

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

PRESENTATIONS: Dan Brown and Bill Patterson of New Directions presented Chief McCamley with a sculpture representing the events of September 11 and the compassion and loyalty of the Great Falls Fire Department. On behalf of Great Falls Fire Rescue and all first responders from the dispatchers and mechanics to the finance people who enable GFFR to do their jobs, Chief McCamley humbly accepted the sculpture.

Austin Haney and James Rodriguez, Boy Scout Troop 28, discussed the importance of being drug free and what Red Ribbon Week means to them.

PROCLAMATIONS: Mayor Stebbins read proclamations for Red Ribbon Week, Make a Difference Day and Week Without Violence. Police Officer Ottis Dilley was presented with the Officer of the Year Award by Jill Martinez of the YWCA.

NEIGHBORHOOD COUNCILS

NC 7, James A. Super, and NC 9, Carol Weyer, sworn in.

1. James A. Super was sworn in as a representative of Neighborhood Council District No. 7, and Carol Weyer was sworn in as a representative of Neighborhood Council District No. 9.

NC 7.

2A. Aaron Weissman, NC 7, welcomed Mr. Super back to Neighborhood Council 7. Mr. Weissman requested that, if the City sells the sliver of park land by Gibson Park, the restrictions in effect remain in perpetuity. Mr. Weissman discussed budget cutbacks and concerns with the reassignment of the downtown police officer. The council is also concerned about increased parking fees. He requested that everyone work together to find a solution to this budget shortfall without increasing fees to promote downtown business.

NC 4.

2B. Sandra Guynn, NC 4, discussed the problems and deplorable conditions of the property at 4727 2nd Avenue North reported by tenants. Ms. Guynn requested that the City continue looking into condemning the property. Mr. Rattray responded that the Community Development Department initiated condemnation of the building on the west property line, and received right of entry into the two mobile homes that Ms. Guynn referred to and inspections will begin tomorrow.

PUBLIC HEARINGS**Res. 9783. Adopted.****3. RESOLUTION 9783, NAMING OF THE DOG PARK.**

Park and Recreation Director Marty Basta reported that this agenda item is to conduct a public hearing for the permanent naming rights of the dog park. The Animal Foundation of Great Falls is requesting that the City Commission approve the Pacific Steel & Recycling Trailside Dog Park as the name of the new dog park. The Animal Foundation received \$30,000 from Pacific Steel & Recycling for the permanent naming rights of the dog park. The Great Falls Animal Foundation agreed to fund the construction of the dog park and the Park and Recreation Department has agreed to provide ongoing maintenance with the assistance of the Animal Foundation. The dog park is now complete and is scheduled to open in the Spring of 2009.

Mayor Stebbins declared the public hearing open.

Speaking in favor of Resolution 9783 was **Aaron Weissman**, 315 4th Avenue North. Mr. Weissman thanked Pacific Steel & Recycling for the generous donation in making the park a reality that will benefit the entire City of Great Falls.

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

Commissioner Bronson moved, seconded by Commissioners Beecher and Rosenbaum, that the City Commission adopt Resolution 9783 naming the Dog Park "Pacific Steel & Recycling Trailside Dog Park."

Motion carried 5-0.

OLD BUSINESS**NEW BUSINESS****ORDINANCES/RESOLUTIONS**

Ord. 3012. Accepted on first reading and set public hearing for November 18, 2008.

4. ORDINANCE 3012, ASSIGN CITY ZONING TO WATER TOWER PARK ADDITION.

Planning Director Ben Rangel reported that in June, 2008, the City Commission approved the Preliminary Plat for Water Tower Park Addition. Tim Spencer and Dana Hennen, doing business as TD Land Development, are the property owners and developers of this subdivision. The subdivision is located in North Great Falls, just southwest of the City's water tower near 36th Avenue Northeast and Bootlegger Trail. It consists of 16 residential

lots. Mr. Rangel requested that the City Commission accept Ordinance 3012 on first reading and set a public hearing for November 18 to consider assignment of City zoning. At that time, the City Commission will also be asked to approve the final plat of the subdivision and its annexation.

Commissioner Beecher moved, seconded by Commissioner Bronson, that the City Commission accept Ordinance 3012 on first reading, and set a public hearing for November 18, 2008.

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

Motion carried 5-0.

Ord. 3020. Accepted on first reading and set public hearing for November 18, 2008.

5. ORDINANCE 3020, ASSIGN CITY ZONING TO NEW CASTLE CONDOMINIUMS.

Planning Director Ben Rangel reported that Harold Poulsen is the property owner and developer of this subdivision. The subdivision is located in South Great Falls and more specifically in the southeast corner of the intersection of 13th Street and 24th Avenue South. The subdivision is proposed to accommodate 26 single story residential condominiums. Mr. Rangel requested that the City Commission accept Ordinance 3020 on first reading and to set a public hearing for November 18 to consider assignment of City zoning. At that time, the City Commission will also be asked to approve the final plat of the subdivision and its annexation.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission accept Ordinance 3020 on first reading, and set a public hearing for November 18, 2008.

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

Motion carried 5-0.

Res. 9790. Adopted.

6. RESOLUTION 9790, REMODEL TAX BENEFITS, 512 2nd AVENUE NORTH.

Community Development Director Mike Rattray reported that approval of this resolution will allow for the taxes generated from the renovation of this property to be added to the existing tax base over a five year period in increments of 20% each year. Russell Country Properties invested approximately \$900,000 in renovating this apartment.

Commissioner Jolley moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9790.

Mayor Stebbins asked if there was any discussion amongst the Commissioners. Commissioner Jolley commented that, instead of paying 100% of the tax the first year, this business will now pay 20% of the new tax in annual increments. Mr. Rattray explained that was correct on the new taxes generated from the renovation. Taxes will still be paid on the existing tax base.

Mayor Stebbins asked if there were any inquiries from the public. No one responded.

Motion carried 5-0.

Res. 9786, Intent to Create Special Improvement Lighting District 1303. Adopted. Public hearing set for November 18, 2008.

7. RESOLUTION 9786, INTENT TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT – CITY-OWNED RESIDENTIAL LIGHTING DISTRICT 1303, BOOTLEGGERS ADDITION PHASE I.

Fiscal Services Coleen Balzarini reported that Resolution 9786 puts forth the City Commission's intent to create a special improvement lighting district. Bootlegger Addition Phase I developers, McIntyre Enterprises and Murphy Real Estate, requested that the lights be installed within the first phase. There are eight lights that are proposed to be installed. If this resolution is adopted, a public hearing will be set and notices will be sent to the developer.

Commissioner Jolley moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9786, and set a public hearing for the creation of Special Improvement Lighting District – City-Owned Residential Lighting District 1303 for November 18, 2008.

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

Motion carried 5-0.

Consent Agenda. Approved.

CONSENT AGENDA

8. Minutes, October 6, 2008, Commission meeting.
9. Total expenditures of \$1,211,092 for the period of October 1-16, 2008, to include claims over \$5,000, in the amount of \$992,778.
10. Contracts list.
11. Lien Release list.
12. Approve purchase of 260+ Microsoft Office 2007 Licenses not to exceed \$70,000.
13. Award contract for Great Falls Animal Shelter Medical Director to Dr. Tim Gilligan.
14. Approve Labor Agreement between the City of Great Falls and the Public Employees' Craft Council.

With the exception of Item 12, Commissioner Jolley moved, seconded by Commissioners Bronson and Beecher, that the City Commission approve the Consent Agenda as presented.

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

Motion carried 5-0.

Commissioner Jolley inquired if the Microsoft Office licenses were discussed during the budget process. Coleen Balzarini responded that it was not specifically budgeted for. Each year in the IT budget the City Commission approves funds to replace equipment, whether it is monitors, computers or software. There is money budgeted for the licenses, but it was not specifically identified that this is what would be purchased.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission approve the purchase of 260+ Microsoft Office 2007 licenses, not to exceed \$70,000.

Motion carried 5-0.

BOARDS & COMMISSIONS

Michael Bates appointed to the Great Falls Planning Advisory Board.

15. APPOINTMENT, GREAT FALLS PLANNING ADVISORY BOARD.

Commissioner Bronson moved, seconded by Commissioner Rosenbaum, to appoint Michael Bates to a three-year term beginning October 21, 2008, and ending December 31, 2011, to the Great Falls Planning Advisory Board.

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

Motion carried 5-0.

Commissioner Bronson stated that Mr. Bates will be replacing Dr. Greg Madson who served on the Planning Board and the City/County Planning Board for several years. He had the pleasure of serving with Dr. Madson. There were many times they were the lone voices for bringing about some needed changes to the zoning and land development codes. It is rare to get a person with urban planning experience like he had. He will be missed.

16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

CITY MANAGER

17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Gregory T. Doyon thanked Mr. Doug Wicks for his efforts to preserve the integrity of the trail system. Some vandalism occurred under the overpass. He and others covered up the graffiti.

Park and Recreation Director Marty Basta reported that Park and Recreation came across a unique opportunity to provide park improvements for Warden Park. The Master Plan for Warden Park calls for trails and other amenities in that park that the City has not been able to afford. With the replacement of the bridge on Overlook Drive, there was a need for fill dirt. The Park and Recreation Department entered into an agreement with the contractor. In exchange for 30,000 yards of fill material, the City will receive in excess of \$150,000 in park improvements including a southern connection to the River's Edge Trail, about 2,500 feet of walking path in Warden Park, upgraded golf equipment and a kiosk for viewing the city.

PETITIONS AND COMMUNICATIONS**18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Stebbins opened the meeting to Petitions and Communications.

Water rights.

18A. Kathy Gessaman, 1006 36th Avenue N.E., commented that she attended the Work Session and heard the consultant discuss increasing the water rates over the next ten years by 10%. To her, this means every 7.2 years the water rates will double. She believes the City should work with the City of Billings to use the City of Great Falls as a test case in the Water Court to fight for the 1889 water rights. Billings doesn't have the good historical background and documentation like Great Falls to defend its water rights. Unfortunately, there is only 12 days left before the deadline of November 3 when the decision to reduce the water rates by 60% will be permanent. There has not been a public forum to discuss this and no public input into the decision to reduce the water rights. Ms. Gessaman does not believe this is the right way to go. It doesn't make sense to her that it will cost \$10 million dollars to secure new water rights when the City can't even defend the historical water right. She encouraged the Commission to take this matter to the Water Court.

ECP, HGS.

18B. Ed McKnight, 906 3rd Avenue North, commented that the \$2 million dollar response he received in June to his question asking what the total amount of money was that the City invested in public power was different than the \$3.5 million Ms. Balzarini said a year ago. Mr. McKnight demanded that the Commission answer tonight if the City ever spent or lost any money, in any way, other than official capital contributions, to the Highwood Generating Station. He also requested proof that it was physically impossible to know how much power anybody was using at any one time, and proof that the entire block of power for imbalances was sold

at a profit. Commissioner Jolley responded that the Commissioners began a practice of answering, if they wanted to, at the end of the comment session.

Taxes, fines, fees, laws, inflation.

18C. John Hubbard, 615 7th Avenue South, also requested that the Commission answer why the special boulevard and original town site taxes were passed. Mr. Hubbard commented that he also disagreed with sign fines, pet laws and parking meters, and that no one answers his question how the handicapped and poor people are supposed to live in this country.

Water rights, ECP.

18D. Ron Gessaman, 1006 36th Avenue N.E., commented that there is a large segment of the public that is unhappy with the action that this Commission has taken with water rights. Mr. Gessaman discussed controversy at the ECP Board meetings. He read portions of City codes contained in Title 1, Chapter 4 and Title 2, Chapter 52, Ordinance 2925 and the penalty code 1.4.070. Mr. Gessaman also discussed a Tribune article about the price of Alberta's oil and the problems with carbon capture and sequestration.

Water rights, parking, leaf pick up.

18E. Mike Witsoe, 2612 1st Avenue South, commented that water rights belong to the whole City and more questions still need to be answered. Mr. Witsoe commented that Mr. Rattray contacted Mr. Kaufman to start a parking committee. He also discussed Halloween, politics, transit meeting and leaf pick up. Mr. Witsoe reported that the Sears farm store is closing at the end of the month.

CITY COMMISSION

19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

In response to Mr. McKnight, Commissioner Jolley stated that she also attended the ECP Board meeting. She was happy about the two new board members and was looking forward to having more questions answered. Commissioner Jolley encouraged the other commissioners to review the box of trade secret documents.

Also in response to Mr. McKnight, Commissioner Beecher stated that it would be helpful if Mr. McKnight put his questions in a narrative form. It is hard to understand what the questions are. If his questions were put in writing, Commissioner Beecher promised that Mr. McKnight would receive a response at the next Commission meeting. With regard to what has been spent on ECP and SME, that information has been stated before. There is a \$2 million dollar investment in SME. The audit shows an operating statement as well as an income statement of ECP which accurately states what the financial position has been, and what the operating losses are to date. The projection is that those losses will be brought to zero by the end of 2011. The demand to prove something to Mr. McKnight is outside of what has already been provided through audited financial statements and

what has been said in numerous public meetings. Commissioner Beecher stated he has total confidence in the consultant on water issues. He does not believe a second opinion is needed. The reason the City is considering buying water rights is because they are proven water rights, as opposed to half of the Gibson water rights that were not proven. The underlying principle of water adjudication is that you have to prove that you have used that volume. Also, Mr. Gessaman's comment at the last meeting that this Commission does not support green jobs is not factual. This Commission is a good financial supporter of GFDA which has made and is making numerous approaches to green wind power and other types of green power and employers hoping to attract them to our community.

Mayor Stebbins apologized to Carol Olthoff for not returning a phone call and stated that she would visit her tomorrow. Mayor Stebbins wished everyone a happy Halloween.

Commissioner Rosenbaum concurred with Commissioner Beecher's comments regarding the water rights. The legislature established the fact that if you haven't used it, you don't have it. As far as the losses of ECP, Commissioner Rosenbaum stated that he puts his trust in the qualified staff and the licensed auditors evaluating our finances.

Commissioner Bronson extended an invitation to Carol Olthoff to discuss the issue that she raised in a phone call. Mr. Bronson read a quote from a decision of a water master handed down three years ago in connection with the adjudication of the Clark Fork Basin of the Yellowstone River. That opinion analyzes the argument that we could, somehow, argue for a greater right on the part of municipalities to use water. There is no basis for that argument and there has never been an exception in Montana statute or Montana Supreme Court case law which inoculates municipalities from application of the law concerning the appropriation of existing water rights. There is no such thing as a Great and Growing Cities Doctrine. If this State were ever to adopt such a doctrine to the benefit of municipalities it would totally undue 160 years of water law in the American West to the detriment of agricultural users and to the detriment of other people who utilize water. Commissioner Bronson stated that he finds no basis for this Commission to go back and amend its decision that it made, or the former City Manager made, to amend the water rights to keep them in line with the uses that it actually put water to in previous years.

Commissioner Bronson stated that this Commission has yet to respond to City Manager Doyon's Memo and conversations to the Commission at agenda meetings for guidance on what the City should do in terms of its continuing relationship with HGS and SME, in particular, and for direction with respect to the continued operation of ECP. Commissioner Bronson has given Mr. Doyon's suggestions and ideas a great deal of thought, he has listened to comments from folks in the community, and he has attended some of the SME Board meetings and met the people who make up that

Board. Commissioner Bronson circulated to the Commission a draft of suggested directives to Mr. Doyon. He invited the Mayor and Commissioners to review and develop a consensus to direct Mr. Doyon as to what this Commission would like to see him and staff doing. Commissioner Bronson summarized his memo to state that he believes this Commission should direct Mr. Doyon that the City should maintain its current relationship with SME as a customer of electric power services, maintain the contracts that ECP has with that entity, and not join the new entity to pursue the actual development and construction of HGS. If it is the consensus to maintain a customer relationship with SME, Resolution 9537 will need to be amended. With regard to the continued structure and operation and ECP, it is obvious with the way that entity was set up through Ordinance 2925 and Resolution 9529, it does have to be restructured. He would like to see ECP remain as an advisory body to this Commission.

ADJOURNMENT

Adjourn.

There being no further business to come before the Commission, **Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the regular meeting of October 21, 2008, be adjourned at 8:27 p.m.**

Motion carried 5-0.

Mayor Stebbins

City Clerk

Minutes Approved: November 5, 2008