight samples taken for the Haloacetic Acids (HAA5’s) were in compliance with state regulations, and the ultraviolet rays deactivate the organisms DNA to prevent reproduction.

NEIGHBORHOOD COUNCILS

3. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

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BOARDS & COMMISSIONS

4. APPOINTMENT AND REAPPOINTMENTS, MANSFIELD CENTER FOR THE PERFORMING ARTS ADVISORY BOARD.

Commissioner Moe moved, seconded by Commissioner Houck, that the City Commission appoint Edward (Larry) Gomoll and reappoint Nancy Clark and Patty Holmes-Myers to fill three-year terms through December 31, 2022, to the Mansfield Center for the Performing Arts Advisory Board.

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

Commissioner Houck commended the Board for its service to the Mansfield Center.

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

Motion carried 5-0.

5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM BOARDS AND COMMISSIONS.

Commissioner Robinson reported that the City County Health Board Chairman, Peter Gray, resigned, and the Commission is seeking applications until March 25, 2019 for qualified citizens to serve on the Board. Commissioner Robinson thanked Mr. Gray for his service on the Board.

Commissioner Bronson added that the City County Health Board is not only advisory, but also has regulatory authority under state law.

CITY MANAGER

6. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Deputy City Manager Chuck Anderson announced:

- Manager Greg Doyon was scheduled to attend an Association of Defense Communities Conference; however, he became ill and was unable to attend.
- All Unions will be entering into Collective Bargaining Negotiations.
- Manager Doyon hosted a budget workshop for department heads on March 1, 2019 to begin the 2020 budget process. The Finance Department will provide training on budget entry for staff on March 15, 2019.

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- There are current openings for the City County Health Board, Advisory Commission on International Relationships, and Golf Advisory Board. Applications should be turned into the City Manager's office.
- A motor grader was destroyed by a fire at Public Works shop. Deputy City Manager Anderson expressed appreciation to RDO Equipment and Tractor and Equipment for loaning a motor grader, at no cost, until the City can get a replacement grader.
- The Electric City Water Park project began March 4, 2019, and is anticipated to be completed by the end of May, 2019. There will be improved ADA accessibility from the parking area, restoration of the stucco façade, window frames and glazing, roof work, reconfiguration of a check-in counter, both locker and family changing rooms, and total renovation of the toilet to shower areas to meet ADA standards, and a new family restroom.

Mayor Kelly commended the community, as well as Malmstrom Air Force Base for their efforts with regard to the search and rescue efforts for Judge John Parker.

CONSENT AGENDA.

7. Minutes, February 8, 2019, Special Commission meeting.
8. Minutes, February 19, 2019, Commission meeting.
9. Total expenditures of \$1,321,499 for the period of January 7, 2019 through February 20, 2019, to include claims over \$5,000, in the amount of \$1,109,679.
10. Contracts list.
11. Award a three year contract for audit services with Anderson ZurMuehlen & Co, P.C. (AZ) at a cost of \$47,000 annually (or \$141,000) for Fiscal Years 2019, 2020 and 2021.
12. Award a contract in the amount of \$774,805 to United Materials of Great Falls, Inc., for the South Great Falls Storm Drain Improvements (North Basin) project and authorize the City Manager to execute the construction contract documents. **OF 1554.4**
13. Approve Final Payment for the Great Falls Public Library Boiler Replacement in the amount of \$33,264 to McKinstry Essention, LLC and \$336 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1621.1**
14. Set a public hearing to consider the lease of City Owned property parcels 3016300 & 3015100 located three and one half miles north of the Manchester Exit for April 2, 2019.
15. Set Community Development Block Grant (CDBG) public needs hearing for 2019/2020 Annual Action Plan for April 2, 2019.

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Commissioner Bronson moved, seconded by Commissioner Robinson, that the City Commission approve the Consent Agenda as presented with the exception of item 14 which is to be pulled for separate consideration and vote.

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 Bronson explained he is recusing himself from Item #14 since the Lessee, Mr. Laubach, was a former client.

Commissioner Moe moved, seconded by Commissioner Houck, that the City Commission set a public hearing to consider the lease of City Owned property parcels 3016300 & 3015100 located three and one half miles north of the Manchester Exit for April 2, 2019.

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 4-0-1. (Commissioner Bronson abstaining)

PUBLIC HEARINGS

16. **RESOLUTION 10268 TO ANNEX A 21.10 ACRE TRACT IDENTIFIED AS PARCEL 1 ON CERTIFICATE OF SURVEY # 5162, ORDINANCE 3180 TO ESTABLISH PLANNED UNIT 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 Resolution 10268, Ordinance 3180, and the applicant's Preliminary Plat request were presented and considered by the City Commission at a public hearing on September 18, 2018. After closure of the public hearing, the Commission decided to table action on the pending motion until the January 15, 2019, meeting. The purpose of tabling the motion was to allow the applicant the opportunity to provide the City with its new alternative storm water drainage concept for the proposed development, along with additional information regarding emergency ingress and egress.

At the applicant's request, the City Commission approved a postponement to March 5, 2019.

City Attorney Sara Sexe discussed the procedural considerations for the March 5, 2019 public hearing.

Planning and Community Development Director Raymond explained that 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. The 21.10 acre parcel is one of three parcels that comprise 227.63 acres owned by the applicant. The 227.63 acres are bordered by the Walmart store and vacant, commercially zoned property to the north, the KOA

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Campground and vacant property to the west, vacant property to the south, and vacant property to the east. The northeast portion of the 227.63 acres adjoining US Highway 89 and the Malmstrom Air Force Base contains a 10.21 acre Airfield Restrictive Easement not being disturbed for development. 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. The applicant's request for PUD zoning is due to the mix of residential densities and a few mixed-use commercial lots on the north end of the master planned project. These mixed-use lots are proposed to primarily mirror those dimensional and use standards that are allowed under the City's M-1 Mixed Use zoning designation, providing for the possibility of different residential uses, retail, offices, institutional and light manufacturing.

The applicant also wishes to subdivide another portion of the 21.10 acres for 37 single family detached home lots. All of the proposed lots would be at least 11,500 square feet, and most resemble development in the City's R-2 Single-family medium density zoning district, which requires 11,000 square foot residential lots. The remaining development standards for this portion of the proposed PUD, such as lot width, building heights, setbacks, and lot coverage percentage, are requested to be a mix of standards found in the City's R-1, R-2, and R-3 zoning districts. Although the proposed use of the lots will be for single family detached homes, the applicant is requesting permitted uses consistent with the R-1 zoning district. The combined area of the residential lots is 12.50 acres, with the remaining acreage being devoted to both public and private streets and greenspace.

Staff continues to have significant concerns regarding the application. Because the 21.10 acre parcel is only contiguous to the City limits on the parcel's north side, and because the property is located at the southeast boundary of the City, it presents challenges for police, fire, and emergency services. Due to the substandard nature of the response time issue, the project location makes response logistics and timing critically important.

Fire Chief Steve Hester expressed concern with regard to the longevity of a compressed aggregate access road, as well as a nine minute response time. Chief Hester commented that emergency access roads aren't maintained the way normal roads are, and expressed concern that snow would not be cleared off the road, making access difficult for emergency services.

Director Raymond reported that despite clear, minimum specifications for City streets and access roadways, the applicant has proposed an access comprised of asphalt millings with the edges and other areas seeded with grass. This design is not appropriate due to concerns with vegetation and root matter degrading the integrity of the surface, as well as long-term maintenance and durability failures.

The Commission directed the applicant to address staff's concerns regarding the proposed inadequate second emergency access road. To date, the applicant has chosen to not respond to the Commission's directive, instead, relying on the previously submitted plan and preliminary report, which lacked the ability to conclusively document compliance with City standards. Additional geotechnical testing needed to address these gaps in the report has not been done.

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As mentioned in the September 18, 2018 Staff report, storm water is a paramount concern of the proposed development. Based on the applicant's testimony at the September 18, 2018 hearing about a possible storm water proposal, or an alternative proposal, the Commission directed the applicant and staff to work towards vetting that alternative design idea. At the January 15, 2019, Commission meeting, the applicant asked for additional time to continue to produce additional information to provide staff for consideration. What was received was not so much a new, alternative proposal; rather, it was an amended version of the original design.

City Engineer Dave Dobbs reported that the late submittal of revised information gave City staff inadequate time to carefully review and discuss the details of the submittals with the applicant's consultants. City staff remains extremely concerned about the project's downstream drainage impacts to the Gibson Flats area. As noted in the September 18 agenda report, the City is currently defending claims of over \$2,000,000 in damages by L. Johnson Corporation. These claims are based upon alleged damage to the Corporation's property resulting from drainage issues from prior developments in the Berkner Heights, Whispering Ridge, Charles Russell, Christensen, East Ridge, and East Great Falls Retail Center Additions. The L. Johnson farm ground is directly south and west of the applicant's proposed development.

More specifically, the City's remaining concerns related to storm water impacts, even with the revised proposal, are:

1. The creation of point discharge flow. Even with a proposal that reduces runoff rates and volumes, downstream flow leaving a man-made pond with a new pipe outlet is still more concentrated flow than the pre-existing natural flow path; and
2. Groundwater impacts. Alleged impacts due to groundwater flows are a key claim in the current Gibson Flats litigation. Infiltration of water on the property and downstream conveyance via groundwater remain a concern given the ongoing litigation. In discussions with the applicant, City staff noted that irrigation will take place on individual lots, amplifying groundwater flows if a 40-lot subdivision is constructed. Additionally:
 - a. Staff made recommendations such as using a synthetic liner for the proposed detention/retention pond as well as the installation of a groundwater capturing system. In response, the applicant proposes clay rather than synthetic liner; however, the applicant did not provide testing data of the proposed clay soil or any design details for review. Staff's concerns associated with this approach revolve around the developer's unwillingness to use a synthetic liner, as staff has experienced better reliability with synthetic liners as compared to clay; and
 - b. The applicant is proposing a groundwater dewatering system as well as Homeowner's Association-enforced covenants that would limit irrigation of private landscaped areas. Staff's concerns associated with this approach revolve around the perpetual enforcement challenges in relying on Homeowner's Association enforcement of irrigation limits.
3. There are serious concerns regarding missing or inadequate details in the storm drainage reports thus far submitted, including:

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- a. In sensitive areas, it is common practice to limit peak flow discharge to a 2-year pre-development storm event. To limit the volume of runoff, both 2-hour and 24-hour duration and back-to-back storm events shall be considered. This information was not provided by the applicant.
- b. No calculations were included to validate some functions of the detention/retention facilities. Missing from the reports was discussion of expected evaporation, which will impact required pond volume and surface area. Also, as noted above, no evaluation or specific detail of the proposed clay pond liner has been provided;
- c. Beneficial use of the storm runoff was added into the recent reports. However, there are no details on the sizing of these facilities. Beneficial reuse is in direct conflict with the applicant's concerns regarding downstream water rights, which the applicant highlighted at the September 18, 2018, Commission hearing; and
- d. Additional explanation is required on how the downstream natural drainage channels will be protected from erosion.

The developer has chosen not to consider staff suggestions that would definitively mitigate storm water impacts including pumping and/or piping of the storm water in order to protect downstream areas.

Director Raymond explained that staff's recommendation is not based simply on a desire to stop a project from moving forward. There are options, which the developer can choose that would lead to a more favorable recommendation for Commission consideration. Staff has proposed alternative, creative solutions which are concrete and realistic that might cost more money than the original proposal; however, it offers a potential path towards solving the concerns.

The applicant has declined to adequately pursue those options. Ultimately, if a reasonable, common-sense solution cannot be found, the appropriate response is to deny the application, and wait until the appropriate solution can be found. In time, perhaps current concerns will be mitigated and a more advantageous plan can be successful. The request is a great development concept proposed in a tough spot fraught with challenges; however, so far, staff and the applicant have not been able to find a mutually acceptable, creative solution.

Abigail St. Lawrence, Helena, counsel for Mr. Woith, commented that she was not provided the additional correspondence for Item #16, received after original posting of the Agenda. Counsel St. Lawrence read from a written statement that was provided to the Commission and staff.

Counsel St. Lawrence expressed concern with regard to accusations from staff that the applicant had chosen to disregard City staff's request for information, declining or delaying to provide information. She explained that the applicant, Spencer Woith, has had a workforce shortage, as well as finding objective, third parties to prepare additional information on the storm water drainage.

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Referring to the Agenda Report, Counsel St. Lawrence commented that the applicant is not in a position to apply for a Beneficial Use Permit with the Montana Department of Natural Resources for beneficial reuse with regard to downstream water rights.

Mayor Kelly reported that the pending motion from September 18, 2018 reads as follows: **“that the City Commission vote down the pending motion to adopt Resolution 10268 to annex the 21.10 acre tract identified as Parcel 1 on Certificate of Survey #5162 and the accompanying Findings of Fact, pending the storm water solution that was described to the Commission as a reduction to both flow and rate worked out, and the emergency egress road worked out between the City and the applicant.”**

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 failed 0-5

Mayor Kelly explained the public hearing process.

Project Developer Spencer Woith, 1725 41st Street South, provided a written statement from Dana Huestis with KYSO Corporation.

Mayor Kelly asked if the Commissioners had any questions of staff or the applicant.

Commissioner Houck inquired what additional item Counsel St. Lawrence was not provided after the original posting of the Agenda.

Abigail St. Lawrence responded the additional item that was received after the posting of the agenda packet.

Commissioner Houck pointed out that written correspondence supporting or opposing the proposed development was received from David Weissman with the Montana Defense Alliance, Shane Etzweiler with the Great Falls Area Chamber of Commerce, and Loren Smith with Prairie Kraft Specialties.

City Attorney Sexe noted that Commissioner Moe provided three copies of the written correspondences to Counsel St. Lawrence.

Commissioner Houck pointed out that Counsel St. Lawrence’s written statement was not provided to the Commission prior to the meeting.

Counsel St. Lawrence responded that her written statement, as far as the technical information, is in the Big Sky Civil & Engineering report, which had been provided to Commission prior to the agenda packet being published.

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Commissioner Houck inquired if Big Sky Civil & Environmental, Inc. was absent for the March 5, 2019 Commission meeting due to a conflict with the County.

Referring to a prior Commission meeting, Counsel St. Lawrence responded that Cascade County Commissioner Joe Briggs' assertions that the application was brought to the city in order to avoid county zoning has been addressed.

Commissioner Robinson inquired if the emergency service access road would be paved or milled.

Counsel St. Lawrence responded that the applicants agree to pave, not pay, as stated in her written statement, the emergency access drive.

Mr. Woith responded that the agreement is to pave the access roadways with the same thickness that would be required by a City standard street, as long as it can meet all of the Montana Department of Transportation (MDT) requirements at the actual approach.

Commissioner Bronson asked staff if the applicant's agreement to pay an approximate cost of \$45,000 to pave the emergency service access road per standards addresses staff's concerns with regard to the ingress/egress issue.

Director Raymond indicated that as long as additional requirements and standards that lie below the paving are still met.

Commissioner Bronson inquired if the applicant would be able to meet the additional requirements and standards as indicated by Planning and Community Development Director Raymond.

Mr. Woith responded that he would be able to meet the requirements of a standard City roadway which would include a geotechnical report, as well as meeting code requirements.

Commissioner Moe asked Mr. Woith when the agreement was reached.

Mr. Woith responded that the agreement was reached at 2:00 p.m. today, March 5, 2019.

Commissioner Moe commented that everything feels so rushed and that makes her nervous.

Referring to page 3 of Counsel St. Lawrence's handout, Commissioner Moe inquired if the applicant's storm water drainage proposal meets or exceeds all applicable City and DEQ design standards.

Engineer Dobbs responded that the late submittal of the revised information gave City staff inadequate time to carefully review and discuss the details of the submittals, and noted that at first glance of the hand out, there are things that staff does not agree with.

Mayor Kelly noted that the engineering report was received on February 15, 2019, and inquired what the standard time frame was to receive and review such documents.

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In response to Mayor Kelly, Director Raymond responded that it depends on the scope and scale of the project. Director Raymond explained that staff received the report on February 15, 2019; however, the agenda report deadline was February 21, 2019, which gave staff less than a week to review the report.

Mayor Kelly inquired what the expected standard time would be to review documents for this type of project.

Director Raymond responded that the appropriate amount of time to review documents for this type of project would be two-four weeks.

Referring to page 2 of Counsel St. Lawrence's handout, Mayor Kelly inquired about the alleged missing or inadequate details in the storm drainage reports.

Engineer Dobbs responded that City staff received preliminary information on February 4, 2019, met with the applicant and Kevin May, from Big Sky Civil & Environmental, Inc. on February 13, 2019 to discuss concerns, and a narrative report was received on February 15, 2019. Engineer Dobbs further responded that the inadequate details are listed on page 6 of the Agenda Report.

Written correspondence in favor of Resolution 10268, Ordinance 3180 and the Preliminary Plat was received from **Loren Smith**, 1500 51st Street South, Great Falls KOA and Prairie Kraft Specialties.

Speaking in favor of Resolution 10268, Ordinance 3180, and the Preliminary Plat were:

Katie Hanning, 327 2nd Street South, Homebuilders Association, commented that the Homebuilders Association is in favor of development; however, there are no available lots to build in Great Falls. She commented that people like to choose where they want to live.

Trace Timmer, 1113 41st Avenue Northeast, commented that there is a need for housing on the east end of town, and the propped development would fulfill the need.

Written correspondence was received from **David Weissman**, Montana Defense Alliance (MTDA) Chairman, 100 1st Avenue North, and **Shane Etzweiler**, Great Falls Area Chamber of Commerce, 100 1st Avenue North, opposing Resolution 10268, Ordinance 3180 and the Preliminary Plat.

Speaking in opposition to Resolution 10268, Ordinance 3180, and the Preliminary Plat were:

Doug Oswood, 401 Fox Drive, expressed support for future development in Great Falls; however, commented that approving the Wheat Ridge Estates, Phase I development could jeopardize any future expansion or mission at Malmstrom Air Force Base (MAFB). He commented that the approval of the proposed development in the long run wouldn't be in the best interest for the City at this time. Mr. Oswood urged the Commission to listen to staff recommendations.

Commissioner Robinson stepped out at 8:35p.m. and he returned at 8:38 p.m.

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Steve Grooms, 6200 3rd Avenue North, expressed opposition to the encroachment at MAFB and land-use relating to the proposed Wheat Ridge project, and commented that the City would be significantly impacted by losing MAFB.

Bonnie Mitchell, member of the Board of Directors for the Great Falls Area Chamber of Commerce (Chamber), 100 1st Avenue North, commented that the Board of Directors and the Chamber stand behind Chamber President/CEO Shane Etzweiler's comments presented at the September 18, 2018 Commission meeting. She expressed concern with regard to the potential negative economic impact the proposed development might have on the future of Great Falls. The Chamber would recommend a no vote at this time on this proposed development.

Shane Etzweiler, President/CEO of the Great Falls Area Chamber of Commerce (Chamber), 100 1st Avenue North, commented that the Chamber advocates for and supports businesses in the Great Falls Area, especially when it relates to affordable workforce housing; however, the proposed project would have a detrimental impact on future missions at MAFB and potentially the entire base in the future. Correspondence had been submitted to the Commission from the Congressional Delegation Steve Daines and Greg Gianforte, retired Generals who served as Commanders at MAFB, as well as the Assistant Secretary of the Air Force, John Henderson, requesting that the Commission abide by the recommendations of the 2012 Joint Land Use Study. (JLUS). Mr. Etzweiler explained that the economic impact of homes built in the proposed development would be a one-time economic impact, compared to an annual impact from MAFB. Mr. Etzweiler concluded that the impact that MAFB has in the community is something we can't ignore and needs to be protected.

Dave Bertelsen, 325 Fox Drive, commented that the Great Falls Long Range Transportation Plan census states that there were 800 jobs lost with the closing of the Anaconda Company, and that it took over 20 years to rebuild the population. Mr. Bertelsen commented that the community can't jeopardize losing MAFB since it is the seventh largest employer in Montana, providing 3,600 jobs. Mr. Bertelsen pointed out that recently the Base Commander reinforced that the City adhere to the recommendations of the JLUS process. Mr. Bertelsen commented that many businesses intent on coming to Great Falls is based on the stability of MAFB to ensure their future. Referring to the letters received from the Congressional Delegation, Department of Defense (DOD), and the Air Force, recommending the denial of this project, Mr. Bertelsen urged the Commission to heed their recommendations.

Richard Liebert, 289 Boston Coulee Road, concurred with the previous speakers, and commented that the City cannot afford to compromise the addition of a flying mission.

There being no one further to address the Commission, Mayor Kelly asked again if the Commissioners had any questions of staff or the applicant.

Hearing none, Mayor Kelly asked if the applicant wished to respond to any comments made during the proceeding, submit any additional information, or amend the application.

Abigail St. Lawrence commented that her family had moved to Great Falls the year after the smoke stack was demolished, and there was concern that Great Falls would "dry up and blow away." Her family personally survived some difficult economic times as Great Falls found a new economic center after the closing of the Anaconda Company, as well as the loss of the refueling wing in the 1990's. Counsel St. Lawrence commented that she sees a thriving community and MAFB is still here. Counsel

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St. Lawrence concluded that the community is strong and will be stronger due to diversified economic development.

Referring to the letters from Congressional Delegation Steve Daines and Greg Gianforte, Counsel St. Lawrence commented that the letters do not use the words “Wheat Ridge Estates, or cite specifically this development. Referring to page 115 of the agenda report, Counsel St. Lawrence, commented that the letter from the Assistant Secretary of the Air Force speaks in general terms, and makes no recommendation as to denial or granting of the application.

Referring to the written testimony of Dana Huestis with KYSO Corporation, Counsel St. Lawrence read from his statement as follows: “Malmstrom has been classified a Heliport by Federal Aviation Administration Directive dated May 26, 2016. A copy of that Directive is included again in this record. The F.A.A. specifically required helicopters to approach and depart in the direction 026 degrees, which is Northeast, not Southwest over Wheat Ridge Estates. The Directive specifically directs that all fixed wing aircraft are restricted from use. The City Community Development Staff Report does not recognize that BRAC eliminated flying missions and does not recognize that the F.A.A. has designated Malmstrom a Heliport and does not recognize that the F.A.A. prohibits flights over what will be Wheat Ridge Estates!” Counsel St. Lawrence commented that is current situation.

Counsel St. Lawrence continued to read from the written testimony of Mr. Huestis as follows: “When Malmstrom was an Air Installation they adopted a policy known as Air Installation Compatible Use Zone (AICUZ). Malmstrom is not now an Air Installation, it is a Heliport! There is no Compatible Use Zone in a Nuclear Footprint Zone! The City Community Development Staff Report does not recognize that there is no “Incompatible Use Zone. There are not now, nor have there ever been, nor will there ever be “Accident Potential Zones” on my property. My property is free and clear of any such recordings as would be required if there were.”

Counsel St. Lawrence commented that the path leading up to the March 5, 2019, Commission meeting has been a long and winding road, and the applicants appreciate the efforts of the Commission, as well as staff to give everyone involved due process as an equal opportunity; however, the time has come to make a final decision. All information has been provided as requested, all applicable state and local regulations have not only been met, but have been exceeded. The Community Needs Survey indicates that the City needs residential housing, economic development, and public improvements. Wheat Ridge Estates, Phase I meets all of those needs, and meets them now.

Referring to Daniel Rice’s September 14, 2018 written statement from the September 18, 2018 Commission meeting, Counsel St. Lawrence read from his statement as follows: “The hope of a new flying mission is still a broadly felt emotion and supported by many. That is a good thing. What is not a good thing, is to cling to a position that excludes capitalizing on other opportunities. Twelve years ago we were told there was a potential flying mission just around the corner but so far all that has happened is the prevention of a housing development by private parties that don’t require public funding. Another concern is the growing reputation of Great Falls as the “City of No.” Regardless of the merit, that reputation is growing. One indicator is what is happening outside of the city. Housing is being developed both to the east and south but outside the Great Falls city limits. I understand that mistakes can cause problems (i.e. coal and natural gas power plants owned by the city.) We should not let past

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ventures dictate that Great Falls should be frozen in the past. I ask that the project be approved with the appropriation conditions so that Great Falls can show it can move forward.”

Counsel St. Lawrence concluded that the applicants proudly and respectfully request that the Commission approve Resolution 10268, Ordinance 3180, and the Preliminary Plat to Wheat Ridge Estates, Phase I, and “move Great Falls forward into its future where our best and brightest can come home to Great Falls, and build the lives they and their families have earned.”

There being no one further to address the Commission, Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Bronson moved, seconded by Commissioner Robinson, that the City Commission deny Resolution 10268 to annex the 21.10 acre tract identified as Parcel 1 on Certificate of Survey # 5162 and the accompanying Findings of Fact.

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

Commissioner Bronson commented that he made the motion reluctantly knowing the reputation of the developer, Mr. Woith, and for the excellent work that he has done in the community. Commissioner Bronson expressed opposition to Cascade County Commissioner Briggs’ position that the proposed annexation request is an attempt to elude county zoning. Commissioner Bronson commented that an individual who owns property outside the city limits could seek annexation by petition; however, approval is not mandatory by the City Commission.

Commissioner Bronson commented that the developer has addressed the ingress/egress issues; however, staff continues to have concerns with regard to storm water.

With regard to MAFB, Commissioner Bronson explained that the statements from the Department of Defense, and the Congressional Delegation may not advise the Commission specifically whether or not to grant or deny the application; however, it advises that the Commission take the JLUS into consideration.

Commissioner Bronson expressed support of residential, commercial or industrial development to further expand the tax base and economic vitality of the community; however, that has to be weighed against the community asset of MAFB. Referring to staff’s concerns with regard to storm water, and the future of MAFB, Commissioner Bronson expressed concern with regard to the proposed annexation at this time.

Commissioner Robinson echoed Commissioner Bronson’s comments and concerns. Commissioner Robinson expressed support of development; however, commented that staff’s recommendations to deny the proposed request makes him reluctant as well. With regard to MAFB, Commissioner Robinson commented that the risk would be too high if MAFB were to close due to the proposed development.

Commissioner Houck expressed concern with regard to continued issues from the September 18, 2018 negative findings, as well as due process with regard to the late submittal of the written testimony of Dana Huestis. Commissioner Houck commented that it is awkward to accept an

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agreement that was agreed upon at 2:00 p.m., the day of the public hearing. Based on information that was provided halfway through the Commission meeting, Commissioner Houck commented that if the proposed development were to go forward, there would be a lot of risks, and it wouldn't be a "win-win" for the community.

Commissioner Moe commented that her statements supporting the proposed project at the September 18, 2018 Commission meeting doesn't mean that she is not a loyal supporter of MAFB. She commented that the City's relationship with MAFB makes the City very dependent, and reluctant to take risks. Whether the proposed project is approved or not, Commissioner Moe commented that the mission at MAFB could still go away. She requested that supporters of MAFB work more at receiving a stronger commitment from them. Commissioner Moe concluded that not approving the proposed project is not an issue about MAFB, but rather, the application not being where it needed to be.

Mayor Kelly explained that the Commission has a responsibility to the community with regard to the need for stability that MAFB represents, as well as the need for growth. The proposed property is ripe for development and deserves to be developed without causing the concept of encroachment on MAFB.

Mayor Kelly commented that the application being done so quickly is a cause for concern. He commented that there are appropriate conditions to develop property that don't pose a threat to MAFB. Mayor Kelly concluded that in time, perhaps current concerns will be mitigated and a more advantageous plan could be submitted for the proposed development.

Commissioner Bronson restated the motion.

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

Motion carried 5-0.

Mayor Kelly called a recess at 9:30p.m. He called the meeting back to order at 9:35 p.m.

17. ORDINANCE 3194, AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF): RESERVING CHAPTERS 1 THROUGH 3; AND, REPEALING AND REPLACING CHAPTER 4 PERTAINING TO GENERAL PROVISIONS TO THE LAND DEVELOPMENT CODE.

City Attorney Sara Sexe reported that most of the proposed changes are non-substantive. The changes include establishing and reserving Chapters 1 through 3 of Title 17 of the Official Code of the City of Great Falls (OCCGF). Other non-substantive changes include correcting typographical, grammatical, formatting, and referencing deficiencies in Title 17, Chapter 4 of the OCCGF.

The proposed amendments would clarify what OCCGF zoning regulations apply to public entities developing land. The amendments would clarify that public entities are only exempt from regulations that are specifically designated by state law, which are:

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1. The height, number of stories, and size of buildings and other structures;
2. The percentage of lot that may be occupied;
3. The size of yards, courts, and other open spaces;
4. The density of population; and
5. The location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

Additionally, the proposed amendments clarify the process of a public entity would be required to follow to be exempt from the above listed regulations. The amendments would require public entities developing property to comply with all other development and property maintenance standards outlined in the OCCGF.

Mayor Kelly declared the public hearing open.

No one spoke in support of Ordinance 3194.

Speaking in opposition to Ordinance 3194 was:

Jeff Gray, Great Falls Public Schools Board Member, 3101 4th Avenue North, provided and read from a written statement, expressing the Board's concerns with regard to Ordinance 3194.

There being no one further to address the Commission, Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Bronson moved, seconded by Commissioner Robinson, that the City Commission adopt Ordinance 3194.

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

Referring to Mr. Gray's comments and concerns, Commissioner Bronson responded that the proposed amendments to Title 17 of the OCCGF allow the School District, or any Government Entity to not be bound by particular zoning regulations as it relates to the use of the property. The provisions to Title 17 also allow a property owner to apply for a variance process from particular standards if undue hardship can be established. Commissioner Bronson commented that Mr. Gray's concerns could be worked out through the provisions in Ordinance 3194.

Commissioner Bronson mentioned that the School District was exempted from certain development standard with regard to modifications that were done at CM Russell High School. Referring to the sidewalks around CM Russell High School, Commissioner Bronson urged the School District to readdress the sidewalks in that area, and to consider the needs of the neighborhood, students, and disabled.

Commissioner Moe commented that government bodies dealing with issues need to work together to arrive at an understanding. Commissioner Moe expressed concern that the issues with the School District may not be solved.

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Mayor Kelly received clarification that the state definition of zoning which indicates whether an entity could be exempt from zoning, is the provision that is added to Title 17 of the OCCGF. Mayor Kelly further received clarification that the School District's current building projects, relating to zoning, are excluded from the ongoing requirements by statute.

City Attorney Sexe explained that the City and School District disagree on the interpretation of the statutory language of zoning with regard to the limitations of self-governing powers, as well as the application of the entire Title 17 of the OCCGF.

Mayor Kelly commented that there has been good dialogue between the City and the School District, and the City is not trying to hinder development opportunities for the School District.

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

Motion carried 4-1. (Commissioner Moe dissenting)

OLD BUSINESS

NEW BUSINESS

ORDINANCES/RESOLUTIONS

18. **ORDINANCE 3202, TO ESTABLISH R-2 SINGLE-FAMILY MEDIUM DENSITY ZONING FOR THE PROPERTY LOCATED AT LOT 5 OF GRANDVIEW TRACTS, SECTION 13, T20N, R3E, P.M.M., CASCADE COUNTY, MONTANA, PROPERTY CURRENTLY OWNED BY STEVEN AND CRYSTAL JOHNSON.**

Planning and Community Development Director Craig Raymond reported that the applicants own a parcel of land located at 335 21st Avenue South legally described as Lot 5 of Grandview Tracts have filed for annexation of their property in order to be eligible to receive City water and sewer services. The lot is located within the upper lower River Road Water and Sewer District phase 5.

Commissioner Robinson moved, seconded by Commissioner Houck, that the City Commission accept Ordinance 3202 on first reading and set a public hearing for April 2, 2019.

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.

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19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Kelly extended an invitation for the retirement of the History Museum Director, Jim Meinert, on March 13, 2019 from 1:00 – 5:00 p.m. at the History Museum.

20. COMMISSION INITIATIVES.

None.

21. LEGISLATIVE INITIATIVES.

None.

ADJOURNMENT

There being no further business to come before the Commission, **Mayor Kelly moved, seconded by Commissioner Bronson, to adjourn the regular meeting of March 5, 2019, at 10:10 p.m.**

Motion carried 5-0.

Mayor Bob Kelly

Deputy City Clerk Darcy Dea

Minutes Approved: March 19, 2019