

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, Planning, Library, Fiscal Services, Interim Police Chief, Fire Chief, Public Works, Interim Park and Recreation Director and the City Clerk.

**PROCLAMATIONS:** Historic Preservation Week and National Police Week

**NEIGHBORHOOD COUNCILS**

**1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

There were no miscellaneous reports or announcements from Neighborhood Council members.

**PUBLIC HEARINGS**

**Res. 9565 and Ordinance 2935, annexation and zoning for T20N, R4E, Sec 17, Mks 10 and 10B. Adopted.**

**2A. RESOLUTION 9565, ANNEXATION OF T20N R4E SECTION 17, MARKS 10 AND 10B.**

**2B. ORDINANCE 2935, ZONING FOR T20N R4E SECTION 17, MARKS 10 AND 10B.**

Planning Director Ben Rangel reported that Resolution 9565 annexes an enclave of property located along the south side of 10<sup>th</sup> Avenue South between 26<sup>th</sup> and 29<sup>th</sup> Streets South and Ordinance 2935 assigns a zoning classification of C-2 general commercial district to the property.

He added that the City Commission expressed interest in annexing unincorporated enclaves. For some governmental entities and neighbors, unincorporated enclaves have been a source of confusion and inconsistent code application. An example he cited was the fireworks issue where County requirements differ significantly from the City in the type of fireworks that can be sold, the time period during when they may be sold and the type of fireworks that are allowed to be discharged. Equity issues also arise where properties are not subject to the same code requirements as surrounding properties when it comes to community decay, weed control or signage requirements. Enclaves also benefit from public improvements, such as paved roadways, curb and gutter, and sidewalks which in many cases have been funded by taxpayers within the City.

MCA 7-2-4501 states that a city may include as part of the city any platted or unplatted tract or parcel of land that is wholly surrounded by the city upon passing a resolution of intent, giving notice, and passing a resolution of annexation. Further, that statute provides that wholly surrounded land can be annexed if resolved by the city or town council, whether or not a majority of the real property owners of the area to be annexed object.

In a letter to the Planning Board, Steven Potts, attorney representing the property owner, Zollie Kelman, requested the annexation process be postponed until a declaratory judgment could be decided. After reviewing Mr. Potts' letter and definitions and land use designations in the Unified Land Development Code, the City Attorney directed staff to proceed with processing the annexation unless directed otherwise by a court of competent jurisdiction.

Mr. Michael Maeder, Liberty Fireworks, Inc., also wrote a letter requesting the annexation be postponed until after July 4.

On March 14, 2006, the Planning Board/Zoning Commission conducted a public hearing on the annexation and zoning and at its conclusion passed a motion recommending the City Commission annex the property. The Zoning Commission passed a motion recommending a zoning classification of C-2 general commercial district.

Mayor Stebbins declared the public hearing open. No one spoke in support of Resolution 9565 or Ordinance 2935. **Michael Maeder**, 2407 Central Avenue West, asked the Commission to delay the effective date of the annexation until after July 4, 2006, and to allow his fireworks stand to be open for 12 days, as is permitted by State law rather than the 5 days that are allowed by City ordinance.

**Dave Pierce**, owner of Pierce Motors, explained he was not necessarily opposed to the annexation. However, he requested the City Commission consider a blanket annexation of all unincorporated enclaves rather than singling out individual lots. He added that if the Commission approved this annexation he would be subject to the sign code which was too restrictive for a car dealer. He suggested he could relocate his business to Helena, Montana if he was forced to comply with the sign code.

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

**Commissioner Hinz moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9565 with the effective date to be July 5, 2006, with the requirement that any sale of fireworks on said parcels, prior to July 5, 2006, shall be limited to the five days from June 30 through midnight on July 4, 2006, similar**

**to the timeframe specified in City code regarding fireworks policy.**

Commissioner Jovick-Kuntz asked Planning Director Ben Rangel to respond to Mr. Pierce's suggestion of blanket annexing all enclaves. Mr. Rangel replied stating that each unincorporated enclave had to be considered on its own merits. Commissioner Beecher added that because State law laid out responsibilities and requirements for annexing enclaves each unincorporated parcel had to be considered individually. He added that the sign code included an appeal process in the event the sign code was not meeting Mr. Pierce's needs.

Mayor Stebbins assured Mr. Pierce that the City Commission did not want to create hardships for businesses.

Commissioner Hinz assured Mr. Pierce the City Commission was not singling his property out and that this was one of many enclaves the City would be annexing.

There being no further discussion, Mayor Stebbins called for the vote. Motion carried 5-0.

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Ordinance 2935.**

Motion carried 5-0.

**Res. 9559, Modify  
SLD-A 1294.  
Adopted.**

**3. RESOLUTION 9559, MODIFICATION OF SLD-A 1294.**

Fiscal Services Director Coleen Balzarini reported that property owners in the general location of 4<sup>th</sup> Avenue North between 38<sup>th</sup> Street North and 40<sup>th</sup> Street North requested the installation of four (4) 70 watt HPS alley lighting units on 28 foot distribution poles with overhead wiring.

Staff reviewed the possibility of installing city-owned fixtures to Northwestern Energy's distribution poles located along the alley. At the present time, Northwestern Energy's position was not favorable or recommended. In order to provide alley lighting for the petitioned area within a timely manner, staff proposed to enter into a lease agreement with Northwestern Energy rather than City ownership of the alley lights.

Staff received 1 valid protest which represented 1 parcel or 8 percent of the amount of the assessment to be levied.

The estimated annual assessment for consolidated SLD-A 1294 would result in \$12.22 for an average lot size of 7,925 square feet.

In addition, staff determined Lots 1 through 16, Block 12, West Great

Falls Addition do not have alley lighting. During the original consolidation of SLD-A 1294 these properties were included in the district in error. Resolution 9559 removes these properties from the district.

Mayor Stebbins declared the public hearing open. No one appeared to speak in support of or opposition to Resolution 9559. Mayor Stebbins closed the public hearing.

**Commissioner Jovick-Kuntz moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9559.**

Motion carried 5-0.

**Res. 9564, Cost Recovery, GF Bloomingdale Add, B10 L11. Adopted.**

**4. RESOLUTION 9564, COST RECOVERY, GF BLOOMINGDALE 1<sup>ST</sup> ADDITION, BLOCK 10 LOT 11.**

Community Development Director Mike Rattray reported that the owner of the property located at 1418 8<sup>th</sup> Avenue NW was issued a Notice of Hearing to appear before the City Commission to explain why he should not be liable for the costs incurred in razing and cleanup of a structure on the property. The total costs incurred were \$5,448.09.

Mayor Stebbins declared the public hearing open. No one appeared to speak in support of or opposition to Resolution 9564. Mayor Stebbins closed the public hearing.

**Commissioner Beecher moved, seconded by Commissioners Rosenbaum and Jovick-Kuntz, that the City Commission adopt Resolution 9564.**

Motion carried 5-0.

**Leases, Clara Park and Gore Hill Water Tower. Approved.**

**5. LEASE, PORTION OF CLARA PARK (SUNRISE TERRACE ADDITION, SECOND SUPPLEMENT).**

**6. LEASE, PROPERTY ADJACENT TO THE GORE HILL WATER TOWER (T20N R3E SECTIONS 16 & 21).**

Public Works Director Jim Rearden reported that the City received a request from Chinook Wireless, a telecommunications company, requesting to use a vacated building in Clara Park that was leased in the past to Voice Stream Corporation and a fenced enclosure, concrete pad and existing conduit on property adjacent to the Gore Hill Water Tower. Since the request included the lease of public property, City Code 3.04 requires that the City advertise for bids, conduct a public hearing and award the lease to the highest responsible bidder. Bids were opened

April 19, 2006, and Chinook Wireless was the only bidder. They bid \$12,000 for each piece of property for the first year with the lease amount increasing 3 percent per year for the remainder of the 10 year contract.

The proposed leases also include the installation of cellular antenna equipment on the water tower. The installation would not exclude other parties from locating similar equipment on the tower. Chinook Wireless currently leases space on the water tower for wireless communication equipment.

Mayor Stebbins declared the joint public hearing open. No one appeared to speak in support of or opposition to the lease. **Jason Gilmore**, Chinook Wireless, offered to answer any questions. Mayor Stebbins closed the public hearing.

**Commissioner Jovick-Kuntz moved, seconded by Commissioner Beecher, that the City Commission approve a lease agreement for a portion of Clara Park to Chinook Wireless.**

Motion carried 5-0.

**Commissioner Beecher moved, seconded by Commissioner Jovick-Kuntz, that the City Commission approve a lease agreement for a portion a portion of City property adjacent to the Gore Hill water tower to Chinook Wireless.**

Motion carried 5-0.

**JAG Grant use.  
Approved.**

#### **7. JUSTICE ASSISTANCE GRANT (JAG).**

Interim Police Chief Corky Grove reported that the Great Falls Police Department and the Cascade County Sheriff's Office jointly applied for a JAG grant in the amount of \$47,030. Both entities requested to use the grant funds for the purchase and installation of mobile data equipment.

Mayor Stebbins declared the public hearing open. No one appeared to speak in support of or opposition to the funding use. Mayor Stebbins closed the public hearing.

**Commissioner Rosenbaum moved, seconded by Commissioner Hinz, that the City Commission accept the recommendation of staff and approve the Memorandum of Understanding for execution by the City Manager.**

Motion carried 5-0.

**OLD BUSINESS**

**Herb Soboczek**, 121 11<sup>th</sup> Street, asked why only 2.5 inches of gravel was used during the 11<sup>th</sup> Street project rather than the promised 5 inches of gravel. Mayor Stebbins stated staff would look into this and get back to him.

**NEW BUSINESS****ORDINANCES/RESOLUTIONS**

**Res. 9566, Apply for Preserve America designation. Adopted.**

**8. RESOLUTION 9566, APPLY FOR DESIGNATION AS PRESERVE AMERICA COMMUNITY.**

Planning Director Ben Rangel reported that Resolution 9566 recognizes the commitment by the City and the work accomplished by the Great Falls/Cascade County Historic Preservation Advisory Commission to meet the requirements for designation as a Preserve America community.

**Commissioner Jovick-Kuntz moved, seconded by Commissioners Beecher and Hinz, that the City Commission adopt Resolution 9566.**

Motion carried 5-0.

**Consent Agenda. Approved as printed.**

**CONSENT AGENDA**

- 9.** Minutes, April 18, 2006, Commission meeting.
- 10.** Total expenditures of \$1,019,927 for the period of April 12-24, 2006, to include claims over \$5,000 in the amount of \$844,751.
- 11.** Contracts list.
- 12.** Set public hearing for June 6, 2006, on Resolution 9567, Conditional Use Permit for Central Plumbing and Heating (T20N R3E Section 5 Mk Nos P2 and P2A).
- 13.** 2006/2007 Action Plan including use of CDBG and HOME Partnership Program Funds.
- 14.** Procurement Contract with Smith Power for procurement and delivery of engine, generator and gas equipment to the Wastewater Treatment Plant Co-Generation Project (OF 1404).
- 15.** Exclusive 5-year beverage contract at the City swimming pools with Pepsi.

**Commissioner Beecher moved, seconded by Commissioner Hinz, that the City Commission approve the Consent Agenda as printed.**

Motion carried 5-0.

**CITY MANAGER’S REPORT**

**Police Chief  
Selection Process.**

17. City Manager John Lawton reported that the Police Chief interview team completed the first round of interviews last week and provided him with a list of finalists from the original field of eight applicants. He explained he will now begin the process of interviewing the finalists as well as meeting with all the Commissioners and other community members which will assist him in making a final decision. He hoped to complete this stage of the selection process within a couple weeks.

**PETITIONS AND COMMUNICATIONS**

**Potholes.**

19A. **Clay Braden**, 2708 4<sup>th</sup> Avenue NW, thanked City staff for filling potholes he called about.

**IMC road work.**

19B. **Herb Soboczek**, 121 11<sup>th</sup> Street, asked how much the highway improvements near the Malting Plant would cost. Public Works Director Jim Rearden reported that while he does not have a dollar figure for the project because it is still in its initial planning stages, it has been determined that most of the costs would be shared through in-kind work by the City, County and State.

**Jobs for the elderly.**

19C. **John Stevens**, provided information about a program which finds work for people 55 and older.

**ADJOURNMENT**

**Adjourn**

There being no further business to come before the Commission, the regular meeting of May 2, 2006, adjourned at 7:53 p.m.

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Mayor Dona R. Stebbins

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Peggy Bourne, City Clerk