

JOURNAL OF SPECIAL COMMISSION PROCEEDINGS
December 7, 2021

Special City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 4:00 PM

Civic Center, Gibson Room 212

ROLL CALL/STAFF INTRODUCTIONS: City Commission members present: Bob Kelly, Mary Sheehy Moe, Owen Robinson, Rick Tryon and Eric Hinebauch. Also present were the City Manager Greg Doyon and Deputy City Manager Chuck Anderson; City Attorney Jeff Hindoien; and, Deputy City Clerk Darcy Dea.

GUEST PRESENT: Retained attorneys Ben Snipes and Mark Kovacich of Odegaard Kovacich Snipes PC. Jeffrey Simon of the Simon Greenstone firm participated via Zoom Webinar during the Executive Session.

For 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.

PETITIONS AND COMMUNICATIONS

MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

NEW BUSINESS

1. OPIOID LITIGATION STRATEGY DISCUSSION – CONSIDERATION OF PROPOSED SETTLEMENT STRUCTURE.

Mayor Kelly discussed the process for the Commission and the public pertaining to the executive session and coming back into open meeting with the public.

Mayor Kelly commented that the purpose of this meeting today does involve litigation strategy. Pursuant to the statute, it would be appropriate to consider closure. He asked the will of the Commission.

Mayor Kelly moved, seconded by Commissioners Moe and Robinson, that the City Commission enter into Executive Session to discuss litigation strategy.

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

Commissioner Tryon requested that the City Attorney explain why the Commission needs to go into executive session and why that portion is not open to the public.

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City Attorney Hindoien explained that the basis for this exception to the open meeting rule is that having an open discussion about strategy and settlement options in an attempt to get litigation resolved in front of the opposing party is something that is not advantageous for anyone and it certainly does not occur in the private sector to any extent. These are the very essence of conversations that lawyers need to have with their clients about getting litigation matters resolved. The public policy justification for this is a public body should have the very same entitlement to have those conversations with their counsel in a way that is not putting them at a disadvantage relative to the people involved in litigation. From the City's perspective, protecting its legal position is better held in confidence than held in front of the people the City is in litigation with.

Mayor Kelly called for the vote.

Motion carried 5-0.

At 4:05 p.m., the meeting continued in executive session in the City Manager's Office Room 201 with the City Commission, City Manager, Deputy City Manager, City Attorney, Deputy City Clerk, and retained attorneys Ben Snipes and Mark Kovacich of Kovach Snipes Johnson, P.C. and Jeffrey Simon of Simon Greenstone Panatier via Zoom for the purpose of discussing pending litigation, strategy, and participation in the negotiating class.

- - EXECUTIVE SESSION - -

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The meeting reconvened into an open meeting. Mayor Kelly called the special meeting back to order at 5:18 p.m.

2. OPIOID LITIGATION-CONSIDERATION OF PROPOSED SETTLEMENT STRUCTURE.

City Attorney Hindoien summarized that the meeting was closed in accordance with Mont. Code Ann. § 2-3-203(4)(a) to discuss strategy in a pending litigation matter. The meeting was closed on that basis to have a conversation with the City’s outside counsel regarding a currently pending settlement structure and whether or not the City should consider opting into that structure. Counsel

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provided an update, their perspective, and the pros and cons with regard to the nationwide settlement.

City Attorney Hindoiien reported that the City's outside counsel recommended that the City of Great Falls not take any action at this time as a litigating political subdivision. He added that there is no further action required from the City Commission to opt out.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Moe moved, seconded by Commissioner Hinebauch, to adjourn the special meeting of December 7, 2021, at 5:20 p.m.**

Motion carried 5-0.

Mayor Bob Kelly

Deputy City Clerk Darcy Dea

Minutes Approved: December 21, 2021