

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

**PROCLAMATIONS:** Women in Construction Week; American Red Cross Month

**PRESENTATION:** Made in Montana Market Place

**PUBLIC HEARINGS**

**Res. 9548, Vacate northerly segments of 3<sup>rd</sup> Avenue South. Adopted.**

**1. RESOLUTION 9548, VACATE NORTHERLY SEGMENTS OF 3<sup>RD</sup> AVENUE SOUTH ABUTTING SUNRISE COURT.**

Planning Director Ben Rangel reported that adoption of Resolution 9548 would vacate two segments of unused rights-of-way on 3<sup>rd</sup> Avenue South abutting the south boundary of Sunrise Court Addition. The Amended Plat of Sunrise Court Addition would add the vacated rights-of-way to the abutting Blocks 3 and 4.

The involved portion of 3<sup>rd</sup> Avenue South was dedicated and annexed as part of the Second Supplement to Sunrise Terrace Addition in 1959 and the Sunrise Court Addition in 1976. No public roadway improvements were located within the rights-of-way and it was determined retention and eventual improvement of them served no practical or functional purpose. The Great Falls Housing Authority was interested in using the vacated rights-of-way to improve the parking arrangement for the Sunrise Court public housing complex. Upon vacating the two rights-of-way, the segments shall become a part of Lot 1, Block 3 and Lot 1, Block 4, Sunrise Court Addition. The southern 20 feet of the vacated rights-of-way would be designated as a utility easement to accommodate existing utilities.

Mayor Stebbins declared the public hearing open. No one appeared to speak in support of or opposition to Resolution 9548. Mayor Stebbins closed the public hearing.

**Commissioner Jovick-Kuntz moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9548.**

Motion carried 5-0.

**Ord. 2929, Rezone  
GF 11<sup>th</sup> Add., B806,  
L1-5. Adopted.**

**2. ORDINANCE 2929, REZONE GF 11<sup>TH</sup> ADDITION, BLOCK  
806, LOTS 1-5.**

Planning Director Ben Rangel reported that the owners of Lots 1 – 5, Block 806, Eleventh Addition, applied through their representative, the Hawkins Companies, to rezone the lots from R-3 single-family high density district to C-2 general commercial district. The applicant intended to remove existing residential structures and combine them with the adjoining property to the south to accommodate a proposed 14,820 square foot Walgreens Pharmacy.

On January 10, 2006, the City Zoning Commission conducted a public hearing to consider the rezoning request. Most of the individuals speaking in opposition expressed concern about the potential increased traffic that could result from the project as well as depreciation of property values. The Zoning Commission received copies of numerous petitions protesting the rezoning signed by parties involved in the businesses which would be displaced by the new development and occupants of residential property in the vicinity. At the conclusion of the hearing and after considering several different motions, the Zoning Commission recommended the City Commission deny the request. Mr. Rangel added that during the hearing, it appeared most Zoning Commission members did not oppose the Walgreens project but were uncomfortable voting in favor of the rezoning without more information being available about possible traffic volume increases and ways to mitigate any potential traffic volume problems.

Mr. Rangel added that Montana Code Annotated, 76-2-305, provides that a zoning amendment may not become effective except upon a favorable vote of two-thirds of the present and voting members of the city council if a protest against the change was signed by the owners of 25 percent or more of those lots 150 feet from a lot included in a proposed change. Staff determined 45 percent of the owners of lots within the 150 foot legal protest area have objected to the rezoning. Therefore a super majority vote was necessary to approve the rezoning ordinance.

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

**Colby Halker**, 8645 West Franklin, Boise, Idaho, representative of Hawkins Companies, explained this was an excellent opportunity to redevelop an area of Great Falls with a neighborhood- friendly business. He explained that he met with the property owners in the area as well as the Neighborhood Council to explain the proposed project and to ask if they had any concerns regarding it. Several concerns were raised, and he worked to mitigate them prior to submitting the rezoning application.

He added that their research indicated property values did not decrease when adjacent to commercial development. In fact, in their research of the area, they found property values for homes located near businesses were higher than those located further away from commercial property.

He said that they were working to mitigate concerns regarding the residence across 23<sup>rd</sup> Street and directly across from the ingress/egress to the store. The ingress/egress could not be relocated due to delivery needs and traffic flow in the parking lot.

Finally, he added that after the Zoning Commission Hearing, Hawkins Companies hired the transportation/traffic engineering firm of Robert Peccia & Associates (RPA) of Helena to conduct a traffic analysis for the proposed project. RPA concluded that the proposed Walgreens Pharmacy and associated specialty retail center would have very negligible impacts to the overall operation of the transportation system that will require mitigation.

**Arthur Bundtrock**, 3906 7<sup>th</sup> Avenue South, explained that he is a member of the Planning Board and he was speaking as an individual rather than as a Planning Board member. He supported the project and thought the buffering was a fantastic situation for the residents. Great Falls needed to grow and this was a good project.

**Tom Alfrey**, Chamber of Commerce, stated that the Chamber Board endorsed the project stating that it would improve an area without negative impact on the neighbors and it should be used as a model for further development.

**Mark Macek**, 801 Fox Drive, explained that this project was a chance to improve and upgrade commercial building stock in Great Falls. He added that this company was of the highest caliber and that their request was a proactive consistent zone change. He said that the tenants in the existing structure were finding places to relocate. He added that the community supported the project and it was good for everyone.

**Aaron Weissman**, 315 4<sup>th</sup> Avenue North, explained that Great Falls is a population center for the area and that the City must allow and nurture growth. He added that if the Commission denied this request, a message would be that Great Falls does not welcome growth and it would continue to decline. He encouraged the City Commission to allow for growth and adopt the ordinance.

**Greg Smith**, (lives outside the City limits) reminded the City Commission that they don't just represent the residents in the area of the requested zone change, they represent everyone in Great Falls. He added that somewhere the community turned and allowed a few vocal

opponents to affect community-wide issues. He said the City could not afford the NIMBY (not in my back yard) attitude and encouraged the Commission to help move this community forward by approving the development request.

Those speaking in opposition were:

**Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, stated he was concerned about the community and how important planning was. Tenth Avenue South, he said, was an example of poor planning because proper buffers were not put into place. He supported economic development but the community needed to remain livable. He encouraged the City Commission to send this issue back to the Planning Board for additional review on issues such as lighting impacts on the neighborhood.

**Phil Faccenda**, 2104 4<sup>th</sup> Avenue South, explained that he had been a resident of the neighborhood for many years and was speaking as an unpaid representative for many of the affected property owners. He said that he opposed this rezoning request because it would lead to property devaluation, it was spot zoning and it was a contradiction to the Growth Plan. Transitional zoning has worked and the Growth Plan was working, and this proposal went against both of them. He expressed concern that the City was violating state law by using the Planning Board as the Zoning Commission and that the Growth Policy was not adopted according to statute. He said he would file an injunction against this project and the application of the Growth Policy if the City Commission adopted the Ordinance.

Mr. Faccenda added that this was not a question about economic development it was a question about eroding an established neighborhood. As an architect he saw no need to develop the amount of land Hawkins Companies was proposing for the size of store to be built on the property. He suggested turning the structure a different way on the property which would use less land and eliminate the need for this rezoning request.

Mr. Faccenda refuted the staff report that forty-five percent of the property owners protested the rezone request. He believed one hundred percent of the property owners protested the proposal if those who were selling their property were removed from the equation. He also suggested that the Commission allow the neighbors to have an opportunity to retain their own traffic consultant and do their own traffic impact study.

Mr. Faccenda stated that zoning should be consistent with the Growth Policy and this wasn't. It was an example of spot zoning and was precedent setting.

Mayor Stebbins asked Mr. Faccenda to conclude his comments in order to give others an opportunity to speak. Mr. Faccenda stated that cutting him off was a mistake and left the podium.

**Lee Withrow**, 2300 3rd Avenue South, stated her business was located on the proposed lot and would have to relocate if this rezoning request was approved. She opposed the rezoning request.

**Steve Wadsworth**, 2212 9<sup>th</sup> Avenue South, explained that residents west of the project were not incorporated into the protest area therefore the Commission had not heard from anyone from that area. He expressed concern about the increased traffic especially down 9<sup>th</sup> Alley South which would come as a result of this project. He concurred with the other speakers opposing the project and asked the Commission to deny the ordinance.

**Linda Bennetts**, 2304 6<sup>th</sup> Avenue South, asked if anyone considered what would happen when Paris Gibson Middle School reopened. She suggested the traffic study was skewed because it was paid for by the people who were proposing the project. She added that lighting will have a negative impact on the neighborhood and questioned if the community needed another pharmacy. She encouraged the Commission to bring businesses into Great Falls that would leave the revenue here and not funnel it out of state. In closing, she added she was offended Mr. Faccenda was asked to conclude his remarks before he was completed with his presentation.

**George Paul**, 407 5<sup>th</sup> Street South, encouraged the Commission to listen to what was being said. He explained that after listening to the testimony at the public hearing, he heard that a company was willing to work with the neighborhood and find a way to mitigate concerns and that some of the neighbors still had concerns. He suggested the City Commission table action and give the Hawkins Companies more time to work with the neighbors.

There being no one further to address the City Commission, Mayor Stebbins asked for the direction of the Commission.

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Ordinance 2929 provided the applicant and the owners of subject Lots 1 – 5 enter into an agreement with the City agreeing to provisions (1) through (5) enumerated in the section titled, Conditions For Approval which were: 1) the commercial development upon subject Block 806 shall be required to comply substantially with the site plan submitted by applicant on December 2, 2005; 2) to preclude any vehicular approaches from subject Lots 1 – 5 directly to 9<sup>th</sup> Avenue South; 3)**

to install and adequately maintain landscaping in accordance with a final landscape plan to be submitted to and approved by the City Community Development Department, Design Review Board and the City Forester incorporating at least a 57 foot landscaped buffer along the south side of 9<sup>th</sup> Avenue South bordering subject Lots 1 – 5; 4) to comply with and fulfill the provisions stipulated by the City Engineer in a Memorandum, dated December 26, 2005; and 5) to pay for traffic and transportation improvements attributable to their proposed project, as recommended in the report, titled “Walgreens Traffic Impact Study, Great Falls, Montana,” dated February 2006.

Commissioner Hinz asked Mr. Halker if the site plan could be changed as suggested in the public hearing. Mr. Halker explained that if that layout would have worked, they would have proposed it initially. He added that Hawkins Companies will do light studies to protect the neighborhood from spillage of lights onto the neighborhood.

Commissioner Beecher stated he supported the motion because it was a quality, low-impact project with a lot of concessions built into it and that the project would enhance the neighborhood. He added that the City has retained Peccia and Associates on numerous occasions to do traffic studies and they were a reputable firm with high integrity. Commissioner Beecher continued stating that precedents are already in place along 10<sup>th</sup> Avenue South whereby the entire block between 9<sup>th</sup> and 10<sup>th</sup> Avenues was zoned General Commercial. This was not an example of spot zoning as several opponents stated.

Commissioner Jovick-Kuntz asked who was going to construct the building; how many staff would be employed; and what types of salary and benefits would be paid. She also asked that Hawkins Companies agree to address the lighting issues. Mr. Halker replied stating that construction for the building would be bid out and local contractors would be encouraged to bid on the project. The store would employ 20 – 24 people, two of which would be pharmacists, three pharmacy technicians, a general manager and other staff; the salaries would be competitive and Hawkins Companies would agree to do the lighting studies.

Commissioner Rosenbaum stated that the neighborhood concerns have been addressed. He added that property values would not deteriorate due to the commercial construction.

Commissioner Hinz stated this was a top-notch redevelopment and that Walgreens was a neighborhood pharmacy. However, she stated, it was incumbent upon the Commission to hold them to the terms of the agreement.

Mayor Stebbins stated she supported this redevelopment project.

Motion carried 5-0.

### **NEW BUSINESS**

#### **ORDINANCES AND RESOLUTIONS**

**Res. 9555. Create Police Advisory Board. Adopted.**

**3. RESOLUTION 9555, CREATE A POLICE DEPARTMENT ADVISORY BOARD.**

Interim Police Chief Corky Grove reported that the Police Department requested the City Commission create an advisory board made up of neighborhood council representatives, representatives from Malmstrom, Native American Local Government Commission, two individuals representing different minority groups and a youth representative. The purpose and function of the board was to advise the Police Department on community relations, planning, police programming and public education.

**Commissioner Jovick-Kuntz moved, seconded by Commissioners Beecher and Hinz, that the City Commission adopt Resolution 9555.**

Motion carried 5-0.

**Res. 9556, Annual SID Revolving Fund Analysis. Adopted.**

**4. RESOLUTION 9556, ANNUAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND ANALYSIS.**

Fiscal Services Director Coleen Balzarini, reported that analysis of the Special Improvement District (SID) Revolving Fund and Subsidiary Debt Service Funds showed that one SID subsidiary fund (SID 1271) was complete and needed to be closed to the Revolving Fund in the amount of \$26,384.42 and that one subsidiary fund (SID 1248) required a loan from the Revolving Fund in the amount of \$21,005.78.

The projected June 30, 2005 SID Revolving Fund balance would be \$285,755. This was \$229,505 above the minimum balance required by State Statute, and \$139,635 below the maximum amount allowed by IRS Arbitrage Standards related to maximum debt service reserves which provided adequate reserves within the SID Revolving Fund.

**Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9556.**

Motion carried 5-0.

**Consent Agenda.  
Approved as  
printed.**

**CONSENT AGENDA**

- 5. Minutes, February 21, 2006, Commission meeting.
- 6. Total expenditures of \$818,557 for the period of February 15-22, 2006, to include claims over \$5,000 in the amount of \$640,306.
- 7. Contracts list.
- 8. Lien Release List.
- 9. Final payment to Planned and Engineered Construction, Inc., and the State Miscellaneous Tax Division in the amount of \$20,289.50 for the Trenchless Sewer Rehabilitation Phase 10. (OF 1174.5)
- 10. Agreement with the Upper/Lower River Road Water and Sewer District with respect to rehabilitation of the Pearson Addition Sewer System and the BNSF right-of-way survey. (OF 1354).

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

Motion carried 5-0

**NEIGHBORHOOD COUNCILS**

**Commission  
Agenda format.**

**12A.** Karen Grove, Neighborhood Council 8, asked the City Commission to have reports from the Commission, Neighborhood Councils and the City Manager at the beginning of the agenda. She expressed concern that most of the audience leaves the meeting following the issue they came to hear and were not in the room when important announcements were made. The City Commission agreed to consider this request.

**Good Neighbor  
Awards.**

**12B.** Bob Stubbs, Neighborhood Council 4, concurred with Mrs. Grove. He also announced that Neighborhood Council 4 was accepting nominations for the "Good Neighbor" Award.

**School zone safety.**

**12C.** George Littlefield, Neighborhood Council 4, stated that he was continuing to work on improving school zone safety by developing information to be included in the drivers training manuals throughout the State.

**CITY MANAGER**

**Budget Sessions.**

**13.** Assistant City Manager Cheryl Patton reminded the City Commission of the budget sessions that would be held from 8 am to noon on March 8 and 9, 2006.



**Adjourn**

**ADJOURNMENT**

There being no further business to come before the Commission, the regular meeting of March 7, 2006, adjourned at 9:07 p.m.

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Mayor Dona R. Stebbins

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Peggy Bourne, City Clerk