

Regular City Commission Meeting

Mayor Stebbins presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL: City Commissioners present: Dona Stebbins, Bill Beecher, Sandy Hinz, Diane Jovick-Kuntz and John Rosenbaum. Also present were the City Manager, Assistant City Manager, City Attorney, Directors of Community Development, Park and Recreation, Public Works, Library, Planning, Fiscal Services, Acting Police Chief, Fire Chief, City Clerk and the Acting City Clerk.

PROCLAMATION: Mayor Stebbins read a proclamation for Friendship Force International.

NEIGHBORHOOD COUNCILS

**West Bank Park
Signage, Water Lines,
Boulders, Federal
Bldg. Trees.**

1A. Phyllis Hemstad, NC 2, requested signage for West Bank Park on 3rd Street. She also suggested that when the additional work was done that City sewer and water lines be installed on the park side. She stated the members of their council were shocked about the boulders placed in the park and hoped they would be removed eventually. NC 2 would like to be involved in the planning of the park. Additionally, she expressed concern of removing trees at the Federal Building. She thanked commissioners for passing the firework ordinance.

Banner.

1B. Rick Kavulla, NC 4, requested two 3' x 8' banners to use at events to provide signage for the neighborhood councils.

PUBLIC HEARINGS

**Res. 9653 Create Special
Improvement Lighting
District. Adopted.**

2. RESOLUTION 9653, CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT – CITY OWNED RESIDENTIAL NO. 1308.

Fiscal Services Director Coleen Balzarini recommended the City Commission approve the creation of Special Lighting District in Eagles Crossing, Phases 2 & 3. The request consists of purchasing, installing and owning thirteen 150 watt, high pressure sodium lights that will benefit 41 properties.

Mayor Stebbins declared the public hearing open.

No one spoke in support of Resolution 9653. Speaking in opposition to Resolution 9653 was:

Kathleen Gessaman, 1006 36th Avenue N.E., stated she opposed the proposed lighting because she is a breast cancer survivor. She discussed an ongoing study regarding the effect that light at night has on people

developing breast cancer. At night people need darkness to release melatonin. If lights were left on during the night it reduces the amount of melatonin released. She requested whatever lighting is produced be directed downward. Ms. Balzarini responded that the specialty lights are built to industry standards and she believed they are directed downward but would have to look into it.

Commissioner Rosenbaum moved, seconded by Commissioner Hinz, that the City Commission adopt Resolution 9653.

Motion carried 5-0

Res. 9670, Nuisance Abatement, 4727 2nd Avenue North. Adopted.

3. RESOLUTION 9670, NUISANCE ABATEMENT, 4727 2ND AVENUE NORTH.

Community Development Director Mike Rattray requested approval of the resolution to allow staff to hire a contractor to abate the ongoing nuisance at 4727 2nd Avenue North, consisting of two dilapidated trailers and considerable rubbish in the trailer park.

Mayor Stebbins declared the public hearing open. Those speaking in favor of Resolution 9670 were as follows:

Rick Kavulla, 725 49th Street South, NC 4, read a letter he wrote to NC 4 members requesting that action be taken regarding this property. He stated the City had been working diligently to make Great Falls a community to be proud of. However, this property was an exception. Its deplorable condition created a safety hazard, and decreased the value of nearby businesses and homes.

Michael Witsoe, 2612 1st Avenue South, stated that he had been “junking” there and suggested the firework stand owners take the trailers for the axles. Mr. Witsoe noted it was a definite nuisance.

There being no one further to address the Commission, Mayor Stebbins closed the public hearing.

Commissioner Hinz moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9670.

Motion carried 5-0.

Res. 9675, Cost Recovery, 510 11th Street South. Adopted.

4. RESOLUTION 9675, COST RECOVERY, 510 11TH STREET SOUTH.

Community Development Director Mike Rattray requested approval of the resolution to place a lien on the property relative to the recent nuisance abatement. This is the second abatement this year.

Mayor Stebbins declared the public hearing open. Those speaking in support of Resolution 9675 were:

Lucinda Torres, 615 12th Street South, owns 25 rental properties, and stated she understood she had a 30 day time limit to comply with the law and wondered why this matter hadn't been cleaned up more expeditiously. She expressed a safety concern for her grandchildren and the other children of the neighborhood. She strongly urged the City to clean this property up.

Sally Schlim, 1104 8th Avenue South, NC 9 area coordinator for the lower south side, expressed too many neighbors were worried about their kids and property. Ms. Schlim urged Mr. Whitsoe to quit doing this and to work with the other neighbors.

Mike Lewis, 823 2nd Avenue South, expressed concern that the residence is to the point of overflowing, and he recently had observed a rat eating trash on the property. Mr. Lewis stated he would appreciate any help getting this matter rectified.

Don Calkins, 1530 5th Avenue South, Parkdale, NC 9 area coordinator for Parkdale Watch, heard grumbling about this property four years ago. He believed assessing the owner of the property for the costs was only appropriate. He stated it could make a difference in making the south side a decent place for ourselves and our grandkids.

Colanth Wilson Pont, Cascade, is a friend of Mike's through the Cascade County Conservation Council. Ms. Pont stated she sees this as a push-pull power struggle. She proposed that, in addition to whatever was done legally, it be looked at through a solution standpoint. Mike's business is collecting junk. The City should work with him to get a fence that hides some of the clutter, and work with him on how to keep it safe. Neighborhood council could be a help to him.

Those speaking in opposition to Resolution 9675 were:

Jane Witsoe, 510 11th Street South, stated that she realized she is not supposed to have a junk yard without a license. Ms. Witsoe stated she dreams about this happening over and over. She thanked Commissioner Hinz for having an open mind and was sorry she was leaving. She requested the weeds be cut and the horse manure cleaned up at the fairgrounds.

Michael M. Witsoe, 510 11th Street South, discussed his recent jail stay and read a list of items removed from his property.

Mayor Stebbins closed the public hearing.

Commissioner Beecher moved, seconded by Commissioner Jovick-Kuntz, that the City Commission adopt Resolution 9675.

Commissioner Hinz explained that compassion and leniency was shown to the Witsoes with the first abatement. However, in fairness to the neighborhood, the second abatement needed to proceed. It was important to be equitable and fair with other neighbors.

Mayor Stebbins added that this could have been prevented. Thirty day notices were sent out. The neighborhood should not be forced to live like that with those surroundings.

Motion carried 5-0.

OLD BUSINESS

NEW BUSINESS

ORDINANCES/RESOLUTIONS

Ord. 2973, zoning for property addressed as 1424 and 1426 14th Street Southwest (Herman's Flowers). T20N, R3E, Sec. 15, Mark L. Accepted on first reading and set public hearing for August 7, 2007.

5. **ORDINANCE 2973, ESTABLISH CITY ZONING UPON PROPERTY ADDRESSED AS 1424 AND 1426 14th STREET SOUTHWEST (HERMAN'S FLOWERS). ESTABLISHES ZONING CLASSIFICATION OF R-1 SINGLE FAMILY SUBURBAN DISTRICT.**

Planning Director Ben Rangel reported that in February of last year the 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 receiving water and/or sewer services to create a more coherent and consistent City boundary and to provide services more effectively to everyone in the City. It is also a matter of fairness to current City residents to make sure that those who use City services share the cost of paying for them equitably. A number of properties were involved in this annexation program. This item, as well as the next, presents the first of these properties. This item involves a residence and Herman's Flowers business. The property owners have provided written consent to annex said property into the City of Great Falls.

Commissioner Beecher moved, seconded by Commissioners Hinz and Jovick-Kuntz, that the City Commission accept Ordinance 2973 on first reading and set a public hearing for August 7, 2007, to consider adoption of Ordinance 2973.

Motion carried 5-0.

Ord. 2974, zoning for Lot 1, Block 8, University Addition (Airway Motel and Classic 50's). Accepted on first reading and set public hearing for August 7, 2007.

6. ORDINANCE 2974, ESTABLISH CITY ZONING UPON LOT 1, BLOCK 8, UNIVERSITY ADDITION (AIRWAY MOTEL AND CLASSIC 50'S). ESTABLISHES ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL DISTRICT.

Planning Director Ben Rangel noted that this is the second property being annexed under Ordinance 2930. This item involves the Airway Motel and the Classic 50's businesses located along 14th Street Southwest near Market Place. As a condition of the continued receipt of City water and sewer services the property owners have provided written consent to annex said property into the City of Great Falls.

Commissioner Hinz moved, seconded by Commissioner Rosenbaum, that the City Commission accept Ordinance 2974 on first reading and set a public hearing for August 7, 2007, to consider adoption of Ordinance 2974.

Motion carried 5-0.

Ord. 2977, zoning for Northview Addition Phase 3. Accepted on first reading and set public hearing for August 7, 2007.

7. ORDINANCE 2977, ESTABLISH CITY ZONING TO NORTHVIEW ADDITION PHASE 3. ASSIGNS ZONING CLASSIFICATION OF PUD PLANNED UNIT DEVELOPMENT DISTRICT.

Planning Director Ben Rangel reported that in February of this year the Commission approved the preliminary plat of Northview Addition Phases 2 thru 7. The subdivision is located just east of Countryside Village Mobile Home Park. It consists of 80 single-family residential lots and 21 duplex condominiums located on three large lots. Jim Workman Construction Company received approval for Phases 1 & 2 and is now ready to proceed with Phase 3, which consists of an additional 18 single family residential lots.

Commissioner Jovick-Kuntz moved, seconded by Commissioner Beecher, that the City Commission accept Ordinance 2977 on first reading and set a public hearing for August 7, 2007, to consider adoption of Ordinance 2977.

Ron Gessaman, 1006 36th Avenue N.E., commented about selective enforcement. Mr. Gessaman said the weeds in Phases 1 and 2 of the subdivision are now waist high. The City enforces mowing and clean up, but the same restrictions are not being enforced on contractors. He stated it should make no difference if the property is under construction or not, and the contractors should have to abide by the same rules. He further noted in a recent trip that the same situation applied around the business properties when entering Great Falls. The properties are junky and unacceptable. He stated that situation does not exist in Missoula.

Motion carried 5-0.

Annexation and zoning for segment of Burlington Northern and Santa Fe Railroad Right-of Way along West Bank. Accepted on first reading and set public hearing for August 21, 2007.

8A. RESOLUTION 9673, ANNEX SEGMENT OF BURLINGTON NORTHERN AND SANTA FE RAILROAD RIGHT-OF-WAY ALONG WEST BANK PARK.

8B. ORDINANCE 2975, ZONING CLASSIFICATION OF M-2 MIXED-USE TRANSITIONAL AND L-1 LIGHT INDUSTRIAL.

Planning Director Ben Rangel reported that the segment of Burlington Northern and Santa Fe Railroad being proposed for annexation is contiguous to the City limits, as State statute allows cities to annex land, if the land is adjacent to the city, including land used for railroad purposes. Although not an intent, this action will also address the Commission's interest to annex unincorporated enclaves into the City.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission accept Resolution 9673 on first reading, and set a public hearing for August 21, 2007.

Motion carried 5-0.

Commissioner Rosenbaum moved, seconded by Commissioner Hinz, that the City Commission accept Ordinance 2975 on first reading, and set a public hearing for August 21, 2007.

Motion carried 5-0.

**Consent Agenda.
Approved as printed.**

CONSENT AGENDA

9. Minutes, July 3, 2007, Commission meeting.
10. Total Expenditures of \$2,545,966 for the period of June 29 through July 11, 2007, to include claims over \$5,000, in the amount of \$2,297,362.
11. Contracts list.
12. Lien Release List.
13. Set public hearing for August 7, 2007, on Res. 9664 to levy and assess the Street Maintenance District.
14. Set public hearing for August 7, 2007, on Res. 9665 to levy and assess Special Improvement Boulevard Maintenance District No. 3570.
15. Set public hearing for August 7, 2007, on Res. 9666 to levy and assess Special Improvement Portage Meadows Maintenance District No. 1195.
16. Approve Addendum to the High Plains Development Authority Economic Development Loan Agreement establishing terms of repayment and transferring responsibility to the Great Falls Development Authority.

17. Approve Construction Agreement and Utilities Agreement with the Montana Department of Transportation for reconstruction of 2nd Avenue North. (OF 992)
18. Approve Utilities Agreement with the Montana Department of Transportation for reconstruction of BNSF/MDT Overlook Drive. (OF 1307)
19. Award contract for the Morony Natatorium Parking Lot to United Materials of Great Falls, Inc., in the amount of \$65,480. (OF 1393.3)
20. Approve Change Order No. 2 – Renewable Energy Design Services to Stanley Consultants, Inc., in the amount of \$34,900. (OF 1404)
21. Approve purchase of Water Meter Equipment for Fiscal Year 2008 from Dana Kepner Co. of Billings in an amount not to exceed \$235,000.
22. Approve Final Payment for the 2006 CDBG Handicap Ramp Replacement to Lapke Construction LLC and the State Miscellaneous Tax Division in the amount of \$3,420.64. (OF 1453.1)
23. Approve the reserve placement of the uncommitted portion of the 2007 Community Transportation Enhancement Program (CTEP) allocation to address and accommodate unexpected cost increases for current and future projects.
24. Approve Agreement with Southern Montana Electric G & T Regarding Security for Power Purchases for Electric City Power utility customers. (OF 1472)

Commissioner Beecher moved, seconded by Commissioners Rosenbaum and Jovick-Kuntz, that the City Commission approve the Consent Agenda as presented.

Commissioner Hinz requested an explanation with regard to Item #24 and what the agreement entails.

City Manager John Lawton explained that this amounts to a deposit. The City buys electricity and then resells it. The City buys electricity from Southern Montana Electric G & T. Southern Montana buys electricity from PPL Montana and other sources. It is standard industry practice to have two months deposit on hand to secure the City's electricity payments to SME and PPL. Up to this point, Southern Montana has been carrying those deposits on the City's behalf at no cost. Southern Montana has fluctuating cash needs and has requested that the City take over handling those deposits itself. This deposit stays with the City, in City accounts owned by the City, and the interest accrues to the City as any other investment. The interest accrues to the fund from which the cash came. Theoretically, these deposits could be tapped in the case of non-payment. The quality of our customer base is such that a default should not occur. If the unthinkable did happen, the electricity would simply be sold to somebody else for a profit. This is simply an accounting transaction. All investments are held by banking institutions or other financial institutions and that will not change.

Mary Jolley, 1910 2nd Avenue North, restated the funds are from various

City operations. Ms. Jolley inquired what funds the 1.4 million dollars will come from to put into this third party banking account.

City Manager John Lawton answered that most of the funds are from electricity users. It will not come from anyone's budget. It will come from the various funds of the City and it will come in proportion to the electricity uses of those funds. All investments are held by third party institutions.

Ms. Jolley inquired if this is a separate fund for this account - the two months in advance payment for electricity.

Mr. Lawton explained that a fund is a separate set of accounts for a City activity. This will be a series of accounts, and will not be a fund in a technical sense.

Ms. Jolley inquired when would this 1.4 million have to be deposited to satisfy SME and PPL.

Mr. Lawton explained that no date has been set at this point. If and when approved, arrangements would be made with SME to release their deposits, and the City's deposits would go into effect.

Ms. Jolley compared this to the proposed small customer electricity program that never did get off the ground. Ms. Jolley suggested that the City wait until an agreement is negotiated and is clear with dates and from which funds the money will come from.

Stuart Lewin, 615 3rd Avenue North, requested that this item be pulled off the consent agenda and be open to full debate and should be postponed. He stated that he has read all agreements with SME and noted the original agreement is ambiguous as to exactly what the price is going to be for the energy we are buying and reselling. The various amendments seem to indicate that we are buying power at a fixed price. Mr. Lewin urged the Commission to look into the dealings going on with the City and SME.

Susan Kahn, 1708 Alder Drive, inquired if other clients of Electric City are required to make this same deposit.

City Manager John Lawton answered that this is a deposit that the City is putting up from its own accounts for the purchase of electricity from SME and PPL. The City is not requiring deposits from customers because of their credit worthiness criteria as previously discussed. Each customer is being evaluated. Customers outside the area that are not too familiar or new customers could be required to provide a letter of credit to back the deposit.

Ms. Kahn asked if other clients purchasing this power are required to make this deposit.

Mr. Lawton answered this is a standard requirement of PPL Montana and major power generators.

Ms. Kahn asked what happens to the funds if this project never comes to fruition.

Mr. Lawton answered this has nothing to do with Highwood Generating Station.

Ron Gessaman, 1006 36th Avenue N.E., commented on Agenda Report #24, that reports Electric City Power had been selling electricity since 2004. Mr. Gessaman stated that he thinks Electric City Power should have some profits generated from its sales that it could use to provide as a security fund for the purpose requested here. He also noted that the report doesn't list who all the customers of Electric City Power are, and why hide the name of the customer, which he believed is Barrett Minerals, in Dillon.

Mr. Lawton addressed Mr. Gessaman's concern that the City has revealed its complete customer list many times. It is part of the public record. Barretts Minerals is new. It has been discussed very openly. It has been discussed at the Electric City Power board meetings.

Mr. Gessaman requested a comment on the profits that ECP should have after three years of operation.

Mr. Lawton responded that he is not prepared to go through the costs and what the City is selling electricity for at this time. Mr. Lawton restated that has already been done in public, on the public record. The City has been open about what it is paying SME and what the City is charging customers.

Colanth Wilson Pont, Cascade, commented about requiring letters of credit from customers who are out of the area or not as well known and feels everyone should be treated equally.

Carol Fisher, 500 53rd Street South, made reference that the reason the City needs to make this deposit is because of SME's cash flow. Ms. Fisher stated she is nervous about what SME's financial standing is right now that they need to come to the City for 1.4 million dollars.

Michael M. Witsoe, 2612 5th Avenue South, inquired how many days and how much money is in arrears. Mr. Witsoe wanted to know how the power is paid to PPL through Highwood Generating.

Mayor Stebbins informed Mr. Witsoe that this is not about the Highwood Generating Station.

Mr. Witsoe then inquired what the daily rate is the City pays, how much in arrears are these other people that the City has to put the money up front, if the City is charging late fees, and if it is built into the budget.

Fiscal Services Director Coleen Balzarini responded that the number of electricity customers in arrears is zero. Ms. Balzarini explained the City receives the electricity, the consumers use it, Northwestern Energy reads the meters and sends the information and then, in turn, customers are billed. No electric customers of Electric City Power are in arrears, and the City of Great Falls is not in arrears with its payments to Southern Montana, and Southern Montana is not in arrears in its payments to PPL.

Motion carried 5-0.

BOARDS & COMMISSIONS

25. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

CITY MANAGER

26. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

New City Clerk.

City Manager John Lawton introduced and welcomed Lisa Kunz as the new City Clerk.

27. CITY COMMISSION

RiverFest.

Commissioner Jovick-Kuntz thanked all of the City employees with their involvement in RiverFest.

Correction/Time Limits.

Commissioner Beecher made a correction to a statement he made at the last meeting regarding time limits. He used as an example the City of Atlanta regarding their limitation of four people to an issue for a set time limit, which is actually the City of Augusta, Georgia. Mr. Beecher apologized for the error and stated he made the correction known to Mr. Ecke.

Condolences.

Commissioner Hinz expressed condolences to the family of former commissioner, Mr. Bill Downer, who recently passed away.

28. PETITIONS AND COMMUNICATIONS

Mayor Stebbins opened the meeting to Petitions and Communications, and asked that comments be confined to three minutes.

Highwood Generating Station, Trade Access.

28A. Colanth Wilson Pont, Cascade, compared Mammoth Hot Springs and the proposed plant regarding mercury in our ecosystem, and mercury being cumulative. Ms. Pont explained that there are natural sources and manmade sources. The higher the natural sources, the lower the

manmade sources have to be. She also pointed out that Great Falls has history of being a center of trade. Ms. Pont stated that she wants more energy put into developing more access to trade through North America. Specifically, between Great Falls and Havre and Billings.

**Coordinate
Development Efforts.**

28B. Stuart Lewin, 615 3rd Avenue North, discussed county subdivisions and the lack of adequate coordination between the City and the County as to the important matters dealing with development. Mr. Lewis urged coordination efforts between the City and the County.

Noise/Air Control.

28C. Kevin Willems, 207 30th Avenue N.E., expressed his frustration with the City after following the chain of command that nothing is being done to stop his neighbor from operating a motorcycle track in the middle of Great Falls on three privately owned lots.

Community Development Director Mike Rattray explained that the primary concern he has heard are complaints of blowing dust into neighbors' homes. Mr. Rattray explained that there is nothing in the City ordinances that required a property owner of a vacant lot to provide ground cover. If Mr. Willems' neighbor is not violating any ordinance, Mr. Rattray stated he doesn't believe there is cause to provide citations.

Mr. Willems then asked about the Air Quality Control Act that covers the State of Montana. He stated his pictures show the dust blowing so bad that you can't see the neighbor's house.

Mr. Lawton suggested that a group of staff people get together in a few days and get back to Mr. Willems with a report and their recommendations.

Mr. Willems expressed frustration that this has been going on for 10 years. This is money out of his pocket.

Mayor Stebbins stated that another ordinance may have to be passed.

**Lottery Money.
Missiles.**

28D. John Hubbard, (615 7th Avenue South?), still wondered about lottery money for the schools. Mr. Hubbard was upset that his tax money paid for 50 missiles that are being removed from the United States.

**Highwood Generating
Station.**

28E. Carol Fisher, 500 53rd Street South, commented on the mercury comparison and stated that the mercury out of Yellowstone is created by nature. Ms. Fisher suggested that the matter be researched to clarify the comparison of mercury. She also noted that the number of employees reported was different and inquired if that expense was added into the budget for Highwood Generating Plant.

Animal Shelter.

28F. Michael Witsoe, 2612 5th Avenue South, inquired who is the head of the City managed Humane Society/Animal Shelter if Cathy Kennedy is not.

Mayor Stebbins answered that Cathy Kennedy chose not to apply, and that the Great Falls Police Department took over the operations.

Southern Montana Electric.

28G. Olaf Stimac, Jr., 57 Country Lane, announced that the local unions have signed an agreement with Southern Montana Electric. Mr. Stimac reiterated that the plant will mean jobs, health insurance, pensions, and the increased tax revenue will support schools, roads and healthcare.

Southern Montana Electric.

28H. Neil Taylor, 3417 4th Avenue South, commented in response to Mr. Stimac that ACM also injected money into our economy and produced many jobs in the community, but left us with a superfund site.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Beecher moved, seconded by Commissioner Rosenbaum that the regular meeting of July 17, 2007, be adjourned at 9:00 p.m.**

Motion carried 5-0.

Mayor Stebbins

City Clerk