

**JOURNAL OF COMMISSION PROCEEDINGS**  
**October 1, 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, Mary Sheehy Moe, and Owen Robinson. Commissioner Tracy Houck was excused. Also present were the Deputy City Manager Chuck Anderson; Deputy City Clerk Darcy Dea; Public Works Director Jim Rearden; Planning and Community Development Director Craig Raymond; Finance Director Melissa Kinzler; City Attorney Sara Sexe; and, Police Chief Dave Bowen.

**AGENDA APPROVAL:** Deputy City Manager Chuck Anderson reported that there were minor changes to Exhibit A for Agenda Item 15 that were updated after original posting on the City's website. The City Commission approved the Agenda.

**CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS:** None.

1. **PROCLAMATIONS**

Commissioner Moe read a proclamation for YWCA Week Without Violence (October 14-18, 2019), Commissioner Bronson read a proclamation for Dodie Pinski Day (October 1, 2019), and Mayor Kelly read a proclamation for Family Promise Week (October 20-26, 2019).

**PETITIONS AND COMMUNICATIONS**

2. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Referring to a previous Commission meeting, John Hubbard, 615 7<sup>th</sup> Avenue South, commented that he made an error about the statistics with regard to the contaminant level in the water supply.

**NEIGHBORHOOD COUNCILS**

3. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

None.

**BOARDS & COMMISSIONS**

4. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM BOARDS AND COMMISSIONS.**

Referring to the Complete Count for the Census 2020, Commissioner Robinson reported that the current estimate for every person not counted in this state will result in a loss of \$2,000 per year for 10 years. He noted the importance of a complete count, and urged everyone to fill out and complete the census so that the state receives appropriate federal funds.

**JOURNAL OF COMMISSION PROCEEDINGS**

**October 1, 2019**

**5. APPOINTMENT TO THE GOLF ADVISORY BOARD.**

**Commissioner Moe moved, seconded by Commissioner Bronson, that the City Commission appoint Dennis W. Heppner as a Non-League Member for the remainder of a three-year term through March 31, 2022.**

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 MANAGER**

**6. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Deputy City Manager Chuck Anderson reported on the following:

- Park and Recreation personnel are diligently working on downed tree removal from the boulevard district from a recent snowstorm. Citizens who are not within the boulevard district need to have downed trees removed from their property.
- Concerns from neighbors about exceeding noise limits, and safety issues at a group home at the last Commission meeting are being addressed.

Police Chief Dave Bowen added that Police Officer Otis Dille collaborated with Quality Life Concepts, neighbors, and the Neighborhood Council about noise complaints and safety issues at the group home, and noted that there has been progress with resolving the issue.

Mayor Kelly commended Chief Bowen for his immediate and effective response with regard to addressing those concerns from a previous Commission meeting.

**CONSENT AGENDA.**

7. Minutes, September 17, 2019, Commission Meeting.
8. Total Expenditures of \$3,129,942 for the period of September 5, 2019 through September 18, 2019, to include claims over \$5000, in the amount of \$2,863,708.
9. Contracts List.
10. Lien Release List.
11. Authorize the City Manager to execute the contract for the City of Great Falls participation in the State of Montana Cooperative Purchasing Program.

**JOURNAL OF COMMISSION PROCEEDINGS**

**October 1, 2019**

12. Accept the Assistance to Firefighters Grant in the amount of \$122,673.63 to purchase powered extrication equipment for Great Falls Fire Rescue.
13. Postpone consideration of the design selection and bid award for the Creative Mural/Logo Design and Painting of the Gore Hill Water Tower project until the October 15, 2019 Commission meeting. **OF 1625.9**
14. Approve the bid award for butterfly valves and actuators to Core and Main in the amount of \$254,504.00. **OF 1637.1**

**Commissioner Moe moved, seconded by Commissioner Robinson, 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.

Mayor Kelly expressed appreciation to Fire Chief Steve Hester for his efforts with regard to Item 12.

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

Motion carried 4-0.

**PUBLIC HEARINGS**

15. **ORDINANCE 3205, AMENDING 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.**

City Attorney Sara Sexe reported that the first proposed change amends Articles one and two 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.

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

Since the original posting on the City's website, City Attorney Sexe explained that there were minor amendments to Exhibit A, and language changes to Exhibit B with regard to the number of members for quorum requirements.

**JOURNAL OF COMMISSION PROCEEDINGS**  
**October 1, 2019**

Mayor Kelly declared the public hearing open.

No one spoke in support of or opposition to Ordinance 3205.

Mayor Kelly closed the public hearing and asked the will of the Commission.

**Commissioner Bronson moved, seconded by Commissioner Robinson, that the City Commission adopt Ordinance 3205.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Moe inquired about the status of the variable membership of the Planning Advisory Board, and mentioned that there was difficulty coming up with five board members at a previous Planning Advisory Board meeting. Commissioner Moe suggested changing the number of board members to seven.

In response to Commissioner Moe's inquiry about the variable membership, Commissioner Bronson responded that the City decided to maintain nine members consistent with the former City-County Planning Board.

Commissioner Bronson commented that it is difficult to find interested and qualified individuals to serve on the board, and the City has to be cognizant of quorum requirements and other provisions of state law.

City Attorney Sexe explained that the recommendation of the addition of seven board members is the statutory minimum for planning decisions, and noted that there has been difficulty with regard to obtaining a quorum for the Planning and Advisory Board meetings.

Planning and Community Development Director Craig Raymond reported that at the last Planning Advisory Board meeting there was almost a lack of a quorum. The Chair of the Planning Board requested that a discussion of having seven board members, instead of nine, be an agenda for the next Planning Advisory Board meeting.

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

Motion carried 4-0.

**16. AMENDMENT TO A 2004 DEVELOPMENT AGREEMENT DATED JUNE 15, 2004 TO REVISE CONDITIONS #1 AND # 5 OF SAID AGREEMENT PERTAINING TO DEVELOPMENT OF LOTS 1 THROUGH 7, BLOCK 582, FIFTH ADDITION TO GREAT FALLS TOWNSITE.**

Planning and Community Development Director Craig Raymond reported that in 2004, Mr. Lee Janetski sought approval from the City in order to rezone the property from Residential to I-1 Light Industrial. At the time, the City negotiated a Development Agreement with Mr. Janetski, which set forth certain conditions of approval of the re-zoning action.

## JOURNAL OF COMMISSION PROCEEDINGS

October 1, 2019

Recently, the City Manager's office received a letter from Realtor Darrell Stroud, with Dustin Young & Company. The letter explained that selling and ultimately developing the property was not feasible due to conditions # 1 and #5 in the 2004 agreement.

Condition #1 is a typical condition that the City will apply on most rezone, annexation or other land use actions to account for who is obligated to share in certain infrastructure improvements that may occur subsequent to or because of the pending land use action. The owner's request is that the condition be amended. The proposed change removes the specific language pertaining to paying a proportionate share of costs for street construction in favor of language that essentially waives any right to protest the creation of a Special Improvement District.

Condition #5 pertained to language that restricted the use of the property such that it would not "create objectionable noise, odor, smoke, fumes, vapor, dust or gas." The applicant feels that this is very subjective and ambiguous language that could have many different meanings.

Upon review of the situation and the context of the surrounding properties, staff finds that removing the old language in favor of relying on the general standards for uses and the impact of those uses that are typically allowed in the I-1 zoning district should be appropriate for this area, and should not negatively affect the surrounding properties.

In addition to the standard limitations provided for in the zoning code as to use, the Official Code of the City of Great Falls (OCCGF) provides additional provisions for abatement of nuisances, should such a public nuisance become a problem.

Commissioner Robinson stepped out at 7:39 p.m. and returned at 7:41 p.m.

Mayor Kelly declared the public hearing open.

No one spoke in support of or opposition to the requested amendment to the Development Agreement.

Mayor Kelly closed the public hearing and asked the will of the Commission.

**Commissioner Bronson moved, seconded by Commissioner Robinson, that the City Commission approve the requested amendment to the Development Agreement approved by the Commission on June 15, 2004.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Bronson explained that the amendment addresses issues of creating a balance between commercial or industrial development near residential areas.

There being no further discussion, Mayor Kelly called for the vote.  
Motion carried 4-0.

**JOURNAL OF COMMISSION PROCEEDINGS**

**October 1, 2019**

**17. RESOLUTION 10316, ESTABLISHING RESIDENTIAL AND COMMERCIAL WATER, SEWER AND STORM DRAIN UTILITY SERVICE RATES EFFECTIVE NOVEMBER 1, 2019.**

Public Works Director Jim Rearden reviewed PowerPoint slides pertaining to the rate adoption process, as well as the proposed rates pursuant to the Cost of Service Study for residential and commercial customers for water, sewer and storm drain utilities. The City has built the new Gore Hill water tower, refurbished Ella Avenue and Skyline water storage tanks, and is building towards the future with new river crossings and upgrades to the water plant.

If adopted, the average residential customer bill will increase 3% or \$1.21 per month and the average commercial customer bill will increase 4% or \$5.56 per month. Great Falls still has the lowest utility rates in the state.

Written correspondence was received from **Michael and Tracy Bailey**, 2507 7<sup>th</sup> Avenue North, expressing opposition to the rate increase.

Mayor Kelly declared the public hearing open.

No one spoke in favor of Resolution 10316.

Speaking in opposition to Resolution 10316 was:

**John Hubbard**, 615 7<sup>th</sup> Avenue South, expressed concern with regard to contaminant levels in the water supply and he spoke in opposition to the water rate increase.

Mayor Kelly closed the public hearing and asked the will of the Commission.

**Commissioner Moe moved, seconded by Commissioner Robinson, that the City Commission adopt Resolution 10316, establishing residential and commercial water, sewer, and storm drain utility service rates effective November 1, 2019.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Moe inquired if there were any current reserves that could be applied to the water fund. Finance Director Melissa Kinzler responded that \$13.1 million in capital improvements in the water fund is being utilized for this year.

Commissioner Moe received clarification that regulations require the City to spread out capital improvements over time, and that a gradual rate increase done yearly, prevents a more substantial rate increase.

Referring to the water quality, Public Works Director Jim Rearden explained that the highest readings for contaminant levels was in August, 2018; however, he reported that the City is now in compliance.

# JOURNAL OF COMMISSION PROCEEDINGS

October 1, 2019

Referring to rate increase notifications in the utility bills, Mayor Kelly suggested that the effective date be more noticeable in future notifications.

Referring to the average monthly utility bill PowerPoint slide, Commissioner Moe commented that residential water rates are lower in 2019 than in 2017.

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

Motion carried 4-0.

## OLD BUSINESS

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

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. 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 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."

The Contract provided for the GFIAA to assume street maintenance for the public roads on the airport and payment of an administrative fee to the City. The Contract was extended to July 1, 2010 by a Street Assessment Agreement dated July 1, 2005. That agreement was for a stated 5-year term with two additional 5-year terms. The GFIAA gave notice to the City on November 30, 2009 that it desired to extend the agreement for an additional five years.

## JOURNAL OF COMMISSION PROCEEDINGS

October 1, 2019

In 2014 and 2015, the GFIAA underwent processes to obtain ownership of roadways within the GFIAA boundaries, from the Montana Department of Transportation (MDOT) and the City had an easement on these roadways. The transfer of ownership to the Airport, via a Quitclaim Deed from the MDOT occurred on December 21, 2015. The City of Great Falls extinguished its corresponding easement.

In 2017, the City and the GFIAA resolved a pending dispute over ownership of property affected by the 1995 Annexation Agreement. The City agreed to quitclaim property on which the City's Emergency Communications Center (ECC) is located, to the GFIAA, as the GFIAA would not release the FAA grant obligations on the property, a contractual requirement for the transfer.

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 City received communication from the FAA which supported the GFIAA's position on April 1, 2019. 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 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.

During the Commission meeting on September 17, 2019, the City Commission discussed the amendment in detail but moved to table the item until the Airport Authority Board had a chance to review and approve the amendment. The Airport Board met on Tuesday, September 24, 2019 and approved the amendment.

**Commissioner Moe moved, seconded by Commissioner Bronson, that the City Commission remove the Amendment to Annexation Agreement dated April 4, 1995 from the table.**

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.

**Commissioner Robinson moved, seconded by Commissioner Moe, 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, encouraged the Commission to approve the amendment, and he commented that a clear title is needed to begin the process of reconstructing the roads in 2020.



**JOURNAL OF COMMISSION PROCEEDINGS**

**October 1, 2019**

Commissioner Moe commented that the amendment is a good resolution that allows the airport to develop and maintain the road; however, she expressed concern with regard to the Airport Authority not releasing the property on which the Emergency Communications Center is located to the City.

Mr. Faulkner responded that the Airport Authority would have to get fair market value in order to release the property and that the Airport Authority cannot ask the FAA to release the grant obligations on the property.

Commissioner Moe received clarification the City's recitals clarified the Amendment Agreement to the April 4, 1995 Annexation Agreement.

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

Motion carried 4-0.

**NEW BUSINESS**

**ORDINANCES/RESOLUTIONS**

**CITY COMMISSION**

**19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

None.

**20. COMMISSION INITIATIVES.**

None.

**JOURNAL OF COMMISSION PROCEEDINGS**  
**October 1, 2019**

**ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Moe moved, seconded by Mayor Kelly, to adjourn the regular meeting of October 1, 2019, at 8:20 p.m.**

Motion carried 4-0.

---

Mayor Bob Kelly

---

Deputy City Clerk Darcy Dea

Minutes Approved: October 15, 2019