

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, Library, Park and Recreation, Planning and Public Works, Fiscal Services Operations Supervisor, the Police Chief, Fire Chief, and the City Clerk.

NEIGHBORHOOD COUNCILS

NC4.

1. Sandra Guynn, Chair NC 4, thanked Fire Chief McCamley for his presentation at the July NC 4 meeting regarding the property east of Bundi Gardens. Ms. Guynn also discussed NC 4 traffic concerns on 10th Avenue North and, due to lack of enforcement in the area, she encouraged annexation.

PUBLIC HEARINGS

BID 2008/2009 Budget and Work Plan.
Approved.

2. BUSINESS IMPROVEMENT DISTRICT 2008/2009 BUDGET AND WORK PLAN.

Tonya Jorgensen reported that a few weeks ago she presented the budget and work plan for 2008/2009 for the Business Improvement District (BID). The Commission received a copy of the proposed budget and work plan, noting one of the main topics on their agenda is renewal of the BID. Ms. Jorgensen asked if the Commission had any questions or comments concerning the proposed budget and work plan.

Commissioner Bronson commented that he reviewed the budget and work plan and inquired how the figures were calculated. Ms. Jorgensen responded that some of the numbers are based on historical numbers, some are based on conversations with the Forestry Department, the grant dollars are accurate numbers that the BID committed to, and a round number is estimated for some property maintenance. Commissioner Bronson asked if timelines were set to accomplish projects set forth in the work plan. Ms. Jorgensen responded that the only item that has a specific timeline is the renewal of the BID and that is done in coordination with the Fiscal Services Department. Some items depend on the budget whether and when they will get accomplished. Commissioner Bronson commented that the BID by-laws provide for an executive director, and inquired why the BID has not filled that position. BID Board member, Alison Fried, responded that she worked with the previous director. Several national companies searched for

a BID director with specified qualifications. The one person that met those qualifications and was willing to locate to Great Falls, requested \$100,000. The BID budget is \$150,000. They felt the wisest decision was to look for someone in a secretarial position that could expand and be involved as much as possible. Commissioner Bronson commented that his business is downtown and he utilizes downtown services. As such, he has been in a position to observe it for 20 years. He suggested that it is time to rethink how this is done and to pursue other resources. The community may need to make a different level of investment and commitment into downtown development.

Mayor Stebbins complimented Tonya Jorgensen for an excellent job. She inquired if Ms. Jorgensen was working with the Great Falls Development Authority (GFDA). Ms. Jorgensen responded that she has been working with the GFDA in reference to the Imagine Downtown Great Falls. That project was going in the right direction and needs to be revisited.

Mayor Stebbins declared the public hearing open. Speaking in favor of approving the BID 2008/2009 Budget and Work Plan were:

Brett Doney, Great Falls Development Authority, residing at 3048 Delmar Drive, commented that the GFDA has been supportive of the BID as part of the downtown effort. He agrees with Commissioner Bronson that there needs to be an increased investment in downtown. Mr. Doney encouraged the City to create a master plan for downtown, even if it starts with a visioning process. Mr. Doney suggested (1) putting together the resources, and (2) the BID expanding its area territory.

Mike Witsoe, 2612 1st Avenue South, stated that he believes it is a problem that downtown businesses close at 6:00.

No one spoke in opposition.

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

Commissioner Jolley moved, seconded by Commissioner Beecher, that the City Commission approve the 2008/2009 Business Improvement District Budget and Work Plan.

Motion carried 5-0.

Res. 9746, Levy and Assess Street Maintenance District. Adopted.

3. RESOLUTION 9746, LEVY AND ASSESS STREET MAINTENANCE DISTRICT.

Fiscal Services Operations Supervisor Martha Cappis reported that Resolution 9746 is the FY09 street maintenance resolution which allows for the maintenance and upkeep of over 366 miles of streets and alleys within

the city limits of Great Falls. All property owners within the city limits pay a maintenance fee based on their land use. Passage of this increase, which was included in the FY09 budget presentations, will increase the current assessment by 10%. Adoption of this resolution will allow the City to continue its current maintenance and replacement activities.

Mayor Stebbins declared the public hearing open. No one spoke in favor of or opposition to Resolution 9746.

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

Commissioner Bronson moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9746.

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

Commissioner Jolley inquired what "ST/SN Building Improvement" meant. Public Works Director Jim Rearden responded that refers to the street and sanitation building and is for improvements - moving offices, break room, and locker room outside of the shop area due to poor air quality in the facility. It is a worker health issue. Commissioner Jolley asked and was informed it was discussed during the budget process.

Motion carried 5-0.

Res. 9747, Levy and Assess Special Improvement Boulevard Maintenance District No. 3570. Adopted.

4. RESOLUTION 9747, LEVY AND ASSESS SPECIAL IMPROVEMENT BOULEVARD MAINTENCE DISTRICT NO. 3570.

Fiscal Services Operations Supervisor Martha Cappis reported that Resolution 9747 is the FY09 assessment resolution for the boulevard maintenance district. The Natural Resource Division of the Park and Recreation Department is responsible for the care and maintenance of over 15,000 trees in the boulevard districts, which are mostly located in the original townsite. Staff recommends no increase.

Mayor Stebbins declared the public hearing open. No one spoke in favor of or opposition to Resolution 9747.

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

Commissioner Rosenbaum moved, seconded by Commissioners Beecher and Bronson, that the City Commission adopt Resolution 9747.

Motion carried 5-0.

Res. 9759, Levy and Assess Special Improvement Portage Meadows Maintenance District No. 1195. Adopted.

5. RESOLUTION 9759, LEVY AND ASSESS SPECIAL IMPROVEMENT PORTAGE MEADOWS MAINTENANCE DISTRICT NO. 1195.

Fiscal Services Operations Supervisor Martha Cappis reported that Resolution 9759 is the FY09 assessment resolution for the Portage Meadows maintenance district. The Natural Resource Division of the Park and Recreation Department is responsible for the care and maintenance of over 15,000 trees in the boulevard districts, which are mostly located in the original townsite, as well as for maintenance of Green Belt Park in the Portage Meadows Addition. Staff recommends no increase.

Mayor Stebbins declared the public hearing open. No one spoke in favor of or opposition to Resolution 9759.

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

Commissioner Jolley moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9759.

Motion carried 5-0.

Res. 9758, Cost Recovery, 706 19th Street S.W. Adopted.

6. RESOLUTION 9758, COST RECOVERY, 706 19TH STREET S.W.

Community Development Director Mike Rattray reported that approval of Resolution 9758 will place a lien in the amount of \$3,060 on the property located at 706 19th Street S.W. This action comes to the City Commission as the result of the condemnation undertaken by the City building official last winter. The house has been demolished and removed from the property.

Mayor Stebbins declared the public hearing open. No one spoke in favor of Resolution 9758. Those speaking in opposition to Resolution 9758 were:

Debby Schultz, 706 19th Street S.W., protested the charges for the cost of demolition. Ms. Schultz provided her account of the issues with the house and the City.

Ed McKnight, 906 3rd Avenue North, asked for clarification if the ground was raised and the foundation was poured to the proper height. Mr. Rattray responded that was not correct. During the entire period of time, the only thing accomplished was the footings were poured. Mr. McKnight inquired if it was mandatory that Ms. Schultz be charged this money. Commissioner Jolley responded that it was now before the Commission to vote on. Ms. Schultz provided an explanation regarding the rebar, footings and foundation.

Mike Witsoe, 2612 1st Avenue South, provided historical and personal information of the Schultz family.

John Hubbard, 615 7th Avenue South, stated his opposition to Resolution 9758.

Kathy Gessaman, 1006 36th Avenue N.E., suggested more interaction with neighborhood councils to find solutions before the City has to take these drastic steps.

Mayor Stebbins declared the public hearing closed and outlined the phone conversations, letters, notices and orders between the time of the floodplain complaint on August 27, 2006, and when the razing permit was issued to the contractor on May 7, 2008. Ms. Schultz had adequate time to come into compliance on all points and didn't.

Mayor Stebbins asked for the direction of the City Commission.

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9758.

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

Commissioner Jolley asked for clarification regarding the date of November 6, 2007, when the floodplain permit was issued and the building permit was approved. Mr. Rattray responded that the building permit was approved, but Ms. Schultz never picked it up. Commissioner Jolley suggested that these matters come before the Commission before buildings are razed. Mayor Stebbins reminded Commissioner Jolley that this matter did come before the Commission at an agenda meeting.

Commissioner Bronson asked how frequently the Commission has been asked to consider this approach of placing a lien on someone's property for failure to follow the permitting process, etc. Mr. Rattray responded that over the past 7-8 years, the average was approximately 5-7 condemnations each year. Almost all of those result in a lien being placed on the property for the amount of the demolition. About 3-4 in that period of time, the property owner paid the amount and the City did not levy a lien. Commissioner Bronson asked what criteria the Commission was supposed to follow, or what basis would the Commission have to say no in this case and yes in another case. His concern is that if the Commission starts doing that on a case by case basis, it will open the City up to legal challenges. Mr. Rattray responded that, at this point, the City Commission has never adopted any policy guidelines to either approve or deny a lien.

Motion carried 4-1. (Commissioner Jolley dissenting.)

Res. 9763 and 9764, and Ord. 3010, Annexation and Zoning for 93 parcels of land comprising two utility corridors. Adopted.

7A. RESOLUTION 9763, ANNEX 92 SEPARATE PARCELS OF LAND COMPRISING THE UNINCORPORATED PORTION OF TWO UTILITY CORRIDORS.

7B. RESOLUTION 9764, ANNEX CONTIGUOUS GOVERNMENTAL LAND.

7C. ORDINANCE 3010, ASSIGN CITY ZONING CLASSIFICATION OF R-2 SINGLE-FAMILY MEDIUM DENSITY DISTRICT.

Planning Director Ben Rangel reported that there are 93 separate parcels of land comprising two utility corridors in the vicinity of Henderson Heights and North Riverview Terrace Additions. The two corridors are located outside the City limits and are entirely surrounded by the incorporated area of the City. One of the parcels is owned by the City of Great Falls. The corridors are utility easements that were created when the North Riverview Terrace and Henderson Heights areas were still farm land. The corridors were never incorporated when the abutting land was subdivided and annexed to the City. The utility corridors were later divided and sold to abutting property owners. The smaller size and isolation of these separate parcels limits their use to yard space and accessory structures, such as sheds or garages.

Over the past several years, some of these parcels have been a source of complaints involving weeds and the collection of debris. This has led to confusion and frustration by the public regarding which entity, the City or the County, has the authority or responsibility to address the complaints. It has been City Commission interest, for some time, to annex these types of unincorporated enclaves into the City.

On July 1, 2008, the Commission set public hearing for this evening. After conducting a joint public hearing, Mr. Rangel requested that the City Commission approve Resolution 9763 to annex 92 separate parcels of land comprising the unincorporated portion of the two utility corridors, Resolution 9764 to annex a parcel of government land within the unincorporated utility corridor adjacent to Sacajawea School and Sacajawea Park, and Ordinance 3010 to assign City zoning to the referenced corridors.

The City Planning Board/Zoning Commission unanimously recommends Commission approval.

Commissioner Bronson recused himself from discussions or voting on matters pertaining to Resolution 9763 and Ordinance 3010 for the reason that he owns one of the 92 affected parcels.

Mayor Stebbins declared the public hearing open. No one spoke in favor of or opposition to Resolutions 9763 and 9764, and Ordinance 3010.

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

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9763 to annex 92 separate parcels of land comprising the unincorporated portion of two utility corridors.

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

Motion carried 4-0. (Commissioner Bronson recused himself.)

Commissioner Jolley moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9764 to annex a parcel of governmental land within the unincorporated utility corridor adjacent to Sacajawea School and Sacajawea Park.

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

Motion carried 5-0.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission adopt Ordinance 3010.

Motion carried 4-0. (Commissioner Bronson recused himself.)

Ord. 3011, Rezone Lot 1, Block 1, Benefis West Minor Subdivision. Adopted.

8. ORDINANCE 3011, REZONE LOT 1, BLOCK 1, BENEFIS WEST MINOR SUBDIVISION.

Planning Director Ben Rangel reported that Mike Tabacco and Ralph Rando, doing business as TARA, LLC, are in the process of purchasing a one acre parcel of land from Benefis Healthcare System. Their interest is to rezone the parcel and build 12 residential condominiums on the site, which is located in South Great Falls along 17th Avenue South, between 4th Street and Benefis Court.

On July 15, 2008, the Commission set public hearing for this evening. After conducting the public hearing, Mr. Rangel requested that the City Commission adopt Ordinance 3011, which would rezone the parcel from PLI Public lands and institutional to R-5 Multi-family residential.

The City Zoning Commission unanimously recommends Commission approval.

Mayor Stebbins declared the public hearing open. No one spoke in favor of or opposition to Ordinance 3011.

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

Commissioner Jolley moved, seconded by Commissioners Beecher and Bronson, that the City Commission adopt Ordinance 3011.

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

Motion carried 5-0.

OLD BUSINESS

**Fire Protection and
Emergency Services Fee
Schedule for the
Highwood Generating
Station with Southern
Montana Electric G&T.
Approved. OF 1472.2.**

**9. FIRE PROTECTION AND EMERGENCY SERVICES FEE
SCHEDULE FOR THE HIGHWOOD GENERATING STATION
WITH SOUTHERN MONTANA ELECTRIC G&T.**

Fire Chief Randy McCamley reported that on June 17, 2008, the City Commission approved a Fire Services Agreement with Southern Montana Electric G&T for the Highwood Generating Station. Staff was directed to bring back a fee schedule related to these services for Commission review and action. Great Falls Fire Rescue staff developed the fee schedule based on the service level requirements of SME along with the estimated response calls to HGS. This fee schedule includes the costs for fire suppression, emergency medical first response, hazardous materials response mitigation, fire prevention activities, safety training and other special operations services. The fee for these services is \$283,000. The fee will be paid annually, reviewed and adjusted as necessary, to compensate the City for the costs of these services provided.

Mayor Stebbins asked for the direction of the City Commission.

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission approve the Fire Protection and Emergency Services Fee Schedule for Highwood Generating Station.

Mayor Stebbins asked if there were any questions or discussion amongst the Commission.

Commissioner Jolley asked if there was also an agreement that SME would purchase a new fire truck. Chief McCamley responded that requirement was on p. 2, part 5, of the original agreement passed by the Commission on June 17, 2008. Commissioner Jolley asked how many calls were anticipated per week to the plant. Chief McCamley compared the project to the IMC smaller project and the number of calls during the construction phase.

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

Ole Stimac, Jr., business agent for Plumbers and Pipefitters Local 41, stated that construction of the plant will be built with union labor. The workers have a lot of training and have a good safety record. There were no deaths when the delayed coker was built in Billings. He doesn't anticipate very many calls to the HGS project.

Mike Witsoe, 2612 1st Avenue South, asked when fire protection starts. Chief McCamley responded that the agreement states SME has to give the City 30 days notice. The fee would start upon commencement of construction. Mr. Witsoe asked when the "tanker" would be purchased and with what funds. Chief McCamley responded that there is nothing stipulated to when SME had to buy the water tender. But, SME has agreed to buy the water tender and under the requirements of the Fire Department. Mr. Witsoe asked if the response time was 20-25 minutes, would volunteers from the surrounding area agencies assist. Chief McCamley responded that the response time from the nearest east-end station is under 14 minutes. This agreement puts Great Falls as the primary response for that facility. Mr. Witsoe inquired about staffing if something major happened at the plant, and something was going on in the City. Chief McCamley stated that GFFR will not degrade the level of response in the City to service that area. GFFR services other areas outside the City already. There are 16 rural fire districts. GFFR responds to almost 6,000 calls for service per year with an average response time of about 5 minutes. The City has mutual aid agreements and GFFR does a good job managing their risks.

Ron Gessaman, 1006 36th Avenue N.E., commented that he has seen industrial fires at this type of facility. Mr. Gessaman doubts that a 14 minute response time is adequate for this facility. He is concerned that if multiple incidents occurred in the City simultaneously there would be inadequate staffing at the Fire Department. He believes the number of calls during the construction and operation phases is under-valued. The agreement should have a recovery clause for reimbursement of costs, and include a specific date for the fire engine to be purchased by SME.

Motion carried 5-0.

NEW BUSINESS

ORDINANCES/RESOLUTIONS

Res. 9762, Levy and Assess the Cost of Removal and Disposal of Nuisance Weeds in the City of Great Falls from July 1, 2007, to June 30, 2008. Adopted.

10. RESOLUTION 9762, LEVY AND ASSESS THE COST OF REMOVAL AND DISPOSAL OF NUISANCE WEEDS IN THE CITY OF GREAT FALLS FROM JULY 1, 2007, TO JUNE 30, 2008.

Fiscal Services Operations Supervisor Martha Cappis reported that Resolution 9762 is a resolution to assess the costs incurred by the City to

remove nuisance weeds within the City limits. Since July 1, 2007, there were 2,527 notices of weed violations mailed to individual property owners, 43 requiring City intervention and, to date, 21 remain unpaid. This resolution will allow staff to forward the charges of \$4,400 to the individual property owners for the City's costs.

Commissioner Bronson moved, seconded by Commissioners Beecher and Rosenbaum, that the City Commission adopt Resolution 9762.

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

Motion carried 5-0.

Adopted Res. 9771, and Accepted Ord. 3013 on first reading and set public hearing for September 2, 2008,

11A. RESOLUTION 9771, INTENT TO ANNEX PARCEL MARK NO'S 6 & 8 INTERNATIONAL AIRPORT.

11B. ORDINANCE 3013, ASSIGNS CITY ZONING CLASSIFICATION OF GFIA GREAT FALLS INTERNATIONAL AIRPORT DISTRICT TO SAID PROPERTY.

Planning Director Ben Rangel reported that the Great Falls International Airport Authority has requested that two parcels of land that it owns be annexed and assigned City zoning. One parcel, which is 2.5 acres in size, is located along the north boundary of the airport. The second parcel is 94 acres in size and is located along the west boundary of the airport.

The Airport Authority is interested in having all of its property incorporated into the City in preparation for creating a Tax Increment Financing Industrial District for the airport. The majority of airport property was annexed in 1994-95.

Mr. Rangel requested that the City Commission adopt Resolution 9771, Intent to Annex, which sets public hearing for September 2, 2008, to consider annexation of the two parcels and adjoining roadways, and to accept Ordinance 3013 on first reading and to set public hearing for September 2, 2008, to consider assignment of City zoning.

Commissioner Jolley moved, seconded by Commissioners Beecher and Bronson, that the City Commission adopt Resolution 9771.

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

Motion carried 5-0.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission accept Ordinance 3013 on first reading and set public hearing for September 2, 2008.

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

Motion carried 5-0.

Ord. 3014. Accepted on first reading and set public hearing for September 2, 2008.

12. ORDINANCE 3014, CHANGE THE TITLE OF THE AIRPORT ZONING CLASSIFICATION FROM GFIA GREAT FALLS INTERNATIONAL AIRPORT TO AI AIRPORT INDUSTRIAL DISTRICT.

Planning Director Ben Rangel reported that the Great Falls International Airport Authority has requested the zoning section of the City Land Development Code be amended to change the current title of the airport zoning classification from “GFIA Great Falls International Airport” district to “AI Airport Industrial” district. No other changes to the zoning section are proposed and the current airport zoning classification only applies to airport properties within the City. This requested change is also in preparation of creating a Tax Increment Financing Industrial District for the airport. The State statute governing creation of these districts requires the area to be zoned industrial.

Mr. Rangel requested that the City Commission accept Ordinance 3014 on first reading and to set public hearing for September 2, 2008, to consider the Code amendment.

Commissioner Bronson moved, seconded by Commissioners Beecher and Rosenbaum, that the City Commission accept Ordinance 3014 on first reading and set public hearing for September 2, 2008.

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

Motion carried 5-0.

Ord. 3015. Accepted on first reading and set public hearing for September 2, 2008.

13. ORDINANCE 3015, REZONE PARCEL MARK NO. P1, SECTION 5, T20N, R4E (CITY-OWNED PARCEL PREVIOUSLY USED AS COMPOST SITE.

Planning Director Ben Rangel reported that the City of Great Falls owns a 10½ acre parcel of land located at the southwest corner of the intersection of 38th Street and River Drive. The City purchased the parcel in 1992 and it was used as a compost site until a few years ago. The parcel was purchased with economic revolving funds for the purpose of land banking it for future possible economic development, provided that any future use would be

compatible with the adjoining golf course and other recreational uses in the area.

As encouraged by the Great Falls Development Authority, there is interest to rezone the parcel from POS Parks and Open Space to M-2 Mixed-Use Transitional to make the parcel more marketable for development. M-2 zoning allows for commercial, office space, residential and institutional uses and public spaces. It does not permit light or heavy industrial uses. Any development project on the parcel would be subject to review and approval by the City's Design Review Board.

Mr. Rangel requested that the City Commission accept Ordinance 3015 on first reading and to set public hearing for September 2, 2008, to consider the rezoning request.

Commissioner Jolley moved, seconded by Commissioner Rosenbaum, that the City Commission accept Ordinance 3015 on first reading and set public hearing for September 2, 2008.

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

Sandra Guynn, 3624 9th Avenue South, Chair NC4, reported that NC 4 was never advised of this before it went to the Zoning Board. A member of the Planning Department will attend the NC 4 August meeting. NC 4 will provide a recommendation at the public hearing in September.

Ron Gessaman, 1006 36th Avenue N.E., stated that he is opposed to rezoning this parcel. The American Legion fields are adjacent to this parcel. Mr. Gessaman stated that he talked with a member of American Legion who indicated that he didn't receive notice of a zoning change on this adjacent parcel. Additionally, 38th Street and River Drive North provides a boundary that naturally breaks the area to the south and west from the other industrial and commercial developments to the north and east. He doesn't see a reason to bring that type of development into a park and recreational type area.

Mike Witsoe, 2612 1st Avenue South, suggested the public hearing be set in October, 2008.

Brett Doney, Great Falls Development Authority, residing at 3048 Delmar Drive, stated that his department instigated this proposal. This is a significant property for the City. He wants to see the property put to beneficial use with high quality development in the area.

Motion carried 5-0.

**Consent Agenda.
Approved Items 15 thru
21. Approved Item 14,
as amended.**

CONSENT AGENDA

14. Minutes, July 15 and 23, 2008, Commission meetings.
15. Total expenditures of \$4,740,173 for the period of July 14 – 30, 2008, to include claims over \$5,000, in the amount of \$4,276,652.
16. Amended Contracts list.
17. Declare property as surplus with an anticipated value of \$1,000 or more.
18. Approve Change Order SI-3 and Change Order SII-4, Mitchell, Jaycee and Water Tower Pools Rehabilitation to Talcott Construction. OF 1501.
19. Approve Memorandum of Understanding with Great Falls Development Authority regarding use of Ag-Tech Industrial Tax Increment District funds for the purpose of preliminary road design work through the District connecting to Great Falls Innovation Park. OF 1152.
20. Award construction contract for Wastewater Treatment Re-Roof Projects to Treasure State Roofing in the amount of \$218,095. OF 1457.4.
21. Approve Release Agreement – Marathon Oil, et al. –vs- City of Great Falls, et al.

Commissioner Bronson requested that Item 18 be removed from the Consent Agenda for the sole purpose that his law firm has a business relationship with Talcott Construction. He does not wish to vote on this item.

Commissioner Jolley moved, seconded by Commissioner Beecher, with the exception of Items 14, 15 and 18, to approve the Consent Agenda as presented.

Motion carried 5-0.

Commissioner Jolley stated that Item 14, specifically the Minutes of July 23, 2008, she was not in attendance and the vote was recorded as 5-0. With regard to Item 15, Commissioner Jolley asked if the payments to SME were paid exclusively from the electric fund. Ms. Cappis responded that she does not have the numbers in front of her, but she was assuming yes.

Commissioner Beecher moved, seconded by Commissioner Jolley, to approve Item 14, specifically the Special Meeting Minutes of July 23, 2008, as corrected, of the Consent Agenda.

Motion carried 5-0.

Commissioner Rosenbaum moved, seconded by Commissioner Bronson, to approve Item 15, of the Consent Agenda.

Motion carried 4-1. (Commissioner Jolley dissenting.)

Commissioner Jolley moved, seconded by Commissioners Beecher and Rosenbaum, to approve Item 18, of the Consent Agenda.

Motion carried 4-0. (Commissioner Bronson abstained from voting.)

BOARDS & COMMISSIONS

Preliminary Plat and Findings of Fact for Tyndall Addition Phase 1. Approved.

22. PRELIMINARY PLAT, TYNDALL ADDITION PHASE 1, LOCATED ALONG 37TH AVENUE NORTHEAST AND CONSISTING OF TEN SINGLE-FAMILY LOTS.

Commissioner Bronson moved, seconded by Commissioner Beecher, that this Commission approve the Preliminary Plat of Tyndall Addition Phase 1 and the accompanying Findings of Fact, subject to the fulfillment of the stipulated conditions.

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

Motion carried 5-0.

Ryan Forde appointed to the Historic Preservation Advisory Commission.

23. APPOINTMENT, HISTORIC PRESERVATION ADVISORY COMMISSION.

Commissioner Bronson moved, seconded by Commissioner Rosenbaum, to appoint Ryan Forde to a three-year term through April 30, 2011, to the Historic Preservation Advisory Commission.

Motion carried 5-0.

24. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

CITY MANAGER

25. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager, Gregory T. Doyon, asked City Attorney, Dave Gliko, to update the Commission on the status of the release of documents relating to SME and HGS. City Attorney Gliko reported that requests have been made for the City to release documents regarding HGS. SME has filed a series of affidavits alleging trade secrets protecting the confidentiality of those trade secrets. The City has honored that confidentiality. Subsequent to that, the District Court rendered its decision and ruled that the draft documents that had been in contention also be released to the public. The City was in the process of accomplishing that fact for those requestors, whereupon SME

made further demands that the documents be reviewed by its attorney to determine whether there were more confidential trade secret documents in the material. The City, at that point, shut down public access because, under the Trade Secret Act, the City could be subject to severe liability should it reveal any of the trade secrets identified by SME. On Thursday of last week, MEIC filed a motion with the District Court for enforcement of its Order directing the City to disclose the documents to the public. On Friday, the City Attorney filed a brief in opposition to that motion alleging the City could be in dire jeopardy for revealing trade secrets and be subject to damages if they were revealed. The Court has not ruled on that motion. Mr. Gliko also filed a motion for joinder of SME in the litigation on grounds that they are indispensable and a necessary party because it is their property right and their interest in the trade secrets that are currently under scrutiny. The attorneys for the parties then engaged in conversation to try to reach a settlement agreement with regard to the disclosure of the documents short of a final ruling by the District Court on plaintiff's motion. The settlement negotiations and conversations are ongoing. He is hopeful that the parties can reach a settlement and relieve the District Court of making an order.

Mayor Stebbins asked if there were any questions for Mr. Gliko.

Commissioner Jolley asked for copies of his filings made in response. Mr. Gliko responded that he would provide copies. Commissioner Jolley stated that trade secret affidavits can be filed, but it is her understanding that the ruling body, the City Commission, would decide if they would follow them. She read a portion of a letter from Harley Harris to the City regarding requests for information and a potential conflict of interest. Mr. Gliko responded that the only Montana case on point is Great Falls Tribune vs. PSC. It did not make a specific determination as to who in a governmental unit was empowered to review and verify the alleged trade secret that is represented by the private party's affidavit. City staff has, to this point, made a review of the documents and has confirmed the trade secret allegations, at least to the extent of the affidavits filed so far. It is his understanding that it does not appear that it is necessary for a governing body, i.e. the City Commission, to also pass upon that review.

City Manager Doyon also asked the City Commission to appoint Ben Rangel as the Acting City Manager on Friday.

**Ben Rangel appointed
Acting City Manager on
Friday, August 8, 2008.**

**Commissioner Bronson moved, seconded by Commissioner
Rosenbaum, to appoint Ben Rangel as Acting City Manager, on Friday,
August 8, 2008.**

Motion passed 5-0.

PETITIONS AND COMMUNICATIONS

26. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Stebbins opened the meeting to Petitions and Communications.

HGS.

26A. Ole Stimac, Jr., Plumbers and Pipefitters Local 41, stated that after his earlier comment, he called Butte about the Asme project which was completed between 1997 and 2001. He pointed out that there were over 2,000 men on that project at one point. There were no fatalities and, at one time, they were over one year with no lost time accidents. The owner of the HGS plant will not be the constructor. The Alstom company, along with sub-contractors, will be the constructors, and they have good safety records.

10th Avenue North.

26B. George Littlefield, 4225 Morning Side Circle, discussed annexation of 10th Avenue North. He explained the history of issues with that section of road. Mr. Littlefield suggested that 35 mph is a reasonable speed for that section of road. Mr. Littlefield welcomed Mr. Doyon to Great Falls.

**City Management,
Employees and HGS.**

26C. Jane Witsoe, 510 11th Street South, welcomed the new City Manager to Great Falls. Ms. Witsoe expressed her disagreement with the prior City Manager's leadership, and specifically HGS. Ms. Witsoe complimented Commissioner Jolley, and City water/sewer department employees.

Robert's Rules of Order.

26D. Mike Witsoe, 2612 1st Avenue South, commented that Robert's Rules of Order are not being followed. Mr. Witsoe asked for an FM loop for the hearing impaired.

ECP.

26E. Ed McKnight, 906 3rd Avenue North, commented that he has explained over and over that the cost of power is not what ECP says it is. He asked if the Commission received his spreadsheets and was responded to affirmatively. Mr. McKnight suggested that the Wholesale Power Contract is not the cost of doing business. He discussed the Code of Ethics, ECP violating the law, and asked who the proper authority was to report that to.

**Document Requests,
Trade Secrets.**

26F. Ron Gessaman, 1006 36th Avenue N.E., commented that the statement from Mr. Gliko regarding SME requests to date have been verified as to trade secret documents, is incorrect. Two documents that were claimed to be trade secrets are public documents on file with the DNRC in Helena and Lewistown. Mr. Gessaman stated that this sort of thing is the situation that has gone on continuously with the HGS project and seems to be a factor of who is pushing for it.

**Dutch Elm Disease,
Montana State Fair.**

26G. John Hubbard, 615 7th Avenue South, commented that he is worried about the trees with Dutch Elm Disease. He discussed his experience at the Montana State Fair and commented that it is too expensive. Mr. Hubbard was warned about slander, refused to comply, and was escorted out of the Commission chambers.

CITY COMMISSION**27. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Jolley stated that she swore to uphold the Constitutions and citizens have a right to freedom of speech in this forum.

Commissioner Beecher respectfully disagreed. The meetings are allowed to be conducted and controlled by the role of the chairman.

Commissioner Bronson concurred with Commissioner Beecher.

Commissioner Rosenbaum added that using slander and offensive behavior is not allowed.

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 5, 2008, be adjourned at 9:20 p.m.**

Motion carried 5-0.

Mayor Stebbins

City Clerk

Minutes Approved: August 19, 2008