

JOURNAL OF COMMISSION PROCEEDINGS
September 17, 2019

Regular City Commission Meeting

Mayor Bob Kelly presiding

CALL TO ORDER: 7:00 PM

Commission Chambers Room 206

PLEDGE OF ALLEGIANCE

ROLL CALL/STAFF INTRODUCTIONS: City Commission members present: Bob Kelly, Bill Bronson, Tracy Houck, and Mary Sheehy Moe. Commissioner Owen Robinson was excused. Also present were the Deputy City Manager Chuck Anderson; Deputy City Clerk Darcy Dea; Acting City Engineer Jim Young; Planning and Community Development Deputy Director Tom Micuda; Finance Director Melissa Kinzler; Park and Recreation Director Steve Herring; Assistant City Attorney Joe Cik; and, Police Chief Dave Bowen.

AGENDA APPROVAL: Deputy City Manager Chuck Anderson reported that the original Amendment to Annexation Agreement was not provided for Agenda Item 14, and staff is recommending a change in the motion. The Tourism Business Improvement District (TBID) assessment amount was corrected in the Agenda Report for Agenda Item 16 that was updated after original posting on the City's website. The City Commission approved the Agenda.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: None.

1.

PROCLAMATIONS

Commissioner Bronson read a proclamation for Constitution Week and Commissioner Houck read a proclamation for Down Syndrome Awareness Month.

Commissioner Moe announced that, at the Montana League of Cities and Towns Annual Conference in Billings, MT on October 3, 2019, Commissioner Bronson will be recognized for his exemplary contributions to the City with its Lifetime Achievement Award.

PETITIONS AND COMMUNICATIONS

2. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Lynne Parcel, 201 Riverview Place, expressed concern about a group home in her neighborhood exceeding the City Ordinance for noise limits, and requested guidance and assistance with regard to resolving the issue.

Teresa Bede, 213 Riverview Lane, concurred with the previous speaker.

Jody Kalafat, 217 Riverview Lane, expressed concern about the safety of residents who live next to the group home.

Tim Parcel, 201 Riverview Place, commented that he is not against the group home; however, believes that some individuals should not be living in the group home.

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Police Chief Dave Bowen stepped out to discuss the group home concerns with the previous speakers.

Commissioner Bronson explained that group homes are allowed to be placed in residential areas, which makes the Police Department responsible for dealing with issues at group homes.

Referring to a previous Commission meeting, **John Hubbard**, 615 7th Avenue South, commented that Planning and Community Development Director Craig Raymond lied about contaminant levels in the water supply being under control. Mr. Hubbard expressed concern with regard to property taxes increasing.

NEIGHBORHOOD COUNCILS

3. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

BOARDS & COMMISSIONS

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM BOARDS AND COMMISSIONS.

Joan Redeen, Community Director of the Great Falls Business Improvement District (BID), 318 Central Avenue, reported that the BID successfully held its first annual ArtsFest Montana in August, and that murals were completed in four locations throughout the City.

CITY MANAGER

5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Deputy City Manager Chuck Anderson reported on the following:

- Communications Specialist Lanni Klasner attended the 2019 City-County Communications and Marketing Association Annual Conference to learn best practices and how to network with individuals who have similar roles within local governments.
- Mansfield Center for the Performing Arts Manager Owen Grubenhoff visited representatives from the Wilma Theatre, Top Hat, KettleHouse Amphitheater, Roxy Theatre and Montana Children's Theatre to network with, and he received viable information from other theatres.
- Four new Police Officers were sworn in last week, and the Police Department is fully staffed for officers, including a new court bailiff position.
- Patty Cadwell Memorial Bench Dedication will be on September 18, 2019 at Grande Vista Park at 5:30 p.m.

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- Great Falls Fire Rescue and City County Health Department will be conducting “Flu Shot Fridays” starting October 4, 2019, and Great Falls Fire Rescue will also offer free car seat checks.

CONSENT AGENDA.

6. Minutes, September 3, 2019, Commission meeting.
7. Total Expenditures of \$2,149,573 for the period of August 17, 2019 through September 5, 2019, to include claims over \$5000, in the amount of \$1,880,496.
8. Contracts List.
9. Grants List.
10. Approve a final payment for the 22nd Street SW Sanitary Sewer Replacement (Central Avenue West-1st Avenue SW) project, in the amount of \$8,143.61 to Capcon LLC. And \$82.26 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1743.1**
11. Approve a final payment for the Electric City Water Park Bath House Restoration and Remodel, in the amount of \$34,735.75 to Wadsworth Builders Company Incorporated and \$350.87 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1740.1**
12. Approve Change Order #1 in the amount of \$118,760.03 for the 18th Street Storm Drain Improvements Phase 2B, and approve final payment in the amount of \$34,119.82 to Central Excavation and \$344.64 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1462.5**
13. Recommend staff re-advertise for the Historic Preservation of the 10th Street Bridge, Phase 3 project due to no bids being received. **OF 1709.1**

Commissioner Houck moved, seconded by Commissioner Bronson, that the City Commission approve the Consent Agenda as presented.

Mayor Kelly asked if there were any comments from the public or any discussion amongst the Commissioners. Hearing none, Mayor Kelly called for the vote.

Motion carried 4-0.

PUBLIC HEARINGS

OLD BUSINESS

14. **AMENDMENT TO ANNEXATION AGREEMENT WITH THE GREAT FALLS INTERNATIONAL AIRPORT DATED APRIL 4, 1995 TO CLARIFY OWNERSHIP AND RESPONSIBILITIES OF ROADWAYS, EASEMENTS AND RIGHTS-OF-WAY ON AIRPORT PROPERTY.**

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Deputy City Manager Chuck Anderson reported that the Great Falls International Airport Authority (GFIAA) is a regional airport authority responsible for the maintenance and operation of the Great Falls International Airport. Under Montana statutory law, the GFIAA is an entity whose functions and assets are public and governmental in nature, exercised for a public purpose and matters of public necessity. The GFIAA was created by a joint resolution of the City and Cascade County on January 15, 1980. On April 4, 1995 the City and GFIAA entered into an Annexation Agreement for Great Falls International Airport by which the City agreed to convey to the GFIAA the real property comprising the airport and upon which improvements owned by the GFIAA were situated in exchange for the GFIAA's agreement to annex the airport into the City.

Differences in interpretation of the Annexation Agreement language, as relating to roadways on airport property have occurred throughout the intervening years since the annexation. The Annexation Agreement contains several references to the roads located on the airport property, including:

- "Roadways which will remain public roads, in the control and responsibility of the City."
- "Excepting only street maintenance assessments, upon annexation the City shall not extend the boundaries of any maintenance or special improvement district to include Authority owned properties without the prior written consent of the Authority."
- "Roadways contained within the real property retained by the City, shall remain public roads, in the control and responsibility of the City."

On July 1, 2000, the City and the GFIAA entered into a 5-year Contract to address street and traffic control maintenance. The primary reason for these Agreements was that the Airport was performing maintenance and other responsibilities on roads that it claimed the City was obligated to maintain, as it retained control and responsibility for them.

The Contract was extended to July 1, 2010 and in 2014 and 2015, the GFIAA underwent processes to obtain ownership of roadways within the GFIAA boundaries, from the Montana Department of Transportation (MDOT).

In 2017, the City and the GFIAA resolved a pending dispute over ownership of property affected by the 1995 Annexation Agreement. The City maintains the GFIAA is subject to the street maintenance assessment based in part upon the 1995 Annexation Agreement. The GFIAA maintains it cannot be assessed street maintenance fees based on the federal prohibition on revenue diversion.

The issues involved in the street maintenance assessment arose in part because of differing interpretations about the Annexation Agreement language, as relating to roadways on airport property. As public bodies with a long history of collegial and collaborative actions working for the betterment of Great Falls and its surrounding area, the parties desire to resolve the issues

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surrounding street maintenance assessments. With this amendment to the Annexation Agreement, these differing interpretations will be removed to clarify that the GFIAA owns, maintains and is responsible for all roadways on the annexed airport property, and the roadways will remain public roads.

Commissioner Bronson moved, seconded by Commissioner Houck, that the City Commission agree to enter into the Amendment to Annexation Agreement dated April 4, 1995 for the purpose of clarification of the Annexation Agreement terms.

Mayor Kelly asked if there were any comments from the public or discussion amongst the Commissioners.

John Faulkner, Airport Director, 2800 Terminal Drive, urged the Commission to move the issue forward by agreeing to enter into the Amendment to the Annexation Agreement. Mr. Faulkner explained that the Federal Aviation Administration (FAA) has determined that ownership of the roads is unclear in the Annexation Agreement. Amending the Annexation Agreement clarifies ownership of the roads, and a clear title would allow for Airport Improvement Funds to be utilized for road improvements.

Commissioner Bronson commented that he doesn't have an issue with the Amendment to the Annexation Agreement; however, expressed concern with regard to not having prior approval of the Airport Authority Board.

Referring to Love's Travel Shop and Country Stores, Commissioner Moe received clarification that Love's is paying street assessments on their annexed lots since they are not located on Airport property, and the Amendment to the 1995 Annexation Agreement would not have any bearing on the Love's project.

Commissioner Moe expressed concern that the Amendment to the Annexation Agreement had not been provided to the Airport Authority Board for their review and approval, and landowners not having the opportunity to express their concerns. Commissioner Moe received clarification that roadway projects need to be submitted in October, 2019 for the 2020 Grant Cycle to the FAA.

Mayor Kelly expressed concern with regard to the transparency of approving the Amendment before the Airport Authority Board has reviewed and approved it. Mayor Kelly expressed appreciation to City staff, as well as to Mr. Faulkner for their cooperation and efforts with regard to the Amendment.

There being no further questions or discussion, Mayor Kelly called for the vote.

Motion failed 0-4.

Commissioner Moe moved, seconded by Commissioners Houck and Bronson, that the City Commission table action on the item until the October 1, 2019 City Commission meeting.

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Mayor Kelly asked if there were any comments from the public or discussion amongst the Commissioners. Hearing none, Mayor Kelly called for the vote.

Motion carried 4-0.

NEW BUSINESS

ORDINANCES/RESOLUTIONS

15. RESOLUTION 10303, TO LEVY AND ASSESS PROPERTIES WITHIN THE BUSINESS IMPROVEMENT DISTRICT.

Finance Director Melissa Kinzler reported that the initial creation of the Business Improvement District (BID) was in 1989. It was renewed in 1999, 2009, and 2019, each for periods of ten years by petition of the property owners within the District.

The BID's overall purpose is to utilize assessment dollars through the BID to improve and revitalize the downtown area.

On July 16, 2019 the BID presented a proposed Work Plan and Budget and recommended a method of levying an assessment on the properties within the district. Following the public hearing held on July 16, 2019, the City Commission moved to adopt the 2019/2020 Work Plan and Budget for the BID. The actual assessment for 2019/2020 based on the above assessment formula will generate \$247,348.33 in assessment revenue.

Commissioner Bronson moved, seconded by Commissioner Moe, that the City Commission adopt Resolution 10303.

Mayor Kelly asked if there were any comments from the public or any discussion amongst the Commissioners.

John Hubbard, 615 7th Avenue South, expressed concern with regard to property taxes within the BID and TBID.

Referring to Mr. Hubbard's comments, **Joan Redeen**, Community Director of the Great Falls Business Improvement District (BID), 318 Central Avenue, explained that levying and assessing properties within the BID is not a tax, and that it is a special assessment that property owners within the BID boundaries agree to have imposed upon their properties.

There being no further questions or discussion, Mayor Kelly called for the vote.

Motion carried 4-0.

16. RESOLUTION 10304, TO LEVY AND ASSESS PROPERTIES WITHIN THE TOURISIM BUSINESS IMPROVEMENT DISTRICT.

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Finance Director Melissa Kinzler reported that the initial creation of the Tourism Business Improvement District (TBID) was in 2008. On February 6, 2018, the City Commission approved Resolution 10222 re-creating said TBID for a duration of ten years. The TBID's overall purpose is to promote tourism, conventions, trade shows, and travel to the City of Great Falls through the use of assessment revenue.

On July 16, 2019 the TBID presented a proposed Work Plan and Budget and recommended a method of levying an assessment on the properties within the district. Following the public hearing held on July 16, 2019, the City Commission moved to adopt the 2019/2020 Work Plan and Budget for the TBID.

The assessment will be a flat fee of \$2 per occupied room night for establishments with 31 or more rooms and a flat fee of \$1 per occupied room night for establishments with 1-30 rooms. The new assessment method began on July 1, 2018, and Fiscal Year 2019/2020 will be the first year of billing the assessment with the new formula because the assessment is billed a year behind.

The assessment amount requested by the TBID through their Work Plan and Budget was \$692,000. The actual assessment for 2020 based on the above assessment formula will generate \$779,677. The increase of \$87,677 is attributed to increased lodging during the assessment period.

Commissioner Houck moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 10304.

Mayor Kelly asked if there were any comments from the public or discussion amongst the Commissioners.

Rebecca Engum, Great Falls Tourism Business Improvement District (TBID), 100 1st Avenue North, explained that one of the properties within the TBID either incorrectly accounted for room nights or incorrectly accounted for the \$2 assessment amount. The assessment amount was calculated at \$1 instead of \$2 and the new owner confirmed that the amount of funds provided during the sale is the same as the amount of funds listed on the third-party accounting firms report.

Commissioner Bronson commented that since assessments are attached to properties, the new owner may have to deal with the prior owner if there is a complaint about improper assessments.

Commissioner Houck explained that levying and assessing properties within the TBID is not a tax, and the TBID uses its monies to advertise for the community.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 4-0.

17. **ORDINANCE 3205, TO AMEND TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF): RESERVING CHAPTERS 9 THROUGH 11; AND, REPEALING AND REPLACING CHAPTER 12 PERTAINING TO ADMINISTRATIVE AND ENFORCEMENT BODIES.**

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Assistant City Attorney Joe Cik reported the non-substantive changes vary from typographical errors and formatting issues. The first substantive change amends Articles 1 and 2 to move zoning approval provisions from the Planning Advisory Board (PAB) provisions to the Zoning Commission (ZC) provisions. This amendment will be consistent with State Law and current practice.

The second proposed substantive change is to eliminate repetitive election, membership, and officer regulations pertaining to the ZC. The ZC is comprised of the same membership, term limits, and elected officers as the PAB. By simply cross referencing the PAB provisions in the ZC Article, a large amount of unnecessary language will be eliminated.

The final substantive change is removing the Airport Zoning and Hazard Board designations from the ZC and BOA. These designations are not required under Montana Law and are inconsistent with current practice.

Commissioner Bronson moved, seconded by Commissioner Moe, that the City Commission accept Ordinance 3205 on first reading and set a public hearing for October 1, 2019.

Mayor Kelly asked if there were any comments from the public or discussion amongst the Commissioners. Hearing none, Mayor Kelly called for the vote.

Motion carried 4-0.

CITY COMMISSION

18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Commissioner Bronson announced that he will not be in attendance at the October 1st work session.

Referring to comments made by a previous speaker, Mayor Kelly clarified that Planning and Community Development Director Raymond is not a liar, and that Mr. Raymond was not the individual who responded to the issues with the water treatment plant at a previous Commission meeting. Mayor Kelly commented that Public Works Director Jim Rearden responded to the water treatment plant issues.

Commissioner Moe expressed concern with regard to speakers using curse words at Commission meetings when there are children in the audience.

Mayor Kelly expressed appreciation to the Police Department for its response time to situations in the City.

19. COMMISSION INITIATIVES.

None.

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ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Moe moved, seconded by Commissioner Bronson , to adjourn the regular meeting of September 17, 2019, at 8:25 p.m.**

Motion carried 4-0.

Mayor Bob Kelly

Deputy City Clerk Darcy Dea

Minutes Approved: October 1, 2019

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