

JOURNAL OF COMMISSION PROCEEDINGS
November 17, 2020

Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

Civic Center Gibson Room 212

PLEDGE OF ALLEGIANCE

Due to the COVID-19 health concerns, the format of the City Commission Meeting was held in a virtual video-conferencing environment.

ROLL CALL/STAFF INTRODUCTIONS: City Commission members participated electronically via Zoom Webinar: Bob Kelly, Tracy Houck, Mary Sheehy Moe, Owen Robinson and Rick Tryon. City Staff participating electronically were: Deputy City Manager Chuck Anderson; Finance Director Melissa Kinzler; Fire Chief Jeremy Jones; Park and Recreation Director Steve Herrig; and, Planning and Community Development Director Craig Raymond. Staff present were: City Attorney Sara Sexe; Captain Jeff Newton; and Deputy City Clerk Darcy Dea.

To honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation as follows:

- Attend in person. **The City will be following the Current Governor’s Directives and the Public Health Officer Orders regarding public meetings conducted by, staffed by or held in the facilities of the city.** Masks will be required, social distancing will be enforced, and the total number of persons in the meeting room will be limited to a maximum of 25. Public following these directives may view and participate in the meeting from the Gibson Room. Please refrain from attending in person if you are not feeling well.
- Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, November 17, 2020, to: commission@greatfallsmt.net.
- Electronically. Register to attend the virtual meeting utilizing Zoom Webinar or to participate by phone.
- The agenda packet material is available on the City’s website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.

AGENDA APPROVAL: There were no proposed changes to the agenda by the Deputy City Manager or City Commission. The agenda was approved as presented.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: None.

PROCLAMATIONS: Mayor Kelly read a proclamation for Small Business Saturday (November 28, 2020) and Lung Cancer Awareness Month (November, 2020).

PETITIONS AND COMMUNICATIONS

1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

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Ben Forsyth, City resident, expressed concern with regard to the harm that marijuana does to the community. He encouraged the Commission to form a group to study I-190 and determine how to reduce the harms of marijuana. Mr. Forsyth expressed support of allowing medical marijuana.

Brett Doney, Great Falls Development Authority (GFDA), City resident, appeared electronically. Mr. Doney referred to the Draft Resolution Promoting Diversity and Inclusivity presented at the November 17, 2020 Work Session and commented that it is critically important that the Commission addresses the issue. Mr. Doney also commented that “Live in Great Falls” is a talent attraction initiative of the GFDA and the website is liveingreatfalls.com.

NEIGHBORHOOD COUNCILS

MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

BOARDS AND COMMISSIONS

Commissioner Robinson reported that the final numbers from the Census Bureau are unavailable since they are private numbers. The estimated count for Montana is approximately 99.5 percent of the population, which could guarantee Montana a second seat in the House of Representatives, as well as an extra electoral college vote.

2. APPOINTMENT TO THE TOURISM BUSINESS IMPROVEMENT DISTRICT BOARD.

Commissioner Houck moved, seconded by Commissioner Robinson, that the City Commission appoint Jessica Allen to the Tourism Business Improvement District Board of Trustees for the remainder of a four-year term through June 30, 2023.

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

Commissioner Houck commented that Ms. Allen is vested in making tourism happen in the community.

Commissioner Tryon received clarification that currently no board members work together at the same organization.

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

Motion carried 5-0.

3. APPOINTMENT TO THE BOARD OF ADJUSTMENT/APPEALS.

Commissioner Moe moved, seconded by Commissioner Tryon, that the City Commission appoint Christian Stone to the Board of Adjustment/Appeals for a three-year term through September 30, 2023.

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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 5-0.

CITY MANAGER

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Deputy City Manager Chuck Anderson made the following announcements:

- City 101 has been suspended due to an increase in number of positive cases of COVID-19 and diminishing attendance.
- The City will not be pursuing purchase of the Keller Williams property in the Railroad Square Building due to being notified that it does not qualify for CARES reimbursement funds.
- Communications Specialist Lanni Klasner implemented an electronic Citizen Complaint & Request form available on the City's website.
- As of November 17, 2020, the City has eight active COVID-19 cases, 14 staff members are in quarantine and six employees are using child care accommodations.
- The Great Falls Public Library Bookmobile will be discontinued for the remainder of 2020 and the Library's minivan will be used for pick up or drop off services only. The Library's pick up window is almost complete and takes the place of the book drop at the back of the library.
- Traffic is being re-routed by the Library for construction to fix a stormdrain connection to a watermain.
- The November 17, 2020 Work Session and Commission Meeting were held virtually utilizing Zoom Webinar to enable more electronic capability within the meetings for citizens and presenters. Deputy City Manager Anderson expressed appreciation to City staff for their efforts with regard to the Zoom Webinar meeting.

Mayor Kelly requested that the public recognize that the City is doing its best to provide services to the community, despite having a reduction in staff.

Referring to the electronic Citizen Complaint & Request Form, Commissioner Robinson received clarification that the form can be used for any type of complaint or citizen concern.

Commissioner Houck commented that she received inquiries from citizens about online services for making utility payments, as well as a phone number.

Finance Director Melissa Kinzler responded that she will provide a phone number and that online services for payment is currently not available; however, it would be available soon.

CONSENT AGENDA.

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Commissioner Moe requested that Consent Agenda Item 8 be pulled for separate discussion and vote.

5. Minutes, November 4, 2020, City Commission Meeting.
6. Total Expenditures of \$1,881,941 for the period of October 16, 2020 through November 4, 2020, to include claims over \$25,000, in the amount of \$1,343,242.
7. Contracts List.
- *8. Award the construction contract in the amount of \$298,700 to Wadsworth Builders for the City Finance Office Remodel, and authorize the City Manager to execute the construction contract documents. **OF 1750.0**
9. Set a public hearing for December 1, 2020 to consider a lease agreement of City owned property located in Wadsworth Park with the Great Falls Saddle Club.
10. Approve the purchase of MagneGrip Exhaust Extraction Systems for Fire Station 1, 2, 3, and 4 in the amount of \$166,564.49 from Weidner Fire of South Midvale, UT, through the Savvik Buying Group.

Commissioner Moe moved, seconded by Commissioner Tryon, that the City Commission approve the Consent Agenda as amended.

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

Referring to Item 10, Mayor Kelly noted that out of the \$166,564, the City's responsibility is only 10% since it was awarded a FEMA Assistance to Firefighters grant for the purchase of the exhaust systems.

Mayor Kelly called for the vote.

Motion carried 5-0.

- * With regard to Item 8, Planning and Community Development Director Craig Raymond explained that the project initially started as a conceptual study and previous proposals were not feasible. Awarding the construction contract to Wadsworth Builders is the City's best opportunity for performing the Finance Office remodel within the Civic Center building.

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Commissioner Tryon moved, seconded by Commissioner Robinson, that the City Commission award the construction contract in the amount of \$298,700 to Wadsworth Builders for the City Finance Office Remodel, and authorize the City Manager to execute the construction contract documents.

Referring to Item 8, page 34 of the Agenda Packet, Commissioner Moe expressed concern that only one of the companies met each bid criteria and it was not Wadsworth Builders.

Director Raymond responded that Wadsworth Builders did not provide the certificate of non segregated facilities and certificate of compliance with insurance requirements at the bid opening; however, those documents have since been provided.

City Attorney Sara Sexe added that the City has language in the Invitation to Bid that indicates that the City reserves the right to waive informalities in the bid, and by not providing the mentioned documents was considered an informality in order for the City to accept the lowest bid.

Commissioner Moe received clarification that a waiver of the informality was not included in the packet, and that the mentioned documents are required before any work on the awarded contract would be conducted.

Commissioner Tryon received clarification that construction could begin on December 14, 2020.

Mayor Kelly called for the vote.

Motion carried 5-0.

PUBLIC HEARINGS

11. RESOLUTION 10374, AMENDING RATES IN ACCORDANCE WITH TITLE 15 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), RELATING TO PERMIT FEES, PLAN REVIEW FEES AND PENALTY FEES FOR BUILDING, PLUMBING, MECHANICAL, ELECTRICAL AND SIGN PERMITS IN THE CITY.

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that this agenda item is being proposed in order to help provide consent and support for a long-standing policy regarding investigative fees which are assessed when a party commences construction on a project without a permit when one is required.

Historically, when the City was using the old Uniform Building Code, the investigative fee language was specifically detailed within the code book as “doubling the permit fee” under such circumstances. When the code changed to the International Building Code, it changed the specific wording to indicate “Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the Building Official that shall be in addition to the required permit fee.” The City

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has continued the same practice of doubling the permit fee in many cases. The fee has never formally been established by Resolution of the Commission. Even though staff feels that the code itself grants the building official the authority to assess the fee, staff desires to have the City Commission acknowledge, consent to and support the policy.

The problem with not having a policy in place is that when construction begins prior to plan review completion and permit issuance is that the plans may not fully conform to adopted building safety code and may need to be corrected. City staff can be left out of performing important inspections and faulty work can be concealed.

Recently, in a letter addressed to the City, a contractor admitted that he knowingly took a risk in starting construction without a permit but was willing to do so “at my own risk”. The problem with this is often two-fold, staff ends up spending more time on a project than would otherwise be necessary, time that could and should be spent on helping other customers and staying as efficient as possible. Also, when staff encounters a problem and calls for correction, it is not unusual to have maximum pressure applied to accept non-acceptable, non-compliant work or to get “too creative” with solutions to a problem that could have been avoided to begin with.

This is one of those situations where the Building Official can act with discretion to adapt to different circumstances. It is not unusual to not charge the fee when staff encounters someone who legitimately may not have known a permit was required. More often than not, staff gives people the benefit of the doubt the first time. However, beyond that, assessing a fee is an appropriate means to finance the extra time spent on a project and to provide an incentive to obtain the permits first, starting construction later. The investigative fee is the only fee being proposed, no other permit fees will be increasing.

Mayor Kelly asked if the Commission members had any clarifying questions.

Commissioner Tryon inquired if there has been any feedback from the development community.

Director Raymond responded that initially there was no feedback; however, recently the Homebuilders Association reached out wanting to make sure that everyone understood what was being proposed. He added that having investigative fees is typical practice in other communities, is a deterrent, and will help cover the cost of any additional time investigating unpermitted work.

Mayor Kelly asked if there were any public comments in support of or in opposition to Resolution 10374.

Hearing none, 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 10374.

Mayor Kelly asked if there was any discussion amongst the Commission members.

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Commissioner Tryon received clarification that an investigative fee is very common and that no other permit fees will be increasing.

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

Motion carried 5-0.

12. RESOLUTION 10377, REMODELING, RECONSTRUCTION, OR EXPANSION OF CERTAIN COMMERCIAL BUILDINGS OR STRUCTURES, TAX BENEFIT FOR JOHN AND LISA SEMANSKY, 16 5TH STREET SOUTH.

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that this agenda item is a request to approve of a tax abatement to help support a remodel of an existing building located at 14,16 and 18 5th Avenue South and is within the downtown urban renewal area. The owners, John and Lisa Semansky, have embarked on a project that is going to have multiple phases. They have already completed some environmental clean-up work to abate lead and asbestos issues at the property. They also intend to remodel a portion of the building to accommodate a salon business and intend to renovate the façade of the building to portray a more historically appropriate motif.

Staff finds that the abatement is statutorily eligible for the abatement and has conducted an analysis based on the criteria that the City Commission adopted in Resolution 10119 in 2015. The only criteria that could not be adequately ascertained is whether or not the abatement is actually necessary to make the project successful. Staff questions the very small benefit of approximately \$1,500 over a 5 year period, as well as the necessity of the abatement given that the project is already under construction. Staff does not necessarily provide a positive recommendation for the tax abatement but does not strongly object to it either.

Lisa Semansky, Applicant, pointed out the correct address is 5th Street South, not Avenue as indicated on the first page of the Agenda Report. Ms. Semansky explained that she and her husband chose to have the abatement work performed prior to requesting the abatement because of the immediate need to get the contractor's work scheduled. She commented that she and her husband will be retiring in the near future, living on a fixed income, and any kind of assistance to finish the project will be needed. She requested that the Commission consider abating the property in accordance with what the Department of Revenue has indicated is appropriate. Mr. and Mrs. Semansky have been active members of the community since 1990, support local businesses and are utilizing a local abatement company.

Mayor Kelly asked if the Commission members had any clarifying questions.

Commissioner Robinson noted that the address was incorrect on the Agenda and he reiterated that the correct address of the property was 14, 16, and 18 5th Street South.

Appearing electronically and speaking in support of Resolution 10377 were: **Joan Redeen**, Great Falls Business Improvement District, and **Brett Doney**, Great Falls Development Authority.

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Mr. Doney mentioned that the information about the rules and regulations on how to apply for property tax abatements and tax increment financing are not clear on the City's website.

No one spoke in opposition to Resolution 10377.

There being no one further to address the Commission, Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Houck moved, seconded by Commissioner Tryon, that the City Commission adopt Resolution 10377.

Mayor Kelly asked if there was any discussion amongst the Commission members.

Commissioner Tryon expressed appreciation to John and Lisa Semansky for investing in the community, and providing new, commercial businesses to downtown and increasing economic growth.

Commissioner Moe expressed appreciation with regard to the Semansky's efforts; however, she expressed concern with the City setting precedent by allowing a tax abatement after abatement work was performed.

City Attorney Sara Sexe responded that the preference is to request a tax abatement prior to having abatement work performed; however, the Planning and Community Development Department staff does not object to this tax abatement.

Director Raymond added that previous Commissions' preference was to have abatement requests prior to work being done, as well as an indication of necessity of the benefit.

Commissioner Houck concurred with Commissioner Moe's concern about the precedent the City is setting; however, she appreciates the Semansky's efforts with regard to the project. She concurred with Mr. Doney's concern about the process of applying for a tax abatement being confusing and suggested that the steps for applying be more clear on the website.

Commissioner Robinson expressed support of this tax abatement; however, he commented that the abatement process needs to be done the correct way.

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

Motion carried 5-0.

OLD BUSINESS

NEW BUSINESS

ORDINANCES/RESOLUTIONS

13. **RESOLUTION 10379, AUTHORIZING THE EXPENDITURE OF APPROXIMATELY \$8,829,810 OF FUNDS FROM THE DOWNTOWN URBAN RENEWAL TAX**

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INCREMENT FINANCING DISTRICT TOWARD THE CIVIC CENTER FAÇADE RENOVATION PROJECT.

Planning and Community Development Director Craig Raymond reported that this agenda item is a request from Planning and Community Development Staff to set a public hearing on December 1, 2020 for the purpose of taking testimony and consider adopting Resolution 10379 which if approved will approve the expenditure of approximately \$8.8 million to finance the renovation of the Civic Center Façade.

The Civic Center façade has been deteriorating for a number of years. Since at least 2011, City staff have been working towards developing a renovation project and securing adequate funding to finance the renovation. The project has not formally gone out for public bid; however, it is estimated that the renovation construction cost will be approximately \$5.5 million to \$6 million. Contingency, underwriting costs, and interest paid over time is estimated to bring the total cost to approximately \$8.8 million.

In early 2020, the City Commission directed staff to investigate and pursue the possible use of Tax Increment Finance funds to be used as a guarantee in a bond sale.

Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission set the public hearing for Resolution 10379 for December 1, 2020.

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

Brett Doney, Great Falls Development Authority, appeared electronically. Mr. Doney commented that the Civic Center is important to the City because of the event functions and that it is not just a general government operating building. He suggested that the Tax Increment Financing (TIF) application be amended to indicate that the purpose of the TIF is to support both general government operations, as well as the events that happen within the building that draw citizens downtown.

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

Motion carried 5-0.

CITY COMMISSION

14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Deputy City Manager Anderson reported that the Utilities Customer Service phone number is 406-727-7660.

Mayor Kelly requested that the information about making utility payments on the City's website be clear.

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Mayor Kelly suggested that a Community Health topic be added to the Agenda, as needed, to update the Commission on the current state of affairs of community health. He also suggested that the Montana Air National Guard (MANG) or Malmstrom Air Force Base (MAFB) provide updates to the Commission about the efforts on the Base that affect the community.

Commissioner Moe suggested that the two topics be offset on the Agenda to prevent lengthy Commission meetings. She added that the Great Falls Public School District has a representative from MAFB at its meetings and expressed support of Mayor Kelly's suggestions.

Commissioner Tryon expressed support of the topics; however, he suggested adding them to Work Session Agendas instead of Commission meetings.

Mayor Kelly responded that there is more attention paid to the consistency of reports at Commission meetings verses Work Sessions; however, adding the two initiatives to Work Session could be considered.

Commissioner Robinson mentioned that, as a member of the City-County Health Board, he could report to the Commission about the Community Health topic. He added that the Board of Health meetings are conducted at the beginning of the month and suggested that the topic be added to the second Commission meeting Agendas.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Moe moved, seconded by Commissioner Robinson, to adjourn the regular meeting of November 17, 2020, at 8:30 p.m.**

Motion carried 5-0.

Mayor Kelly

Deputy City Clerk Darcy Dea

Minutes Approved: December 1, 2020