

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, Planning and Public Works, the Police Chief, Fire Chief, and the City Clerk.

### **NEIGHBORHOOD COUNCILS**

**NC 2.**

**1A. Sue Ann Strickland, Phyllis Hemstad, Dorothy Schmidt and Robert Mehlhoff,** NC 2 Representatives, appeared to correct Paul Cory's statement televised tonight that no one opposed the Tier I and Tier II Sex Offender Program proposed for the Great Falls Pre-Release Center. Neighborhood Council 2 authored a letter dated March 12, 2008, which Paul Cory of the Great Falls Pre-Release responded to. Ms. Strickland stated that he was well aware that Neighborhood Council 2 opposed this proposal.

Mr. Mehlhoff added that the function of the Pre-Release Center is being changed by accepting sex offenders. Mr. Mehlhoff believes that change should take place through a vote of Cascade County. He asked, if the City Commission has not done so already, to send a letter in opposition. He also believes the police need more money right now, not less. Police retention and safety are major issues. Cutting the DARE program is a penny saved now and a dollar lost later. Mr. Mehlhoff stated that there is one officer in charge of the sex offenders in Great Falls and he is over worked. He asked the Commission to look at the budget and find a way to keep the police and fire numbers up to where they should be.

Ms. Hemstad inquired who to contact about speeding on 1<sup>st</sup> Avenue N.W., 9<sup>th</sup>/10<sup>th</sup> Streets by West Elementary. City Manager Gregory Doyon advised Ms. Hemstad that she has done that tonight.

**NC 7.**

**1B. Aaron Weissman,** Chair NC 7, thanked the City Manager, City staff and Chief Grove for attending their meeting to further explain the budget cuts that are being contemplated.

**NC4.**

**1C. Sandra Guynn,** Chair NC 4, thanked the City for a table at RiverFest. Ms. Guynn believes the better turnout was because of a banner by Kelly's Signs. She also thanked Commissioner Jolley for attending and telling people how important neighborhood councils are.

**PUBLIC HEARINGS**

**Revised Ord. 3002 and accompanying Amendment to Agreement. Adopted.**

**2. REVISED ORDINANCE 3002, TO EXTEND THE LAND ACQUISITION DATE REFERENCED IN ORIGINAL ORD. 3002 (CVS PHARMACY).**

Planning Director Ben Rangel reported that on April 15, 2008, the City Commission adopted Ordinance 3002 to rezone six residential lots along 9<sup>th</sup> Avenue South between 20<sup>th</sup> and 21<sup>st</sup> Streets to accommodate a CVS Pharmacy, as proposed by The Velmeir Companies. Ordinance 3002 contained a provision that should The Velmeir Companies fail to acquire the lots by August 31, 2008, the Ordinance would become null and void and the lots would remain zoned as single family residential. The Velmeir Companies has requested the land acquisition date in the Ordinance be extended to April 30, 2009, to provide adequate time to begin construction in the spring of 2009, instead of late this summer as initially anticipated.

On June 17, 2008, the City Commission set public hearing for this evening. After conducting the public hearing, Mr. Rangel requested that the City Commission adopt Revised Ordinance 3002, which would extend the land acquisition date to April 30, 2008. Mr. Rangel also requested the approval of a related Agreement that further acknowledged the revised date.

**Commissioner Bronson moved, seconded by Commissioners Beecher and Rosenbaum, that the City Commission adopt Revised Ordinance 3002 and approve the accompanying Amendment to Agreement.**

Mayor Stebbins declared the public hearing open. Speaking in favor of Revised Ordinance 3002 was **Jon Lennander**, Project Manager of The Velmeir Companies. Mr. Lennander explained the requested change in the date was to give their client more flexibility in the closing date, and change the plans from start of construction in the fall to next spring.

No one spoke in opposition.

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

Motion carried 5-0.

**Ord. 3009, Disorderly Premises. Tabled.**

**3. ORDINANCE 3009, DISORDERLY PREMISES.**

City Manager Gregory T. Doyon reported that the revised and updated ordinance proposes three changes: (1) the notification process for a potentially disorderly residence is that, after three calls in a 30 day period, a warning letter is sent, and if it is five calls in a 30 day period, then the premises could be cited as disorderly; (2) a disorderly premise will not include those incidents related to domestic violence or family member assault; and, (3) the penalty associated

with a premise that has been declared as disorderly and has not met the obligations as outlined by the City in a plan of correction was changed to a civil instead of a criminal fine.

**Commissioner Jolley moved, seconded by Commissioner Beecher, that the City Commission adopt Ordinance 3009, as amended.**

Mayor Stebbins declared the public hearing open.

**Wally Bell**, NC 9, 1425 8<sup>th</sup> Avenue South, stated that when Neighborhood Council 9 spoke about this ordinance they felt that three warnings were more than generous for notification in a 30 day period. Each disorderly call requires a minimum of two officers to respond. The City is short on budget and police officers, and more than three warnings is a waste of resources. He also stated his opposition to reducing the penalty.

**Aaron Weissman**, Chair NC 7, 315 4<sup>th</sup> Avenue North, thanked the City for beginning to address the issue of crime throughout Great Falls. This did stem from problems in the lower north and south sides of Great Falls. Mr. Weissman stated that, overall, the council is happy about the changes implemented in this ordinance. However, Neighborhood Council 7 does not believe that the provision for five visits in only a 30 day period is appropriate. The council believes the threshold is too high and makes it almost worthless. Mr. Weissman suggested five visits in 60 or 90 days.

**Ronda Wiggers**, 3208 2<sup>nd</sup> Avenue South. On behalf of the Great Falls Association of Realtors, Ms. Wiggers spoke in opposition to Ordinance 3009. Ms. Wiggers stated that the Landlord Tenant Act and City ordinances already on the books would solve this if the lines of communication were opened. Since this ordinance has been proposed, they have already found places to work with the Police Department. If the ordinance were to be passed, Ms. Wiggers suggested five visits in 30 days was too short; more clearly identify the meaning of visits to a specific complex unit versus the property; notify the owner of record and strike owner's agent throughout; notification by mail only and strike posting on the door throughout; that the wording "such a notice shall be sufficient for all legal purposes" would work better if wording was added that a ticket must be written, and that the owner be notified after the second visit. She explained the Landlord/Tenant Act and notice requirements of eviction; the date of written notification be changed to five business days from the date of receipt of the mail; under § 7-1-111, M.C.A., she doesn't believe the City has any obligation to see the management contracts with the building supervisor; and, that a time limit be set for the second offense. Ms. Wiggers concluded that a ticket needs to be written for eviction purposes in Justice Court.

**Terry Hilgendorf**, 3507 Fairway Drive, does not disagree that action should be taken to provide safe and enjoyable neighborhoods in Great Falls, but does not agree this is the method to do so. It makes property owners liable for the

actions of others over which they have little control and creates a very burdensome process which may not result in solutions. Property owners become responsible for almost any member of the public who disturb the community in the vicinity of their premises. He believes the City should take additional responsibility for providing a solution. His concerns are: the notification process to be used by the City does not require that the property owner receive notice. The legal owner of real property is public record and the City should be required to provide notice to that owner; once the property has been classified as a disorderly premise, not only is it almost impossible for a local owner to receive notice by mail, hire legal representation and attend a meeting within five business days, it is absolutely impossible for an out of state owner to do so; the process of requiring a written agreement at the conclusion of the meeting with the City will reduce the likelihood of the parties reaching an agreement which satisfies both parties and while solving the problem. He believes it is more likely the property owner will be unable to sign the agreement based on legal advice, which would result in litigation and further delay and resolution of the problem; and, the word "shall" and not "may" pursue legal remedies leaves no option for trying to work towards a solution. He also believes the City must require more than just visits by the police in order to designate a premise as disorderly. Tickets must be written. Mr. Hilgendorf encouraged the partnership of the City and property owners for more negotiations and creative solutions, and urged the Commission to table this matter.

**Jim Dey**, Co-Chair of Political Affairs Committee for the Great Falls Association of Realtors, residing at 3600 7<sup>th</sup> Avenue South, stated that he deeply appreciates the police. But, if no citations are written, then they are asking landlords to do their job. Ticket must be written so property owners can defend themselves and their actions more effectively in Justice Court. Mr. Dey does not believe the 30 day period for five visits is a useful tool and suggested a 60 or 90 day period. Cooperation, rather than an adversarial relationship, between the police and landlords would move them forward versus receiving a threatening letter. Mr. Dey requested that the word "premises" be clarified and asked how it affects Parkdale. Mr. Dey concluded by saying that criminals need to be regulated, not landlords.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue N.E., reminded the Commission that he requested how an ordinance similar to this worked in Franklin, Massachusetts. Mr. Gessaman researched the web and found that the ordinance in Franklin was passed in July, 2007, and, if that was true, it wouldn't have much history and experience. He suggested the Commission table this matter until they review a report from Franklin. Mr. Gessaman stated that the language in the agenda report regarding the warning notice means to him that there would be eight visits. He also objects to the last sentence in Section 8.48.030 where it states "any" method of service is adequate. The posting that other persons objected to and were assured would not be used exclusively, could be the only method of service that the City even attempts.

**Yvonne Honeywell**, 724 3<sup>rd</sup> Avenue North, stated that she is a realtor, resides in the lower north side and owns rental property. In the last year she and her husband have had more trouble with tenants taking care of properties and paying their rent with the cost of living expenses increasing. Ms. Honeywell does not believe this ordinance was put together with proper thought and the ramifications were not considered long enough. She believes that no one should be responsible for the actions of others. To add this to a landlord's burden is not right. On the other hand, she does believe this could work if written properly and notification was given to the owner and not the manager on the first incident. Ms. Honeywell urged that tickets be written.

**Pat Goodover**, 803 Forest Avenue, real estate broker, incoming President of the Association of Realtors and a property manager, stated that he was speaking in his own behalf as a landlord. Mr. Goodover stated that this ordinance is a good concept, but is bad law. He referred to § 7-1-111, MCA. As this ordinance is worded now, he believes there is a jurisdiction conflict. He strongly requested that the City police give a copy of the ticket to the landlord. In his opinion, going before Judge Jensen and telling her the City said "we could do it" will not fly. Mr. Goodover also asked that the word "premises" be clarified. He also urged that notification be given to the owner and that the property managers be kept out of it. He has issues with the City saying the property was "visited" so many times. That wording is only accusations and will not hold up in court. He provided a positive example of working with the police. Mr. Goodover requested that the Commission delay action on this matter.

**John Hubbard**, 615 7<sup>th</sup> Avenue South, stated that the ordinance proposes making landlords into policemen, believes this is double jeopardy, and believes the City will see more disgruntled people with the cost of inflation.

**Marlin Wilke**, 121 34<sup>th</sup> Street N.W., stated that his concern is the liability issues when Montana law is specific about evictions. This ordinance is not in accordance with existing laws. Mr. Wilke urged the Commission to table this matter until it is thoroughly examined.

**Paula Brandon**, 731 33B Avenue N.E., stated she is a realtor and property manager and that there is a screening process for good tenants. Ms. Brandon stated there has to be just cause and proof for eviction. Neighbors will complain without justification and, if passed, would be a huge burden on the police.

**Bonnie Beuning**, 1818 7<sup>th</sup> Avenue North, President of the Great Falls Association, thanked the City for their efforts to clean up downtown. Ms. Beuning believes the eviction process has been overlooked. She said she has been blessed with the wonderful opportunity to work with Terry Youngworth. He has been an advocate for landlords, as well as tenants. She would like to see Terry brought in to these discussions with the Great Falls Housing Authority and the eviction process. You cannot evict just because a city

ordinance says so. She urged the Commission to table this matter or vote no, and to have some interaction with the Great Falls Housing Authority.

**Kim Martin**, 235 Sun Meadows Road, realtor and landlord, stated that there are over 900 listings on the market right now. Some people are turning to leasing their properties due to the economy. A law like this would be scary for someone who has never been a landlord before and would scare people interested in multi-family investments.

**Jim Whittaker**, 4020 5<sup>th</sup> Avenue South, stated this is a bad ordinance, bad idea, and urged the Commission to table this matter.

**Robert Mehlhoff**, 407 9<sup>th</sup> Street N.W., thanked City Manager Doyon for meeting with him and discussing this matter. Mr. Mehlhoff believes the ordinance is going after the wrong person. It should not hold the landlord responsible for something that someone else has done. His solution was to write good laws that go after the person offending. Let landlords know in a timely manner what is going on so that the landlord can be part of the process. Penalizing landlords is taking this too far. Judges need to enforce the laws and go after the people that are doing the offending. He suggested notification by certified mail after the first instance, but no later than the second, and take out the penalty. Mr. Mehlhoff requested that this matter be tabled.

**Stephanie Ritter**, 3121 4<sup>th</sup> Avenue South, Human Resource Director for Quality Life Concepts, stated that QLC provides services to members of the community with developmental disabilities. Sometimes they are scared or just need someone to talk to and they will periodically call the police. Her fear was that QLC and others would be fined for these nuisances, when they don't know they were being nuisances. QLC is governed by the State of Montana and once they agree to provide services to the clients they are bound by the contract and cannot evict their clients.

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

Commissioner Beecher suggested tabling Ordinance 3009. There were some items raised tonight that warrant looking at this ordinance additionally. This ordinance was not meant to penalize the good landlords. It was designed to deal with a landlord that totally ignores the fact that there are problems on their property.

Commissioner Beecher withdrew his second, and suggested tabling Ordinance 3009.

Commissioner Jolley stated that there could be changes, but it has been tweaked so much that no one spoke in favor of the amendments this evening. If it was changed to no fines there wouldn't be any point to these amendments. Commissioner Jolley suggested that the Commission vote and, perhaps, kill

this ordinance.

Mayor Stebbins added that she believes there is still merit in this ordinance. There were valid points raised: extending the time to 60 days; a phone call after two tickets; mandate to actually ticket; the unit specificity; ten days to meet with the City; and, notify only the owner. She believes the ordinance can be amended so that it works for everybody. She encouraged City staff to work with Ms. Wiggers.

Commissioner Bronson echoed Mayor Stebbins' and Commissioner Beecher's comments. Commissioner Bronson added that the concept of this ordinance is a sound one. He has concerns that many of the objections raised tonight were not raised earlier. He doesn't envision a lot of the problems with the enforcement of this ordinance that some had suggested this evening. In the interests of having some additional time, there is certainly room and flexibility not to create the kinds problems that some are concerned about. Commissioner Bronson stated he does not object to this being put aside for a reasonable period of time so that the concerns can be addressed.

Commissioner Rosenbaum stated that he thinks everyone has hit on something. Not everyone will be happy because there is a specific target out there. Commissioner Rosenbaum stated that the notice requirement needs a better look at. He is in favor of tabling this matter if Commissioner olley would remove her motion.

**Commissioner Jolley moved, seconded by Commissioners Beecher and Rosenbaum, to amend her motion and table Ordinance 3009.**

Motion carried 5-0.

**Res. 9750, Intent to Increase Property Tax. Adopted.**

**4. RESOLUTION 9750, INTENT TO INCREASE PROPERTY TAX.**

Assistant Director of Fiscal Services, Melissa Kinzler, reported that § 15-10-203, MCA, requires the City to hold a public hearing before passing a resolution stating its intent to increase property tax revenues. Section 15-10-420, MCA, authorizes a property tax increase of "one-half of the average rate of inflation for the prior three years. The Consumer Price Index showed a 3.34% average increase as provided by the Montana Department of Administration. Therefore, the City is allowed and is proposing a 1.67% property tax increase. Sections 15-10-420 and 2-9-212(2)(a), MCA, also allow property tax levy increases for premium contributions for group benefits. The City is proposing an additional 2.16% property tax levy increase for health insurance premiums. The total proposed allowable property tax levy increase is 3.83%. The fiscal impact of the proposed property increases for inflation and the permissible mill levy for a residential home with a taxable market value of \$100,000 would be approximately \$16.33 per year. The fiscal impact of not authorizing the increase for inflation and the permissive health mills to the General Fund would result in a revenue shortfall of \$371,337 for the

proposed budget. Staff recommends that, after conducting the public hearing, the City Commission adopt Resolution 9750.

**Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9750.**

Mayor Stebbins declared the public hearing open. No one spoke in favor of Resolution 9750. Those speaking in opposition to Resolution 9750 were:

**John Hubbard**, 615 7<sup>th</sup> Avenue South, stated that he is against any rate hikes, raises for politicians, new police officers, equipment, or property taxes, on the grounds that natural gas will be going up five times higher.

**Eric Sprague**, 205 17<sup>th</sup> Avenue N.W., stated that he is frustrated because when education needs more funds, it is a mill levy that gets assessed to the property owners. Whenever monies are needed for things like this it is an increase in property taxes. Yet, everyone benefits from these things, but only the property owners are the only ones financing this through increased taxes. Natural gas for heating costs is a huge concern. Over four dollars per gallon of gas is scary. Food costs are going up. Just surviving is an effort now. The homeowners are responsible for the majority of the costs. Mr. Sprague suggested that there should be a way to distribute the costs more evenly.

**Mike Witsoe**, 510 11<sup>th</sup> Street South, thanked Melissa for her presentation. Mr. Witsoe requested that someone from Physical [*sic*] explain at the next meeting how much water, sewer, garbage and property taxes have gone up in the past physical [*sic*] year.

**Larry Steele**, 419½ 5<sup>th</sup> Avenue North, stated that, with the way the economy is, the government should tighten the budget to show community support. Mr. Steele suggested that the City/County go back to the State legislature and ask for permanent tax cuts to help offset the local property owner taxes.

**Carol Fisher**, 500 53<sup>rd</sup> Street South, read Gregg Smith's blog written on December 21, 2007. Ms. Fisher suggested that, instead of raising taxes this year, the City should ask SME for the \$1.4 million dollars back.

Mayor Stebbins declared the public hearing closed and asked if there was any discussion amongst the Commission.

Commissioner Jolley commented that, in the past, she has spoke against tax increases. The Commission has been through a long budget process. Commissioner Jolley stated that, because of past actions, she believes it is reasonable for the residents of Great Falls to be lulled into a false sense of the City having oodles of money lying about. This amount will help pay for essential City services and she is voting for this tax increase.

Commissioner Rosenbaum jokingly commented he thought he heard advocates for a sales tax. Only having one source of taxes in the State of Montana is a



handicap. It puts a burden on a target that has been traditional. The value of the dollar has decreased and it is a multi-edged sword. The City does have to take care of its resources, and has to continue to move forward.

Mayor Stebbins added that the City is facing the same cost increases that the citizens are facing.

Motion carried 5-0.

**Res. 9751, Annual Budget Resolution. Adopted.**

**5. RESOLUTION 9751, ANNUAL BUDGET RESOLUTION.**

City Manager Gregory T. Doyon reported that, for those interested, a copy of the Proposed Budget is available on-line at [www.greatfallsmt.net](http://www.greatfallsmt.net), at the Great Falls Public Library or at the Civic Center. Mr. Doyon presented a condensed version of what was presented at the prior Work Session. The highlights discussed were Commission Priorities – public safety issues, golf course, parking garage, public pools, create a Park Master Plan, look at long term planning, and maintain services at present levels; Budget Highlights - contractual commitments with union employees, inflationary cost increases including fuels, construction and insurance; Budget Adjustments – did not fund requested increase in positions (2.5 police officers, 1 civilian officer and 1 GFFD office clerk), adjusted programs (DARE and LRE) to keep the patrol force where it was at for the past year, no capital funding for the new Animal Shelter, removed proposed playground equipment for Verde Park, removed funding for RiverFest and fireworks for FY 2009, and reduced funding for Cable 7, and not pursue the public safety mill levy; Mr. Doyon reviewed the programs subsidized by the City and the associated funding requests versus what is being proposed. The total city-wide proposed revenues to the general fund is over \$92 million and is a proposed increase of approximately 3%. The total proposed general fund revenue is over \$22 million and is a proposed increase of 4.37%. The proposed real property tax levy will increase to \$9.7 million and includes the statutorily authorized increases. The bulk of general fund expenditures are related to personnel with an increase of about 6% and a decline in some other expenditures including debt service. The Commission will review a proposed 5% rate increase for water and sewer, and 10% for street maintenance in the next few months and the public will have an opportunity to comment. Mr. Doyon discussed the challenges that the community is facing is stabilizing the aquatics programs, a need to continue economic development and making sure that we are not growing too fast on the residential side without attracting business to the community and providing jobs and stabilizing the tax base with new business, the initiative by the City/County Health Department to support their structure and how they are financing the needs for that entity, the Animal Shelter and make decisions about the new facility, and the age of the Police Department building and its structural integrity. Some of the challenges are the fuel prices. Mr. Doyon reported that he tried to limit the services proposed to reduce and tried not to eliminate staff in this proposed budget. He is hoping to see improvement in some of the funds in terms of subsidy, that includes the golf courses, and

hopefully see some improved utilization of the Multi-Sports Complex. In looking down the road, the City needs to keep the reserves intact and look at a capital plan in terms of structures and facilities. Mr. Doyon concluded that was a lot of information and should the Commissioners have any questions he encouraged them to call his office.

Commissioner Beecher suggested that the Commission receive public input before making a motion on the budget.

Mayor Stebbins declared the public hearing open. Those commenting on Resolution 9751 were:

**Aaron Weissman**, NC 7 Chair, thanked the City Manager, Chief Grove and Melissa Kinzler for taking the time to attend a NC 7 meeting to explain the budget in greater detail. In light of the meeting and the previous discussion to increase the property tax, Mr. Weissman stated he was encouraged that the City was respecting public dollars by initiating the conversation to eliminate wants and re-examine needs. Mr. Weissman encouraged the City, as part of this discussion, to look at areas where waste can be eliminated. Mr. Weissman challenged the Commission to lead the charge to privately fund treasured public services. Mr. Weissman agreed with the comments of Mr. Mehlhoff that the \$140,000 saved by eliminating the DARE and LRE programs are pennies saved and will result in dollars later.

**Sandra Guynn**, NC 4 Chair, requested the opportunity to have Manager Doyon and Chief Grove come to their Neighborhood Council meeting next Thursday to provide more detail about the budget. Ms. Guynn requested that this matter be tabled until after that time.

**Larry Steele**, 419½ 5<sup>th</sup> Avenue North, is opposed to the City funding the fireworks and RiverFest. He believes that businesses should step up and take ownership to retain quality employees. He compared those activities to Special Olympics and what businesses can do for a community. He is against cutting the DARE and LRE programs. Because of those programs, law enforcement is well respected in the high schools. Because of the police patrols, Parkdale does not have the stigma it once had.

**Larry Rezentes**, 2208 1<sup>st</sup> Avenue North, commended Manager Doyon for doing a credible job in attempting to lead the City in a difficult set of circumstances that were a result of acts not of his doing. Mr. Rezentes read an Albert Einstein quote. He stated that the budget problems are a result of some bad decisions relating to the efforts to organize the future establishment of the Highwood Generating Station and its precursor, Electric City Power. Mr. Rezentes discussed portions of the budget relating to ECP and suggested a time table to shut down ECP and consult a bankruptcy attorney. Mr. Rezentes opined that the program cuts would not be necessary if the City had the \$5 million expended on ECP and HGS. He complimented the new City Manager for his leadership and beginning a process of reporting ECP results. Mr.

Rezentes stated again that the Commission is ignoring the will of the people by continuing its efforts in pursuit of Highwood and violating City Ordinance 2925.

**Ed McKnight**, 906 3<sup>rd</sup> Avenue North, asked for an explanation regarding \$780,000 borrowed from various City funds that went into the Electric City Power fund in a six month time period. Commissioner Beecher reminded Mr. McKnight that this is the time for him to make comments. Mr. McKnight interrupted and read a portion of a State statute regarding the preliminary budget. Fiscal Services Director Coleen Balzarini stated that she couldn't answer Mr. McKnight because she doesn't know what time frame or dollars he was talking about. Ms. Balzarini requested that Mr. McKnight provide her with more information and she would get back to him on it. Commissioner Jolley stated that she thought she heard about the \$780,000 when going through the financials presented at the Electric City Power Board meeting. Mr. McKnight quoted a statute and stated that this matter will need to be tabled. Mr. McKnight asked, if the City is borrowing money from various funds to float ECP, doesn't that come under the purview of the budget. Ms. Balzarini responded that the money that was borrowed by ECP is being charged interest for the privilege of that borrowing. In the ECP fund budget there is an interest expense for that borrowing. Mr. McKnight inquired how the City came up with the figure \$9.5 million in the budget for ECP. Ms. Balzarini responded that she assumed that was the expenditure line. She believes that the cost of energy is \$730,000 per month times 12 months. Mr. McKnight stated that every year there is a prediction of how much money will be spent on power and believes this is severely under-budgeted. Mr. McKnight discussed a chart he prepared that shows the cost of electricity from ECP was more expensive than from NorthWestern Energy. Mr. McKnight suggested tabling this matter to consider the statutes.

**Dennis Renning**, 3015 4<sup>th</sup> Avenue South, teaches LRE at Great Falls High School. Mr. Renning stated that it is one of the most popular classes there. It teaches modern, community policing, which is very valuable to the community. It is also a recruiting tool. Mr. Renning stated that LRE is a good investment - 11 hours per week and leaves the officer 29 hours to patrol. Mr. Renning urged the Commission not to eliminate the LRE program.

**Kathleen Gessaman**, 1006 36<sup>th</sup> Avenue N.E., stated her concerns about losing the DARE program. Ms. Gessaman suggested giving \$250,000 to the Animal Shelter from the \$500,000 budgeted for the year and the difference to run the DARE and LRE programs. Ms. Gessaman stated that Missoula uses a percentage of the cable franchise fee to fund public access television and suggested that Great Falls do that with Cable 7.

**Aart Dolman**, 3016 Central Avenue, thanked the Police Chief and Fire Chief for a peaceful Fourth of July. Mr. Dolman inquired why the ECP budget was not included in the overall picture, asked if SME has improved the budget, and wondered why the taxes were not raised more to fund the valuable programs in

the community.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue N.E., is unhappy with the whole budget process. Mr. Gessaman suggested the Commission consider getting out of the sanitation business. Mr. Gessaman stated that the ECP losses were not discussed and were larger than the golf courses and sanitation department. Mr. Gessaman referred to p. 42 of the budget and a figure of \$354,500 that contained no explanation. Ms. Kinzler provided an explanation.

**Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, stated that he believes it is a mistake to cut back on public access television. He also suggested putting every check written on the City's website, and that the City Manager look carefully at City employees and their job descriptions. Mr. Lewin believes the City needs to be more open to the people.

**Ed Brown**, 2012 8<sup>th</sup> Avenue South, stated that he has done budgets and it is always a tough decision. Mr. Brown asked why every time a budget comes up public safety and firemen are cut. He believes the police motorcycles are a great enforcement tool. He also asked if private citizens got together a committee to put on a firework show would they have to put up insurance and also pay for the fire truck in case of a misfire. Mr. Brown believes that RiverFest can be maintained by a private committee. He hates to see the DARE program, Police and Fire Departments' budgets cut.

**Mike Witsoe**, 510 11<sup>th</sup> Street South, disagrees with budget cuts to the Police, Fire, SRO's, and other crime related services such as the DARE program. Commissioner Jolley corrected Mr. Witsoe that the City Commission did not cut SRO's. Mr. Witsoe opposes cutting the Cable 7 budget. He also discussed cutting the CCHD budget and was corrected that it was proposed to be budgeted at the same level as last year. Mr. Witsoe suggested getting a budget analysis from an outside source and delay this matter.

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

**Commissioner Jolley moved that the City Commission schedule action on Resolution 9751 for August 5, 2008. Motion failed for lack of a second.**

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum, to adopt Resolution 9751.**

Motion carried 4-1 (Commissioner Jolley dissenting.)

#### **OLD BUSINESS**

**Water Rights. Accepted the 1889 water right (41QJ123410) volume**

**6. WATER RIGHTS, REVIEW AND POSSIBLE ACTION ON PRIOR REDUCTION OF 1889 WATER RIGHT (41QJ123410).**

**reduction amendments as previously submitted to the Montana Department of Natural Resources and Conservation.**

City Manager Gregory T. Doyon reported that he hoped the information presented at the Work Session was helpful. At the request of the Commission, Mr. Doyon stated that several motions were framed up for the Commission to act upon with regard to the water right action taken previously.

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

Commissioner Jolley commented that she has the same concerns, that this was a discussion that should have been made public several years ago.

**Commissioner Jolley moved that the City Commission request an extension from the Montana Department of Natural Resources and Conservation in order to evaluate its 1889 water right (41QJ123410) volume reduction amendment. Motion failed for lack of a second.**

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission accept the 1889 water right (41QJ123410) volume reduction amendments as previously submitted to the Montana Department of Natural Resources and Conservation and currently on record with the Montana Department of Natural Resources and Conservation.**

Mayor Stebbins asked if there were public comments.

**Aart Dolman**, 3016 Central Avenue, expressed disappointment that Commissioner Jolley's motion was not considered. Mr. Dolman stated that the water rights issue is a very difficult one. Mr. Dolman stated that the public process was eliminated on a very difficult issue.

**Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, stated his observations of the Work Session were that the Commission does not have a handle on what is going on in the water courts or water law; the presenters were knowledgeable but one has a conflict of interest; the water rights the City is giving up are worth \$350 million; and, that it is a huge mistake not asking for more time. Mr. Lewin agreed with Mr. Dolman's comments. Mr. Lewin asked if water rights were given up to secure the contract with PPL to go forward with HGS.

**Pamela Morris**, 2201 8<sup>th</sup> Avenue North, NC8 representative, commented that this was very likely the most important issue for the City of Great Falls. Ms. Morris stated that water is Great Falls' liquid gold asset and the City is throwing it away. Ms. Morris urged the Commission to reconsider Commissioner Jolley's motion to table this matter.

**Andrea Deligdish**, 3016 Central Avenue, commented that she has heard a lot about water rights. She cannot understand why the Commission would not ask for a delay from the water court. Ms. Deligdish asked the Commission to reconsider.

**Mike Witsoe**, 510 11<sup>th</sup> Street South, commented that there has been over eight hours of water rights meetings in the past three weeks, and that Commissioner Jolley stayed every hour. Mr. Witsoe urged the Commission to request an extension and reconsider Commissioner Jolley's motion.

**Kathleen Gessaman**, 1006 36<sup>th</sup> Avenue N.E., thanked Commissioner Jolley and Mr. Doyon for attending the water rights meetings. Ms. Gessaman stated she was disappointed that Commissioner Jolley's motion did not have a second. No where in the budget is there a line item for \$750,000 to buy future water rights. Ms. Gessaman stated that the City would use no where near that amount to argue at the water court. Ms. Gessaman urged the Commission to reconsider its action tonight.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue N.E., commented that the experts that spoke at the Work Session talked about adjudication of water rights among ranchers or farmers along a river or creek. He did not hear them talk about water rights of a major city in the State of Montana. There is a difference between the water rights being considered for agriculture versus a municipality. Mr. Gessaman stated that when Dave Schmidt first presented here, he talked about his conflict of interest, the fact that he had water rights for sale, and the City should allocate \$750,000 for the next 10 years to purchase water rights. The GFDA water meetings have been informative. Mr. Gessaman reported that the deadline to make an objection or request an extension is August 4, 2008, not mid-August as reported by Dave Schmidt. Mr. Gessaman believes that water is the future and is important for future development. He urged the Commission to extend this matter.

Commissioner Beecher commented that the Commissioners are not experts on water rights and that is the reason why the people were hired to guide and inform the Commission. He believes the experts are qualified and agrees with their observations. The Commission is not doing this in a flurry of activity. The 2002 Water Report states there was a big risk as the City was oversubscribing of the Gibson water rights and the recommendation was that the Commission consider reducing that down to a use the City can prove. The Commission is listening to the people they have confidence in.

Mayor Stebbins added that, if the City did file an objection to the amended water rights, the City would have to have verifiable historical usage prior to 1973. The reduction of those amended water rights was actually based on a verifiable history of beneficial use. The City is not rushing into things. This has been a very considered action on the Commission's part.

Commissioner Bronson echoed the Mayor's comments with respect to the 1889 water right. After considering the comments in recent weeks, dovetailing it with his own knowledge and research, and listening to the comments of Mr. Schmidt and Mr. Harris, he came to the conclusion that requesting an extension of time to reevaluate the previous position taken by the City is not a prudent decision. If the City is going to do anything with respect to the 1889

water right and based on the law that applies to it, substantial evidence would have to be established that the City had, in fact, reached the higher volume level. It is apparent from the research that has been done that the City cannot get anywhere near that. He finds it interesting that some have commented in such a way to suggest that a solution is out there to grasp more water rights. Yet, he has not heard a definitive legal opinion from anyone on that subject, not had anything offered that would suggest that the City is in a position to make the kinds of arguments suggested. He has given consideration to the suggestion that there is some Great and Growing Cities Doctrine to rely on to somehow enhance the City's position vis-à-vis other water rights users. After researching that doctrine, Commissioner Bronson stated that doctrine does not apply in the State of Montana. He does not see how the Courts can apply that doctrine to the historic type water right that we are talking about. The only way to establish any basis for a municipality to show the need for greater use down the road is through the water reservation process that was set up about 20 years ago. That is what the City has been attempting to do. After having listened to a number of folks talk about this subject who are knowledgeable about it, having done research in the field, Commissioner Bronson is satisfied that the recommendation that was made by Mr. Schmidt some time ago to reduce the volume down to the 20 thousand or so was a wise decision. Legally, he does not believe the City can do anything other than what it has done.

Commissioner Rosenbaum added that it was the legislature and the Supreme Court's decision on consumptive use or defensible use and the City does not have it. Not that he discounts Commissioner Jolley's opinion that the City should delay or re-look at this, he believes what he sees is what he believes. The City is in a tight budget and should not fight court cases that it cannot win.

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

## NEW BUSINESS

### ORDINANCES/RESOLUTIONS

**Ord. 3011, to Rezone Lot 1, Block 1, Benefis West Minor Subdivision from PLI Public Lands and Institutional District to R-5 Multi-Family Residential Density District. Accepted Ord. 3011 on first reading and set public hearing for August 5, 2008.**

7. **ORDINANCE 3011, TO REZONE LOT 1, BLOCK 1, BENEFIS WEST MINOR SUBDIVISION FROM PLI PUBLIC LANDS AND INSTITUTIONAL DISTRICT TO R-5 MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT.**

Planning Director Ben Rangel reported that Mike Tabacco and Ralph Randon, 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. Mr. Rangel requested that the Commission accept Ordinance

3011 on first reading and to set public hearing for August 5th to consider rezoning the parcel from PLI Public lands and institutional to R-5 Multi-family residential.

**Commissioner Jolley moved, seconded by Commissioners Beecher and Bronson, that the City Commission accept Ordinance 3011 on first reading and set public hearing for August 5, 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 as presented.**

**CONSENT AGENDA**

8. Minutes, July 1, 2008, Commission meeting.
9. Total expenditures of \$2,824,312 for the period of June 23 – July 9, 2008, to include claims over \$5,000, in the amount of \$2,578,356.
10. Contracts list.
11. Grant list.
12. Set public hearing for August 5, 2008, on Resolution 9758, cost recovery at 706 19<sup>th</sup> Street Southwest.
13. Set public hearing for August 5, 2008, on the 2008/2009 Business Improvement District Budget and Work Plan.
14. Set public hearing for August 5, 2008, on Resolution 9746, to levy and assess the Street Maintenance District.
15. Set public hearing for August 5, 2008, on Resolution 9747, to levy and assess Special Improvement General Boulevard Maintenance District No. 3570.
16. Set public hearing for August 5, 2008, on Resolution 9759 to levy and assess Special Improvement Portage Meadows Maintenance District No. 1195.
17. Approve purchase of water meter equipment for Fiscal Year 2009 from Dana Kepner Co. of Billings in an amount not to exceed \$270,000.
18. Approve FY 2009 Traffic Signal Maintenance Agreement with the Montana Department of Transportation.

**Commissioner Jolley moved, seconded by Commissioner Beecher, with the exception of Items 9 and 10, to approve the Consent Agenda as presented.**

Motion carried 5-0.

Commissioner Jolley inquired if the payment on Item 9 for the Montana League of Cities and Towns was for one year and was informed yes.

With regard to Item 10D, Commissioner Jolley asked what the \$20,000 artist fee was for. Park and Recreation Director Marty Basta responded that the



City is paying Gurtman and Murtha to promote the artists for a fund raising event. The revenue from the program will be used to fund the sound system for the theatre.

**Commissioner Jolley moved, seconded by Commissioner Beecher and Bronson, to accept Items 9 and 10 of the Consent Agenda.**

Motion carried 5-0.

## **BOARDS & COMMISSIONS**

### **19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

#### **CITY MANAGER**

### **20. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Gregory T. Doyon requested that the Commission either call him or put in writing the amendments it would like in the Disorderly Premises Ordinance before the next time they meet. Commissioner Jolley responded that, if no amendments were suggested, to assume that she wants it dispatched all together. Mayor Stebbins added that Mr. Doyon would have her amendments in the morning. Mr. Doyon announced that Chief Grove was recognized by the National Order of Toast Masters for completing some of the events related to that. He also received a Thank You note from the Special Olympics for their appreciation of the City in support of the event held here recently.

## **PETITIONS AND COMMUNICATIONS**

### **21. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Stebbins opened the meeting to Petitions and Communications.

**HGS.**

**21A. Ron Gessaman**, 1006 36<sup>th</sup> Avenue N.E., read an article entitled "Come at once. We've struck a berg. How would you respond?" that he handed out at the July 1 Commission Meeting. Mr. Gessaman made comparisons regarding global warming, climate change, and the distress signals from the scientific community, and the Highwood Generating Station.

**ECP.**

**21B. Ed McKnight**, 906 3<sup>rd</sup> Avenue North, requested the promised written response and an honest accounting of the cost of power. Mr. McKnight stated that ECP is deceiving the public and now he has definitive proof. Mr. McKnight stated that no one has ever asked what the actual cost of power was and that all they had to do was divide two numbers. Mr. McKnight argued with Commissioner Bronson that he promised he would ask. Mr. McKnight stated that he has the audited payments to SME and that for four years the Commission has not seen the information that he has and now he is not going

to share it with them. Mr. McKnight inquired when he could expect the written response and was told to resubmit the question in writing.

**Water rights, HGS, inflation, Weissman property.**

**22C. John Hubbard**, 615 7<sup>th</sup> Avenue South, commented that he was disgusted about the water rights answers, the EPA decision to deter HGS because it was against the Clean Air Act, and asked how the poor people are supposed to live in this country. Mr. Hubbard inquired about the Weissman property maps that he gave to the Fire Chief.

**Canadian money, RiverFest, City bus service.**

**21D. Mike Witsoe**, 510 11<sup>th</sup> Street South, discussed conversations he had with Canadians and comments they made about two stores in Great Falls that they visited and wouldn't accept Canadian money. Mr. Witsoe discussed RiverFest and requested an accounting. He also recommended that the microphones be set up in the Gibson Room for all future meetings. Mr. Witsoe discussed the bus service and made suggestions.

**CITY COMMISSION**

**22. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Jolley stated that she voted against the budget only because the Commission didn't extend the meeting to next month. She thanked Mr. Doyon and Melissa Kinzler for their work on the budget.

**ADJOURNMENT**

**Adjourn.**

There being no further business to come before the Commission, **Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the regular meeting of July 15, 2008, be adjourned at 11:00 p.m.**

Motion carried 5-0.

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Mayor Stebbins

\_\_\_\_\_  
City Clerk

Minutes Approved: August 5, 2008