

JOURNAL OF COMMISSION PROCEEDINGS
Virtual Meeting by Zoom
November 16, 2021

Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL/STAFF INTRODUCTIONS: City Commission members participated electronically via Zoom webinar: Bob Kelly, Mary Sheehy Moe, Owen Robinson and Rick Tryon. Commissioner Tracy Houck resigned effective November 5, 2021. City staff participated electronically via Zoom webinar: Deputy City Manager Chuck Anderson; Public Works Director Paul Skubinna; Police Captain Rob Moccasin; Fire Chief Jeremy Jones and Fire Marshal Mike McIntosh; and, City Attorney Jeff Hindoien. City Clerk Lisa Kunz was present in the Commission Chambers.

Commissioners-Elect Joe McKenney and Susan Wolff, and proposed Commissioner-appointee Eric Hinebauch observed electronically via Zoom webinar.

Due to the COVID-19 health concerns, the format of the City Commission meeting was held in a virtual video-conferencing environment. 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. To attend and participate in the virtual meeting utilizing Zoom, attendees must register in advance for the Commission Meeting at : https://us02web.zoom.us/webinar/register/WN_V3Qe2D2MQdiEyeP4d3bvtw.

For all other participation options, please see **Public Participation Guide for City Commission Meetings**.

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: Small Business Saturday (November 27, 2021) and National Apprenticeship Week (November 15-21, 2021)

COMMUNITY HEALTH INITIATIVES

1. COMMUNITY HEALTH UPDATE FROM CITY-COUNTY HEALTH DEPARTMENT (CCHD) BOARD MEMBER, AMANDA BALL, CITY APPOINTED REPRESENTATIVE.

Commissioner Robinson introduced Amanda Ball, the City Commission's appointed representative on the Board of Health (BOH). Her term expires at the end of this year. She does a wonderful job for the community and he will be recommending her re-appointment to the BOH.

Amanda Ball commented it has been an honor to be part of the BOH. When she first had interest in joining the Board, she did not anticipate a world-wide pandemic or to be part of a team that would be making such immediate and far-reaching decisions that impacted the community so

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greatly. She is impressed by the community's resilience and especially the resiliency of the youngest people in the community. She works professionally in child welfare. Over the past two years, it has been incredible to watch children adapt, persevere and thrive, despite so many setbacks in their normal routines.

PETITIONS AND COMMUNICATIONS

2. Participating via Zoom was:

Jeni Dodd, City resident, objecting to having to attend Commission meetings remotely, opining that it is arguable whether this format fulfills the requirement of public participation guaranteed by the Montana Constitution, Art. II, Section 8, and that this remote format is unnecessary due to the Mayor having been seen without a mask or distancing himself from others at a recent concert hall.

NEIGHBORHOOD COUNCILS

3. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

BOARDS AND COMMISSIONS

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

CITY MANAGER

5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Deputy City Manager Chuck Anderson reported that:

- As part of the on-boarding process, department tours have been scheduled for the commissioners-elect. If current commission members want to attend, contact Krista in the City Manager's Office so that a quorum notice can be posted.
- As of today, the recent municipal election results have not been certified. Only six positions need to be filled amongst the nine Neighborhood Councils.
- The City is accepting applications from qualified candidates for CDBG-CV funding to be used specifically for the prevention of, preparation for, and response to the coronavirus to serve the Great Falls community.
- The City leaf pick-up program concluded for the year. The City's Park and Recreation Department collected 1700 cubic yards of leaves that equates to about 140 dump truck loads of leaves.

CONSENT AGENDA.

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6. Minutes, November 2, 2021, City Commission Meeting.
7. Total Expenditures of \$2,569,081 for the period of October 16, 2021 through November 3, 2021, to include claims over \$25,000, in the amount of \$1,776,185
8. Contracts List.
9. Award a contract in the amount of \$68,743.99 to Doctor Lawn Landscape Services, Inc. for the Southwest Side Street Reconstruction – Tree Removal project, and authorize the City Manager to execute the contract documents. **OF 1432.2**

Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission approve the Consent Agenda as presented.

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.

PUBLIC HEARINGS

OLD BUSINESS

10. **AMENDMENT TO 1975 AGREEMENT ESTABLISHING CITY-COUNTY HEALTH DEPARTMENT TO DESIGNATE INTERIM HB 121 “GOVERNING BODY” ENTITY AND APPOINTMENT OF MEMBER OF CITY COMMISSION TO SERVE AS EX OFFICIO NON-VOTING MEMBER OF HB 121 “GOVERNING BODY” ENTITY.**

City Attorney Jeff Hindoien reported that this item is a piece of the process the City has been working through with Cascade County, with respect to trying to address some legislative changes from the last session pertaining to governance and oversight structure of local boards of health.

The Cascade County Board of Commissioners and the City Commission met in a joint meeting on July 28, 2021 to discuss the impacts of HB 121 on the long-standing governance structure of the Board of Health (BOH) and City-County Health Department (CCHD). In the wake of those discussions, the City and County exchanged proposals for the possible designation of the “governing body” entity, with the County proposing that the Board of County Commissioners fill that role and the City proposing an entity that included a member of the City Commission along with the County Commissioners.

The temporary agreement would take the form of a formal Amendment to the 1975 Agreement that created the current CCHD and BOH structure. The proposed Amendment document will add a new provision to the 1975 Agreement as follows:

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11. That, in light of the requirements of HB 121 as enacted by the 2021 Legislature, and the County and the City hereby designate an entity consisting of the following members to serve as the “governing body” as referenced in HB 121:

- the three (3) members of the Board of Commissioners for Cascade County; and
- one (1) member of the Great Falls City Commission.

The member of the governing body entity from the Great Falls City Commission will serve as a non-voting, *ex-officio* member of the governing body entity. The Parties agree that their designation of the governing body entity as described above is being made on a temporary and interim basis pending further efforts to resolve their current legal dispute and that the designation will expire and be of no further force and effect as of June 30, 2022. This will also allow time to get a new, modern interlocal agreement stood up to replace the 1975 agreement.

City Attorney Hindoien further reported that he has drafted a Complaint to file in District Court to resolve the legal dispute with Cascade County. He is working with the County Attorney’s Office to get the legal dispute narrowed down for the District Court. The City’s objective on the legal front was to address what was understood to be the County’s position that really only the Board of County Commissioners could serve.

Legal staff for both the City and County are continuing in their efforts to secure a resolution of that dispute. In the meantime, the County has advised the City that it is willing to agree to the designation of an interim entity to serve as the HB 121 “governing body” while the parties resolve whatever legal impediments remain to an agreement for a permanent designation.

Commissioner Moe moved, seconded by Commissioner Robinson, that the City Commission approve the proposed Amendment to the 1975 Agreement establishing the City-County Health Department to designate an Interim HB 121 “Governing Body” entity and authorize the City Manager to execute the Amendment document.

Mayor Kelly asked if there were comments from the public. Hearing none, Mayor Kelly asked if there were any comments, questions or discussion amongst the Commissioners.

Commissioner Tryon appreciated the City Attorney clarifying the City’s position. It was mis-reported that the City’s position was to get the City-County Board of Health to be the governing body. That was never the City’s position. HB 121 made it clear that the government body could be a hybrid, and didn’t necessarily have to be just the County Commissioners serving as the governing body. The City Commission’s position was the governing body be comprised of some combination of City Commissioners and County Commissioners going forward.

He inquired if the appointing of a member of the City Commission to serve as an *ex-officio* non-voting member of HB 121 “governing body” entity had to be done tonight or if it could wait until the new Commission is seated in January.

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City Attorney Hindoien responded that there is no legal reason the appointment has to be done tonight. It was included as a structural convenience to have it stood up on the City's side.

Commissioner Tryon inquired if the City would not be in compliance with HB 121 if a member is not appointed by the Commission this evening.

City Attorney Hindoien responded the City would be in compliance as there would be a designated entity agreed upon between the two Parties. The administrative step to appoint the *ex-officio* City Commission member could take place at a later time.

Commissioner Tryon inquired if City Attorney Hindoien believed the District Court would have an answer to the legal dispute by June 30, 2022. City Attorney Hindoien responded in the affirmative.

Commissioner Moe commented that the proposal before the Commission is different only in timeline from the proposal made many months ago. She would not characterize it as fair on two fronts. One, the City Commission member sits at the table as an *ex-officio* rather than a full voting member of the governing body, and two, the City Commission sits on the board as a minority. The City was willing to make that concession just so that the governing body at least had the City's voice in it. She hopes that will be worked out in a more fair manner in the future. The long term agreement should not be lost in the process. It needs to be modernized and something that both government bodies comply with. With regard to the appointment, there is no disadvantage to having someone appointed right away, and she thinks someone should be appointed to show the City's intent to comply with HB 121. She suggested moving progressively forward.

Mayor Kelly suggested Commissioner Robinson continue until the end of the year when his term ends, and the Commission can appoint a member in January.

Commissioner Robinson clarified that his current appointment to the Board of Health doesn't have anything to do with *ex-officio* non voting member of the interim HB 121 governing body. He will remain as the chairman of the Board of Health until his term ends.

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

Motion carried 4-0.

Commissioner Robinson moved, seconded by Commissioner Tryon, that Mayor Bob Kelly be appointed to serve as an ex officio non-voting member of the interim HB 121 "Governing Body" entity.

Mayor Kelly asked if there were comments from the public. Hearing none, Mayor Kelly asked if there was any further discussion amongst the Commissioners.

Commissioner Moe suggested Commissioner Robinson serve as the City's delegate because of his convergence with the issues.

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Commissioner Robinson responded that Mayor Kelly is very well versed in the issues that are coming up. The Board of Health has nothing to do with the new governing body entity, except if the new governing body decided that the Board of Health had done something incorrectly, then that is the governing body to decide whether to overrule the Board of Health. He pointed out that appointing him to serve as the *ex-officio*, non-voting member of the interim HB 121 governing body entity would create a conflict while he is the chairman of the Board of Health.

Commissioner Tryon concurred with Commissioner Robinson, to vote on the pending motion, and revisit this matter after the first of the year.

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

Motion carried 4-0.

NEW BUSINESS

ORDINANCES/RESOLUTIONS

11. **ORDINANCE 3233, AMENDING TITLE 5 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO FALSE ALARMS AND ALARM AGENT LICENSING.**

Fire Marshal Mike McIntosh reported that Great Falls Fire Rescue (GFFR) has experienced an increase in false alarm calls in businesses in recent years. These false alarm calls cause expenditures of time, staff and other resources that are already limited, as well as puts firefighters and community members at risk when lights and sirens are run through the community. Year to date GFFR has had 388 alarm activations that have been false alarms. The purpose of this ordinance is to put something into place for repeated false alarms at individual locations. GFFR will then be able to work with those owners or property managers to address the issues with their alarm systems.

The current municipal code structure only authorizes the imposition of fines or penalties for Police Department inadvertent false alarm calls relating to unauthorized entry (burglar alarms) and does not extend to false alarms for fire or other hazardous conditions.

The proposed Ordinance would extend the current code structure for GFFR to authorize the transmittal of written warning letters and ultimately the imposition of a fine for false alarms in the context of fire alarms or other hazardous conditions. The proposed changes would also (1) impose a fine after the second false alarm in a year [as opposed to after the third] and (2) increase the fine amount for a third or subsequent false alarm from \$50.00 to \$100.00.

At present, Alarm Agents are required to obtain an “Alarm Agent Permit.” The Ordinance clarifies that the license is to be secured from the Planning & Community Development Department.

Commissioner Tryon moved, seconded by Commissioner Robinson, that the City Commission accept Ordinance 3233 on first reading and set a public hearing for December 7, 2021.

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Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly asked if there was any discussion amongst the Commissioners.

In response to Commissioner Moe's inquiry pertaining to the difference between a false alarm, falsely reporting a fire and systems that mess up repeatedly, Fire Marshal McIntosh clarified that the proposed ordinance pertains to a facility that repeatedly has an alarm activation for the same issue and they never get that system addressed by an alarm contractor.

To be less confusing, Commissioner Moe suggested calling it faulty alarm. She also suggested a certain number of days instead of calendar year from January 1 to December 31.

Commissioner Moe referred to OCCGF 5.3.6.050 D. and inquired why that section wasn't applicable to the City of Great Falls or residential fire alarms in one or two-family dwellings.

Fire Marshal McIntosh responded that in the commercial setting, fire alarm systems have to be serviced and maintained on an annual basis. Code requirements are not the same for residential. Most fire alarm systems in houses are tied to a burglar alarm system. If the burglar alarm activates the Police Department is already being notified. That was already in place for residential but not commercial.

Commissioner Moe concluded that none of the things she raised would effect her support for the vote with the possible exception of the calendar year.

Commissioner Tyron inquired if Fire Marshal McIntosh would recommend amending the language pertaining to the calendar year when the ordinance comes back for public hearing.

Fire Marshal McIntosh responded that he would review that proposed change with the City Attorney. The calendar year language in the Ordinance corresponds with GFFR's annual inspections and safety inspection certificates.

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

Motion carried 4-0.

12. ORDINANCE 3237, AMENDING TITLE 15 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO THE FIRE CODE.

Fire Marshal Mike McIntosh reported that the City of Great Falls has adopted the 2012 International Fire Code (IFC). Great Falls Fire Rescue (GFFR) currently requests that the inspections, testing and maintenance (ITM) reports be submitted to the Fire Prevention Bureau.

Currently, however, GFFR is only receiving ITM reports from roughly half of the service providers working within the City of Great Falls.

The language allowing the fire code official to request those reports was removed from the 2018 IFC, which the City did not adopt. GFFR is moving towards adoption of the 2021 version of the

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IFC in the spring. Most jurisdictions around the country are writing into ordinance that these reports shall be submitted to the authority having jurisdiction to know where those life safety systems are.

Local alarm, sprinkler and hood contractors do a good job of submitting reports to GFFR. The issues are with out of state companies that do work within the City and never file a report with GFFR.

The proposed Ordinance would enable GFFR to obtain the ITM records for all life safety systems within the City of Great Falls by (1) requiring that all ITM work be conducted by properly licensed alarm agents and (2) having the ITM reports generated by those providers submitted to the City's third party reporting partner. This reporting partner would then work with GFFR, alarm agents, and business owners to ensure those life safety systems found deficient will obtain the repairs needed so that the life safety system will be operating as designed and protecting the buildings and community members.

Commissioner Tryon moved, seconded by Commissioner Robinson, that the City Commission accept Ordinance 3237 on first reading and set a public hearing for December 7, 2021.

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

Commissioner Moe expressed concern that the penalty section pertains to the entire chapter, which she has not seen.

Fire Marshal McIntosh responded that the chapter pertains to the adopted international fire code.

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

Motion carried 4-0.

CITY COMMISSION

13. CITY COMMISSION VACANCY APPOINTMENT.

Commissioner Moe moved, seconded by Commissioner Robinson, that the City Commission appoint Eric Hinebauch to fill the current vacancy on the City Commission until the next regular election.

Mayor Kelly asked if there were any comments from the public.

Participating via Zoom was:

Jeni Dodd, City resident, inquired why the Commission didn't follow the same process as when Mary Jolley was replaced by asking for applications from interested individuals. She commented that appointment in the manner proposed tonight seems capricious and this Commission making

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up rules at it goes. Mr. Burow received more votes than Mr. Hinebaugh. She inquired why Mr. Burow wasn't offered the seat even though he was in the mayoral race. She suggested the City develop and codify the exact procedure to be used in the future for such vacancies.

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

Mayor Kelly clarified that when Commissioner Jolley won an election for Justice of the Peace, there had not been a City election just prior to her resigning. This is a different situation. He did consult with the City Attorney and it is at the discretion of the Commission about the process that is used going forward. This idea was floated by one of the Commissioners, discussed with the City Attorney, and he endorses going forward with this process.

Commissioner Tryon is in agreement with the process as well. He agrees with the suggestion of codifying a process. The Commission is not obligated to take applications. The situation in 2012 was different than this situation. In this situation the election results came in the day before Tracy Houck submitted her resignation. To him, it makes more sense to respect the will of the voters as Mr. Hinebaugh was the 3rd highest vote-getter in the Commission portion of the election.

Commissioner Moe commented that there are as many different scenarios for a vacancy occurring and being filled as there are people who serve. It would be difficult to come up with a code that represents either the will of the voters or the best interests of the community and the Commission. There are a number of factors that go into any decision of this type. The voters elected the Commission members that are now seated to weigh those factors and to make a decision that they believe is in the best interest of the community, the Commission, and the voters. That person will not necessarily always be the next in line. There is strong community support for this candidate, and she supports the appointment.

Commissioner Robinson supports the appointment of Eric Hinebaugh. The irony of this appointment is that Eric Hinebaugh will be a Commissioner before the two Commissioners that beat him in the election.

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

Motion carried 4-0.

14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

15. COMMISSION INITIATIVES.

Mayor Kelly reported that the Commission will go back to in-person meetings at the next meeting in December. There has been a lot of change in the Covid posture of the community in the last several weeks and months. Everyone is realizing this is something that may have to be lived with for a very long time. He and other Commissioners have agreed that it is time to try to get back to a normal environment in Commission meetings. He asked Deputy City Manager Chuck Anderson

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to poll staff about their level of comfort with coming back to the Commission Chambers. The Commission would still recommend that people follow guidelines, which the Commission cannot mandate. Once the Commission receives approval from the City Manager and his staff then the Commission will look forward to meeting December 7th in the Commission Chambers and Gibson Room.

Commissioner Robinson commented that he agrees with that decision. He has heard from a lot of people that thanked the Commission for having the Zoom format. It seems to him that it would be nice for the convenience of those people that don't want to attend in-person to still be able to join in the Commission Chambers by Zoom.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Tryon moved, seconded by Commissioner Moe, to adjourn the regular meeting of November 16, 2021, at 8:26 p.m.**

Motion carried 4-0.

Mayor Bob Kelly

City Clerk Lisa Kunz

Minutes Approved: December 7, 2021