Regular City Commission Meeting

Mayor Stebbins presiding

CALL TO ORDER: 7:02 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, Public Works, Planning, the Police Chief, Assistant Fire Chief, and Deputy City Clerk.

PROCLAMATIONS: Mayor Stebbins read a proclamation for National Police Week.

NEIGHBORHOOD COUNCILS

NC 3 & 9

1A. Mayor Stebbins swore in Al Smith with Neighborhood Council 3 and Joe Leggett with Neighborhood Council 9.

NC 4

1B. Sandra Guynn, Chair of Neighborhood Council 4, 3624 9th Avenue South. The Council would like to see the entire 10th Avenue North roadway annexed into the City. There is concern about the 45 mph speed limit and would like to see it reduced. Ben Rangel will look into this request and provide a report back to the Commission.

NC8

1C. Karen Grove, Chair of Neighborhood Council 8, 1816 1st Avenue North, offered a reminder of the Flag Raising Ceremony on Sunday, May 25, for their new flag pole in their park. Ms. Grove also reminded the neighborhood they meet regularly on the 3rd Thursday of each month. Also, on May 8, they will meet jointly with NC 7 to discuss spending funds they have to increase knowledge and information about their councils.

PUBLIC HEARINGS

Res. 9742, Vacation of Cul-de-sac in 15th Street Bridge Addition. Adopted.

3. RES. 9742, VACATION OF CUL-DE-SAC IN 15^{TH} STREET BRIDGE ADDITION.

Public Works Director Jim Rearden reported that Res. 9742 would consider vacation of a 250' right-of-way between the City Recycling Center and Pepsi Bottling. The cul-de-sac was never built and is no longer deemed necessary. This vacation is prompted by the proposed sale of the recycling center property and will add additional square footage to the parcel being proposed for sale. Staff recommends the adoption of Res. 9742.

Mayor Stebbins declared the public hearing open. No one spoke in favor of Resolution 9742.

Speaking in opposition to Resolution 9742 was:

Ron Gesseman, 1006 36th Avenue NE, stated if the right-of-way is left, other possible uses could be found for Lot 2, and since we don't have a use for Lot 2, why would we be in such a rush to abandon it.

There being no other speakers, Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission adopt Res. 9742.

There was no further discussion by the Commission.

Motion carried 5-0.

OLD BUSINESS

Consulting Agreement, Water Right Solutions, Inc., and First Amendment to Agreement. Approved.

4. <u>CONSULTING AGREEMENT, WATER RIGHT SOLUTIONS, INC.</u>, AND FIRST AMENDMENT TO AGREEMENT.

Fiscal Services Director Coleen Balzarini reported that the Water Right Solutions (WRS) contract is being brought back as requested from the April 20, 2008, meeting where staff was directed to review some of the wording in the contract and the indemnification clause. This has been taken care of. WRS has been acting as a consultant for the City of Great Falls since 2002. The City became involved with WRS when the Malting Plant had a need for raw water. WRS assisted the City in making use of our water reservation by moving the place of use and point of diversion. While going through that process, it became apparent that there were other issues with our rights regarding location, volume, flow, etc., that also needed to be reviewed. WRS prepared a report looking at all these issues and advised what needed to be done. Staff is currently asking to enter into a new contract with WRS which would provide fee increases for WRS. There is also a first amendment to the agreement to ask WRS to review the preliminary decree and 2,584 water right claims that are in the 41QJ Basin as it is going through the adjudication process. Since 2002, WRS has received \$105,500 in fees or approximately \$21,000 per year. This is a professional services contract and to this point the City has been very satisfied with the services and responsiveness of WRS.

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission authorize the City Manager to execute a Consulting Agreement and First Amendment to the Agreement with Water Right Solutions, Inc.

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

Commissioner Rosenbaum stated that he checked with some engineering firms that he works with and contacted one of the clients that WRS works with and received stellar reports.

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

Stuart Lewin, 615 3rd Avenue North, stated he is still opposed to this contract with Water Rights Solutions, Inc. and feels it is unnecessary and illadvised. He is opposed to the wording of the indemnity clause in the contract. He would like the City to request more time from the water court in addition to hiring a water rights attorney to give recommendations as to who the expert should be to advise the city on its water rights.

Dave Schmidt, Water Rights Solutions, Inc., stated in response to Mr. Lewin's concerns that he is not comfortable debating a Montana water court case before the City Commission, but he stands by his advice and previous testimony. He provided an overview of his firm's credentials. He further stated he is confident that they can continue to do a good job for the City of Great Falls.

Brett Doney, Great Falls Development Authority, 3048 Delmar, stated he did not want to comment directly about this particular contract, but to express the support of GFDA in protecting our water rights and developing a strategy to acquire more rights for the benefit of economic development in Great Falls.

Kathleen Gesseman, 3006 36th Avenue NE, spoke in opposition to the new contract with Water Rights Solutions, Inc.

Ron Gesseman, 3006 36th Avenue NE, stated he felt the City should slow down in this process and request more time from the water court to get our comments in place.

Commissioner Bronson stated he does not have any issues with the indemnity clause in the contract and finds nothing unusual or inappropriate in terms of how it is drafted or carried out and finds that is no basis for rejection of the contract. He further stated he can understand the concerns of some citizens' viewpoint that we are giving something away; however, in our water rights legal system you can claim all you want, but if you don't use it, you lose it. What has been done with the City water rights to this point can be revisited if that is the desire of the Commission after consultation with legal counsel. Ms. Balzarini confirmed that the City consulted with two water rights attorneys on two separate issues specifically, as well as general counsel from one of those water right attorneys on a regular basis. Commissioner Bronson further stated that he feels that Water Rights Solutions is in position to address the factual issues. If the Mayor and other

Commissioners concur, he would direct staff to have these matters reviewed by outside legal counsel so we can be comfortable with strategies.

Commissioner Jolley stated she spoke with someone at the Department of Natural Resources and they suggested it would be likely we could get an extension although she didn't know how that worked. To amend the amendment was something he suggested could be done. If we could claim more than 20,000 acre feet it doesn't look to me like we have anything to lose at this point.

Commissioner Rosenbaum stated he knows that water rights are not to be taken lightly. The item under discussion right now is about getting our contract with the provider for services. He stated that disputes don't necessarily come from the water judge, but from other users and they will be the ones who will dispute our ability to use that much water. He further stated that we needed to get our provider on board and ask the questions; so he will support the contract.

Motion carried 4-1. (Commissioner Jolley dissenting)

2008/2009 HUD Annual Action Plan. Adopted.

5. 2008/2009 HUD ANNUAL ACTION PLAN REGARDING THE PROPOSED USE OF 2008/2009 COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP PROGRAM FUNDS.

Community Development Block Grant Administrator Chris Imhoff stated this is the final step in the CDBG and HOME Grant allocation process. In order to continue to receive the yearly allocation of these grants, the City is required to submit a plan to HUD by May 15 including the proposed use of the funds for this year. The City is slated to receive just over \$917,000 of CDBG and \$394,000 of HOME funds. The annual action plan including the CDBG and HOME fund recommendations has been available for citizen comment for the last 30 days between April 4 and May 3 and has received no written comments, phone calls, or other comments other than at the public hearing that the Commission conducted on April 15. The Community Development Council and City staff are recommending that the Commission adopt the annual action plan including the proposed use of the 2008/2009 CDBG and HOME program funds and authorize its submittal to the US Department of Housing and Urban Development.

Commissioner Beecher moved, seconded by Commissioner Bronson, that the City Commission adopt the Annual Action Plan including the 2008/2009 Community Development Block Grant and HOME Program funds as recommended.

Mayor Stebbins asked for discussion amongst the Commission.

Commissioner Jolley recused herself from the discussion and the vote.

Mayor Stebbins asked for comment from the public.

Brett Doney, Great Falls Development Authority, 3048 Delmar Drive, thanked the Commission for approving McLaughlin Research request for funds for their expansion. He also thanked the Commission for the \$68,000 in micro-loan funds given last year to the Development Authority and noted they have closed on the loan to Dimetri's Restaurant, allowing that building to be put back into use.

Dave Crum, Assistant Director of Operations and Development for McLaughlin Research Institute, 3324 13th Avenue South, thanked Chris Imhoff for her efforts and the Council's recommendation on McLaughlin's expansion. He stated the expansion would create 18 new jobs, and McLaughlin would be able to recruit new scientists. He thanked the Commission for their support.

Motion carried 4-0 (Commissioner Jolley recused)

Land Purchase, Township 21 North, Range 3 East; NE ¼ of NE ¼ of Section 31 and situated east of 19th Street North and North of 33rd Avenue NE extended. Approved.

6. LAND PURCHASE FROM DUANE & DARIN VICK IN TOWNSHIP 21 NORTH, RANGE 3 EAST; NE ¼ OF NE ¼ OF SECTION 31 AND SITUATED EAST OF 19TH STREET NORTH AND NORTH OF 33RD AVENUE NE EXTENDED.

Public Works Director Jim Rearden stated that on February 13, the City Commission authorized the payment of 5% of the purchase price in earnest money on a 20-acre parcel for a future transfer site and compost yard. This action would authorize the purchase of the property. He went over goals that the Recycling Focus Group identified for recycling, functions of the transfer site, and funding sources for the purchase.

Commissioner Rosenbaum moved, seconded by Commissioner Bronson, that the City Commission approve the purchase of 20 acres of land in Township 21 North, Range 3 East, NE ¼ of NE ¼ of Section 31.

Mayor Stebbins asked for discussion amongst the Commission.

Commissioner Rosenbaum stated that this is an opportunity for the City to move into a higher, better use for the 15th Street property and clean that up.

Mayor Stebbins stated that she agreed, and she was impressed that sludge from the Water Treatment Plant could be transported to drying beds of three to five acres, and we can actually recycle that and use it as compost.

Mayor Stebbins asked if there was any comment from the public.

Stuart Lewin, 615 3rd Avenue North, stated he was opposed to this land purchase because the plan has not been carefully enough considered.

Kathleen Gesseman, 1006 36th Avenue NE, stated she is a bit opposed to this because there isn't enough thought going into the sludge being recycled.

Ron Gesseman, 1006 36th Avenue NE, stated that he was getting tired of coming up here. He is not in support of moving the facility out of town.

John Hubbard, 615 7th Ave. So., stated some thought should be given to putting sludge in the compost.

Motion carried 5-0

NEW BUSINESS

ORDINANCES/RESOLUTIONS

Ord. 3003, Assigns C-2 General commercial district zoning to Lots 34 and 35A, Beebe Tracts. Accepted on first reading and set public hearing for June 3, 2008.

7. ORDINANCE 3003, ASSIGN CITY ZONING TO LOTS 34 AND 35A BEEBE TRACTS.

Planning Director Ben Rangel stated that in February of 2006, the Great Falls City Commission adopted Ordinance 2930 regarding the annexation of parcels that receive water and/or sewer services and are currently outside the City limits. The City Commission has decided to annex parcels to provide more effective services to the community as well as a matter of fairness to current City residents to make sure that those who use City services share the burden of paying for them equitably. A number of properties have already been annexed under this program. This item involved Murph's Bowling Alley and Night Club located on 2nd Avenue North near 57th Street. As a condition for the continued receipt of City water and sewer service, the property owner has provided written consent for the annexation.

Commissioner Bronson moved, seconded by Commissioner Rosenbaum, that this body accept Ordinance 3003 on first reading and set a public hearing for June 3, 2008.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins asked for comments from the public. No one responded.

Motion carried 5-0.

Ord. 3004, Assigns R-3 Single-family high density district to Bootlegger Addition Phase I.

8. ORDINANCE 3004 TO ASSIGN CITY ZONING TO BOOTLEGGER ADDITION PHASE I.

Planning Director Ben Rangel stated that in January of 2008, the City

05/06/2008

Accepted on first reading and set public hearing for June 3, 2008.

Commission conditionally approved the Preliminary Plat of Bootlegger Addition Phases I – II located in north Great Falls just west of Bootlegger Trail and between Northview Addition and Eagle's Crossing Addition.

The developers, McIntyre Enterprises and Murphy Real Estate, now request approval of the final plat and annexation of Phase I consisting of 26 single-family residential lots.

Commissioner Jolley moved, seconded by Commissioners Beecher and Bronson, that the City Commission accept Ordinance 3004 on first reading and set a public hearing for June 3, 2008.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins asked for comments from the public. No one responded.

Motion carried 5-0.

Ord. 3006, Assigns R-3 Single-family high density district to Castle Pines Addition Phase VI. Accepted on first reading and set public hearing for June 3, 2008.

9. <u>ORDINANCE 3006 TO ASSIGN CITY ZONING TO CASTLE</u> PINES ADDITION PHASE VI.

Planning Director Ben Rangel stated that the preliminary plat of Castle Pines Addition Phases VI – VIII was approved by the City Commission in March of 2008. The subdivision is located along the east side of 13th Street South and along 28th Avenue South. Harold Paulson is the property owner and developer and is ready to proceed with the final plat for Phase VI which consists of 23 single-family residential lots.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission accept Ordinance 3006 on first reading and set a public hearing for June 3, 2008.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins asked for comments from the public. No one responded.

Motion carried 5-0.

Res. 9743, Remodel Tax Benefits, 1721 10th Ave. S. Approved.

10. <u>RESOLUTION 9743, REMODEL TAX BENEFITS, 1721 10TH AVENUE SOUTH.</u>

Community Development Director Mike Rattray stated that Res. 9743 allows for the taxes generated by the expansion of the McDonald's on 10th Avenue South to be added to the existing tax base over a five-year period in increments of 20% each year.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9743.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins asked for comments from the public. No one responded.

Motion carried 5-0.

Res. 9745, Acknowledging receipt of Letter of Approval from Montana DNRC and Authorize Sale and Delivery of \$4,010,000 Water Revenue Bonds. Adopted.

11. RESOLUTION 9745, ACKNOWLEDGING THE RECEIPT OF THE LETTER OF APPROVAL FROM MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND AUTHORIZE THE SALE AND DELIVERY OF THE CITY'S \$4,010,000 IN WATER REVENUE BONDS.

Fiscal Services Director Coleen Balzarini stated that the Water Department is in need of borrowing money to replace existing distribution lines and the estimated cost of the seven projects is \$4,010,000. That also includes the cost of issuance related to the bond, including bond counsel and the origination fee to DNRC. The interest rate from DNRC is 3.75%. The term will be 20 years.

Commissioner Jolley moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9745.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins asked for comments from the public. No one responded.

Motion carried 5-0.

Consent Agenda. Approved as printed.

CONSENT AGENDA

- 12. Minutes, April 15, 2008, Commission meeting.
- 13. Total Expenditures of \$2,460,747 for the period of April 16-30, 2008, to include claims over \$5,000, in the amount of \$2,156,966.
- 14. Contracts list.
- 15. Approve final payment to Dick Anderson Construction, Inc., and the State Miscellaneous Tax Division in the amount of \$6,266.04 for the Giant Springs Storm Drain Outfall Rehabilitation.

Commissioner Jolley moved, seconded by Commissioner Beecher, with the exception of agenda item 13, to approve the Consent Agenda.

Motion carried 5-0.

Commissioner Jolley stated that Item #13 is a payment to SME and she

excluded that for the reason that she doesn't think we should be paying it until we have an ordinance that reflects that we have that kind of an arrangement.

Commissioner Beecher moved, seconded by Commissioner Bronson, that we accept Item 13 as presented.

Mayor Stebbins called for the vote.

Motion carried 4-1. (Commissioner Jolley dissenting)

BOARDS & COMMISSIONS

Preliminary Plat, Eagles Crossing Addition Phase IV, and Accompanying Findings of Fact. Approved.

16. PRELIMINARY PLAT OF EAGLE'S CROSSING ADDITION PHASE IV.

Planning Director Ben Rangel stated that Matt Rosendale is the owner and developer of this subdivision and is requesting approval of the Preliminary Plat and the Findings of Fact for Eagle's Crossing Addition Phase IV located just north of Great Falls along the west side of Bootlegger Trail, consisting of 16 residential lots. The City Planning Board unanimously recommends approval.

Commissioner Bronson moved, seconded by Commissioners Rosenbaum and Beecher, that this body approve the Preliminary Plat of Eagle's Crossing Addition Phase IV, and the accompanying Findings of Fact, subject to fulfillment of stipulated conditions.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins asked for comments from the public. No one responded.

Motion carried 5-0.

Design Review Board Appointments. Appointed Jule Stuber and Bruce Forde.

17. APPOINTMENTS TO THE DESIGN REVIEW BOARD.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission appoint Jule Stuber as the architect member and Bruce Forde to the Design Review Board for three-year terms through March 31, 2011.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins asked for comments from the public. No one responded.

Motion carried 5-0.

Housing Authority Board Appointments. Appointed Michael McCleary and reappointed Grace McLean.

18. APPOINTMENTS TO THE HOUSING AUTHORITY BOARD.

Commissioner Jolley moved, seconded by Commissioner Rosenbaum, that the City Commission appoint Michael J. McCleary to a five-year term through June 30, 2013, and reappoint Grace McLean as a tenant member for a two-year term through June 30, 2010, to the Great Falls Housing Authority Board.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins asked for comments from the public. No one responded.

Motion carried 5-0.

Advisory Commission on International Relationships. Appointed Laura McGee and Heather Palermo.

19. <u>APPOINTMENTS TO THE ADVISORY COMMISSION ON</u> INTERNATIONAL RELATIONSHIPS.

Commissioner Bronson moved, seconded by Commissioner Rosenbaum, that this body appoint Laura McGee and Heather Palermo to three-year terms through May 31, 2011, to the Advisory Commission on International Relationships.

Mayor Stebbins asked for discussion amongst the Commission. No one responded.

Mayor Stebbins stated that she knows Heather and she is very enthusiastic and completes what she starts and that is a very wise appointment.

Sandra Erickson, 2313 4th Avenue SW, stated she is currently the chair of the ACIR and wanted to personally introduce the two new applicants and urged the Commission to appoint them to the Commission.

Motion carried 5-0.

20. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS

CITY MANAGER

21. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Budget, Fire Union Negotiations, Ambulance contract, transfer station compost.

City Manager Greg Doyon stated he is beginning to work through the budget, and he appreciates the staff's patience and looks forward to discussing the Commission's priorities in the upcoming budget work sessions later this week. Fire union negotiations are continuing, and he would anticipate briefing the Commission on the status of those negotiations. He will be meeting with Dave Kuhn with regard to his concerns about the EMS

ordinance and proposed contract. If the Commission wants a work session on water rights, he will get one scheduled and include the gentleman from the State if that is desired. He commented about the potential sludge use at the transfer station and stated there is some regulation required for that. Staff will provide the public and the Commission with more information when that would be used and under what circumstances.

PETITIONS AND COMMUNICATIONS

22. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Stebbins opened the meeting to Petitions and Communications.

Electric City Power.

Ed McKnight, 906 3rd Avenue North, voiced his concerns about the financials of Electric City Power since its first year of operation. Mr. McKnight directed several questions to the Commissioners regarding Electric City Power and indicated he wanted each Commissioner's answer immediately this evening.

Mayor Stebbins stated he would receive a written response.

Commissioner Jolley asked if the question was multiple choice or could she answer yes or no.

McKnight stated to the question of honest accounting?

Commissioner Jolley stated yes.

Economy and politics.

John Hubbard, $615 7^{th}$ Avenue South, made comments on the economy and politics.

Board & Commission Attendance Policy.

Ron Gesseman, 1006 36th Avenue N.E., read from the City Code Title 2, Chapter 56, regarding attendance policy of boards and commissions. He provided a handout he compiled of attendance of Electric City Power board meetings and commented on the attendance of Randy Gray and Dawn Willey. He asked the Commission to enforce the City Code.

Earth Day.

Kathleen Gesseman, 1006 36th Avenue N.E., thanked the Commission and Malmstrom Air Force Base for helping to sponsor Earth Day.

Fire Department Response.

Brett Doney, Great Falls Development Authority, 3048 Delmar Drive, commended the Fire Department on their response to the fire this week at Montana Specialty Mills.

CITY COMMISSION

23. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Response to McKnight questions.

Commissioner Beecher stated that in response to Mr. McKnight's questions, he would make a request back to McKnight that since the City does do audited financial statements yearly--that are unqualified passing audits--if he would submit his findings that he has told us in a verbal form in written form documented with wherever those figures are from, we would be happy to check those against the audited statements or have our auditors sit down with him and provide the answers to those questions.

McKnight questions, commend Police Department.

Mayor Stebbins concurred with Commissioner Beecher. She would like to see Mr. McKnight's findings in writing as well and have them compared to the audit statement. She further stated she would like to congratulate Chief Grove on Police Week and the fine job the police force does.

Commend Police Department, response to McKnight. Commissioner Bronson wanted to also commend the Police Department. He also stated he concurs with Commissioner Beecher's request to Mr. McKnight to submit his numbers to the city to be reviewed, and we are happy to look at them. He further stated that the Commission has asked City Manager Doyon to make recommendations regarding every aspect of the budget including Electric City Power and our involvement with SME. He further requested any citizen who criticizes what the City is currently involved in, if that citizen has an alternative he would like to see and hear that alternative because he does not want to go back to the days where we are beholden to Northwestern Energy and what they did to the City.

Recycling center compost, school mill levy.

Commissioner Rosenbaum stated that regarding the land purchase and the recycling center, recycling is currently offered by the private provider. The composting is an issue of qualifications but does require a DEQ permit to discharge waste and those permits are scrutinized by the DEQ and not the City of Great Falls, so industrial users' waste has to be pretreated to meet DEQ requirements. He stated it is his personal opinion to support the school mill levy for a proper education for our future leaders.

Adjourn.

ADJOURNMENT

There	being	no	further	business	to	come	before	the	Commissio	n,
Comm	issione	rs Be	echer m	oved, seco	nde	d by Co	mmissio	oners	Bronson an	nd
Rosen	baum,	that	the reg	ular meeti	ing	of May	6, 2008	, be	adjourned	at
8:57 p.	.m.									

Motion carried 5-0.		
	Mayor Stebbins	
	Deputy City Clerk	