

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

NEIGHBORHOOD COUNCILS

1. There were no reports or announcements from Neighborhood Council representatives.

PUBLIC HEARINGS

OLD BUSINESS

Stipulation for Records Access between MEIC, SME, and the City, subject to the amendment that the final disclosure occur on August 27, 2008, and that the log be disclosed by September 16, 2008. Approved.

2. STIPULATION FOR RECORDS ACCESS BETWEEN MEIC, SME, AND THE CITY.

City Attorney David Gliko reported that on June 30, 2008, the District Court ordered the City to release the draft and related documents associated with the City and SME. The City released a batch of said records. On July 28, 2008, SME sent a letter to the City demanding that the City cease the public access until SME reviewed the same and identified any "trade secrets" subject to proprietary protection from disclosure. On July 30, 2008, MEIC moved the Court for an Order to Enforce the prior District Court Order of June 30, 2008, to release the documents. The attorneys for all parties then engaged in discussions and negotiation that resulted in the proposed Stipulation by which the City committed to have the documents prepared and SME had to have reviewed by August 22, 2008. By conversation with the parties today, it became apparent that the City and SME will not have all the documents prepared and reviewed for disclosure by August 22, 2008. There are upwards of 50,000 pages of documents estimated to be prepared for public access. The attorneys, with the consent of their parties, have extended the public access date to August 27, 2008. Along with that, SME will prepare a log setting forth the documents it identified for proprietary protection by September 16, 2008. Mr. Gliko added that he has signed the original Stipulation on the proposition that the City Commission would ratify that Stipulation tonight. In light of further discussions with the

attorneys, Mr. Gliko requested that the City Commission accept the amendment to the Stipulation that the date for the final disclosure of all documents be extended to August 27, 2008, and that the preparation of the log identifying the alleged trade secrets be extended to September 16, 2008.

Mayor Stebbins asked for the direction of the City Commission.

Commissioner Bronson moved, seconded by Commissioners Beecher and Rosenbaum, that the City Commission ratify the Stipulation for Records Access as presented, subject to the amendment that the final disclosure occur on August 27, 2008, and that the log be disclosed by September 16, 2008.

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

Commissioner Jolley asked if MEIC was in agreement with the amendment to the Stipulation. Mr. Gliko responded that the attorney for MEIC has advised that he contacted his client and that they are in agreement. Commissioner Jolley also asked if the City was proposing to defend what SME says are trade secrets. Mr. Gliko explained that, once the trade secrets have been identified by SME, then the City reviews those records to make an independent judgment about whether or not they are valid trade secret proprietary interest items. To date, Coleen Balzarini has been making that review for the City primarily because she has the most in-depth background and experience of the subject matter in order to make a judgment about that. The law is not any more specific about how a government entity is to make that review. If the City Commission chooses to participate in that review, it would be proper, but cumbersome. Commissioner Jolley suggested that Mr. Gliko's language stating the City is a governmental body, be changed to the City has a governmental body.

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

Mary Jaraczski, #2 Railroad Square, attorney for SME, stated that she has been working closely with the City Attorney, Dave Gliko, as well as MEIC's legal counsel, Kim Wilson, of Helena, to arrive at the original Stipulation, and now the amended Stipulation. Ms. Jaraczski added that, although the deadline is proposed to be extended three days, they are continuing to have documents available for public review. Additionally, in response to what Commissioner Jolley questioned about the City's involvement and its review of the privilege log and determination of the privilege, Ms. Jaraczski stated that, although the privilege is SME's privilege to claim, in this process it is ultimately the City that will be making that privilege. One of the reasons the log will not be produced until September 16, 2008, or shortly thereafter, is because Mr. Gliko will be on vacation and will not be returning until September 16th.

Motion carried 5-0.

NEW BUSINESS**ORDINANCES/RESOLUTIONS**

Res. 9752, Annual Tax Levy. Adopted.

3. RESOLUTION 9752, ANNUAL TAX LEVY.

Assistant Director of Fiscal Services Melissa Kinzler reported that the City received the taxable valuation for the City of Great Falls from the Department of Revenue, and can now compute and set its annual mill levy. The public hearing on the Intent to Increase Property Taxes by 3.83% was held on July 15, 2008, in accordance with § 15-10-203, MCA. The total mill levy for FY 2009 is 162.76 mills totaling \$11,714,330. This includes mill levies of 6.84 mills for soccer park and swimming pool debt service payments, which is \$492,295 of the \$11.7 million. The total mill levy for 2007 generated revenue of \$10,993,027. The differences between the mill levy of \$11.7 million and \$10.9 million are: \$301,276 for newly taxable property; \$186,756 for inflation and changes in revenue from the State; \$208,617 for the increase in the Permissive Medical Levy; and, \$24,654 for the increase in the revenue needed for the swimming pool debt payment. Staff recommends adoption of Resolution 9752 to fix the annual tax levy.

Commissioner Beecher moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9752.

Mayor Stebbins asked if there was any discussion amongst the Commission or comments from the public.

John Hubbard, 615 7th Avenue South, asked if this was a new tax. Commissioner Jolley responded that this was part of the budget process and this is set now because the State has finished its assessment.

Motion carried 5-0.

Res. 9772, Conditional Use Permit to Allow Antennae on Water Tank at Dudley Anderson Park. Accepted on first reading and set public hearing for September 16, 2008.

4. RESOLUTION 9772, CONDITIONAL USE PERMIT TO ALLOW ANTENNAE ON WATER TANK AT DUDLEY ANDERSON PARK.

Planning Director Ben Rangel reported that the Verizon Wireless, through its agent, RealCom Associates, has applied for a conditional use permit to allow placement of concealed antennas on the water tank at Dudley Anderson park. Installation of an equipment building next to the existing utility building is also being requested. The park is zoned POS Parks and Open Space which does allow communication facilities upon processing and approval of a conditional use permit. The antennas would be attached to the sides of the water tank and would be concealed by panels painted to match the tank. Mr. Rangel requested that the City Commission accept Resolution

9772 on first reading, and set public hearing for September 16, 2008, to consider the conditional use permit.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission accept Resolution 9772 on first reading and set public hearing for September 16, 2008.

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

Motion carried 5-0.

**Consent Agenda.
Approved.**

CONSENT AGENDA

5. Minutes, August 5, 2008, Commission meeting.
6. Total expenditures of \$3,492,737 for the period of July 10 through August 13, 2008, to include claims over \$5,000, in the amount of \$3,090,592.
7. Contracts list.
8. Set public hearing for September 2, 2008, on Res. 9765 to Levy and Assess Properties for Unpaid Utility Services.
9. Set public hearing for September 16, 2008, on Res. 9767 to Levy Special Assessments on Properties within Special Improvement Light District – City-Owned Residential Lighting No. 1308.
10. Set public hearing for September 16, 2008, on Res. 9768 to Levy Special Assessments on Properties within Special Improvement Lighting District – City-Owned Residential Lighting No. 1310.
11. Set public hearing for September 16, 2008, on Res. 9769 to Levy and Assess Special Improvement Lighting Districts.
12. Set public hearing for September 2, 2008, for consideration of the lease of a portion of Highland Park to the Electric City BMX Association.
13. Approve Agreement to Modify the Dedication Agreement with the Express Building Condominium Association.
14. Approve cancellation of outstanding and unpaid checks over a year old.
15. Approve Final Payment for the Water Treatment Plant Flume and Sanitary Sewer Manhole Lining Project to Pipeline Inspection Services, Inc., and the State Miscellaneous Tax Division in the amount of \$3,166.35. (OF 1519.4)
16. Approve Final Payment for the Sunnyside Water Main Replacements to Phillips Construction and the State Miscellaneous Tax Division in the amount of \$6,950.28. (OF 1540)

Commissioner Jolley moved, seconded by Commissioner Bronson, with the exception of Item 6, to approve the Consent Agenda as presented.

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

Motion carried 5-0.

With regard to Item 6 and the payment to MEIC, Commissioner Jolley inquired if all legal related expenses are paid out of the legal budget, for instance, or would it be an ECP expense. Mr. Gliko answered that the party named in the lawsuit is the City of Great Falls and, therefore, the City of Great Falls is charged with the bill.

Commissioner Jolley commented on the revised payment to SME and thanked Coleen Balzarini for her detailed explanations at the Work Session.

Commissioner Jolley moved, seconded by Commissioner Bronson, to approve Item 6, of the Consent Agenda.

Motion carried 5-0.

BOARDS & COMMISSIONS

**Marquita Ogawa
appointed to the Great
Falls Housing Authority
Board.**

17. APPOINTMENT, GREAT FALLS HOUSING AUTHORITY BOARD.

Commissioner Bronson moved, seconded by Commissioner Rosenbaum, to appoint Marquita Ogawa as a tenant member to fill the remainder of a two-year term through June 30, 2010, to the Great Falls Housing Authority Board.

Motion carried 5-0.

**Thomas P. Meeks
reappointed to the Police
Commission.**

18. REAPPOINTMENT, POLICE COMMISSION.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, to reappoint Thomas P. Meeks to the Police Commission for a three-year term through June 30, 2011.

Motion carried 5-0.

19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

CITY MANAGER

20. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager, Gregory T. Doyon, stated that the Park and Recreation Department received some good news. Park and Recreation Director Marty Basta reported that the Park and Recreation Department received a generous donation in the amount of \$2,800 to pay overtime costs for lifeguards to allow the neighborhood pools to remain open until the day before school starts. The donation was made by a Great Falls native who wishes to remain anonymous.

PETITIONS AND COMMUNICATIONS**21. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Stebbins opened the meeting to Petitions and Communications.

Assault, GFPD, and the Dog/Cat Ordinance.

21A. Tom Crane, 1027 4th Avenue North, discussed a recent incident that occurred in his neighborhood in which he called 911. He was awakened during the night to sounds of a lady being beaten outside his window. He does not believe the officers that responded were told that his 911 call involved a violent crime. Mr. Crane expressed disappointment and encouraged the Commission to support additional resources for the Police Department. Mr. Crane also discussed a situation with his neighbor's vicious dog and believes the Dog/Cat Ordinance is lacking.

ECP.

21B. Larry Rezendes, 2208 1st Avenue North, read an email he reported was on the web purportedly between City Manager Doyon and City Attorney Gliko. Mr. Rezendes asked if the email was valid. He discussed Ordinance 2925 and ECP and asked how the Commission can justify incurring continued losses when the program is illegal. Mr. Rezendes also stated his belief that there is not a valid separation between the two entities and is an exposure item for the City.

Difficulty hearing in the Gibson Room, Animal Shelter, HGS.

21C. Ron Gessaman, 1006 36th Avenue N.E., commented that the public cannot hear meetings when they occur in the Gibson Room. He requested that the City take action to provide sufficient sound volume at City meetings for the public to hear what is going on. Mr. Gessaman requested updates of what is happening with the Animal Shelter and the City's involvement therein, as well as the City's decision with regard to the coal plant.

City's finances, Federal Courthouse project, and water rights.

21D. Stuart Lewin, 615 3rd Avenue North, commented that he is concerned with the City's financial condition. Mr. Lewin believes the City Commission should take more responsibility in the auditing process. He also asked if the City knew whether or not B&C Development, a private party building for the Federal Courthouse, was a local group. Mr. Lewin does not believe the road crossing the railroad tracks by the river was adequately considered, and that TIF district was not appropriate as it would be benefiting one group of people. He also discussed the City's water rights and encouraged a second opinion for a different approach.

Inflation, demolition of the Schultz house.

21E. John Hubbard, 615 7th Avenue South, discussed high energy costs. Mr. Hubbard expressed disappointment that the City tore down Debby Schultz's house.

GFPD, Cable 7.

21F. Mike Witsoe, 510 11th Street South, complimented the Great Falls Police Department. He also requested increased funding for public access television.

CITY COMMISSION**22. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

In response to citizen inquiries, Commissioner Jolley stated that after the meeting she would discuss with Mr. Hubbard the situation regarding Debby Schultz's house; that discussions are ongoing about the Animal Shelter. Not enough people have applied so there is a possibility that the Commission will have to rescind or amend the resolution; and, she agreed that the Work Sessions are hard to hear in the Gibson Room. With regard to Mr. Lewin's comments, Commissioner Jolley asked Ms. Patton if a TIF was involved in the Federal Courthouse project. Ms. Patton responded that the location is within the West Bank Tax Increment Urban Renewal District. Ms. Patton also clarified that the Federal Courthouse is a leased property so it is not exempt from taxes.

In response to Mr. Lewin's comment about the construction company working on the Federal Courthouse, Mayor Stebbins responded that she believes that came from the General Accounting Office. Mr. Rattray stated that was a GSA contract project and the company is out of a suburb of Kansas City. Commissioner Rosenbaum added that the builder is Sletten Construction.

Mayor Stebbins complimented Mr. Basta on his decision to keep the pools open, and expressed gratitude to the anonymous donor.

ADJOURNMENT**Adjourn.**

There being no further business to come before the Commission, **Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the regular meeting of August 19, 2008, be adjourned at 7:55 p.m.**

Motion carried 5-0.

Mayor Stebbins

City Clerk

Minutes Approved: September 2, 2008