

JOURNAL OF COMMISSION WORK SESSION
May 17, 2022

City Commission Work Session
Civic Center, Gibson Room 212

Mayor Kelly presiding

CALL TO ORDER: 5:30 PM

CITY COMMISSION MEMBERS PRESENT: Bob Kelly, Susan Wolff, Joe McKenney, Eric Hinebauch, and Rick Tryon.

STAFF PRESENT: City Manager Greg Doyon and Deputy City Manager Chuck Anderson; City Attorney Jeff Hindoien and Deputy Attorney David Dennis; Finance Director Melissa Kinzler, and Grant Administrator Tom Hazen; Public Works Director Paul Skubinna; Municipal Court Judge Steve Bolstad; Assistant Fire Chief Bob Shupe; Police Chief Jeff Newton; and, Deputy City Clerk Darcy Dea.

PUBLIC COMMENT

Julie Bass, City resident, requested that the Commission keep the ballot language simple and clear with regard to a marijuana referendum.

Terry Bjork, City resident, via 5/17/2022 email, discussed ways the City could be more productive with regard to legal marijuana related ballots.

1. OPIOID LITIGATION – SETTLEMENT AGREEMENT STATUS UPDATE.

City Attorney Jeff Hindoien reported that retained legal counsel recommended that the City opt into a proposed settlement framework for the Johnson and Johnson (J&J) and Distributors Litigation matters, conditioned upon the 100 percent participation from the other litigating subdivisions in Montana and the Attorney General's (AG) approval of the amendment to the settlement Memorandum of Understanding (MOU) at the January 18, 2022 Special City Commission meeting.

The AG recently updated a proposed draft to municipalities in Montana that differs from what the City previously agreed to on January 18, 2022. The draft contemplates the creation of an entirely new board consisting of seven people, appointed by the AG, to manage the trust. The Board of Investment cannot appropriately manage the funds, the gain on the investment funds would go to the state programs and removes the ability of local governments to access secure direct disbursements of the funds.

Retained legal counsel has advised the AG's office that the City is not interested in the AG's proposed draft and expects the AG to live up to the terms in the previous agreement.

Commissioner Wolff commented that she supports the recommendation of retained legal counsel because the City should receive its fair share in the settlement.

Commissioner Tryon received clarification that there would be no compelling reason for the City to not move forward with litigation and there would be no additional legal fees for the City.

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Mayor Kelly commented that it is disturbing that the AG is delaying the process to get funds to people affected by opioid abuse.


It was the consensus of the Commission that legal counsel proceed, if needed, with litigation to get the AG's office to enforce the terms of the settlement agreed upon on January 18, 2022.

2. NOVEMBER 2022 ELECTION – BALLOT TIMELINE AND LANGUAGE UPDATE.

City Attorney Jeff Hindoién reviewed and discussed the following PowerPoint:

	<p>PURPOSE</p> <ul style="list-style-type: none"> ➤ Updates to Commission re: November 2022 Election Issues <ul style="list-style-type: none"> ➤ Election Timeline Structure ➤ Ballot / Ordinance Language
<p>MUNICIPAL COURT</p> <ul style="list-style-type: none"> ➤ Charter Amendment Required to Increase Size of Court <p>Article V – Municipal Court</p> <p>There shall be a municipal court and an elected municipal judge as provided by Montana law.</p>	<p>MUNICIPAL COURT</p> <ul style="list-style-type: none"> ➤ Will require Commission to enact ORDINANCE that (1) amends Charter language effective 1/1/2023 and (2) refers that proposed ORDINANCE to the electors of the City <ul style="list-style-type: none"> ➤ First reading for proposed ORDINANCE likely in late June / early July ➤ Will require City Commission to pass RESOLUTION referring the proposed ORDINANCE and Charter change to the electors of the City with proposed ballot language <ul style="list-style-type: none"> ➤ Public hearing on RESOLUTION in late July / early August
<p>MUNICIPAL COURT</p> <ul style="list-style-type: none"> ➤ Separate from the CHARTER AMENDMENT referendum process, the Commission will also need to take legislative action to amend OCCGF 2.3.030 along the lines of the following: <p>2.3.030 - Municipal Court Judges:</p> <p><small>4. There shall be elected (A) Municipal Court Judges elected for four (4) year terms pursuant to Mont. Code Ann. Title 2, Chapter 6. The Municipal Court Judge position existing as of November 1, 2022 shall be subject to an already existing general election cycle. The new Municipal Court Judge position created by Ordinance _____ shall be filled through appointment by the City Commission pending an election in November 2022 for an initial term and term, and thereafter annually for like and terms commencing in November of 2023. The Chief Justice of the Municipal Court shall be determined in accordance with Mont. Code Ann. Title 3, Chapter 6, Part 2. The qualifications of the elected Municipal Court Judge shall be as required by Montana law to include:</small></p> <ol style="list-style-type: none"> 1. The same qualifications as a Montana Judicial District Court Judge as set forth in Article VII, Section 9, of the Montana Constitution, except that the Municipal Court Judge need only be admitted to the practice of law in Montana for at least three (3) years prior to the date of the election; 2. The Municipal Court Judge shall have residency and qualified electors in the City of Great Falls at the time of his or her election; and 3. The Municipal Court Judge shall be elected as provided in Mont. Code Ann. §§ 9-1-1002-1009, prior to assuming office. <p><small>B. The salary of the Municipal Court Judge shall be set by Commission resolution.</small></p> <p><small>C. The elected Municipal Court Judge may appoint a part-time Assistant Municipal Court Judge to serve at the will of the elected Municipal Court Judge. The Assistant Municipal Court Judge shall:</small></p> <ol style="list-style-type: none"> 1. Meet the qualifications set forth in Article VII, Section 9, of the Montana Constitution, except that the Assistant Judge need only be admitted to the practice of law in Montana for at least three (3) years prior to the date of appointment; 2. Be certified as provided in Mont. Code Ann. §§ 9-1-1502-1503, prior to appointment; and 3. The salary for the Assistant Municipal Court Judge shall be set by Commission resolution. 	<p>MARIJUANA BUSINESS ACTIVITIES</p> <ul style="list-style-type: none"> ➤ May require Commission to enact ORDINANCE that (A) specifically bans one or more of the seven recognized marijuana business categories and (B) refers that proposed ORDINANCE to the electors of the City <ul style="list-style-type: none"> ➤ If required, first reading for ORDINANCE likely in late June / early July ➤ Will require City Commission to pass RESOLUTION referring the proposed ORDINANCE to the electors of the City with proposed ballot language <ul style="list-style-type: none"> ➤ Public hearing on RESOLUTION in late July / early August

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Mayor Kelly suggested that City Attorney Hindoien consider using a model similar to the urban chicken referendum in determining the parameters with regard to banning marijuana business activities within city limits.

City Attorney Hindoien responded that the Commission would determine how broad it wants the language to be with regard to the seven commercial marijuana activities. City staff is considering the approach taken by Kalispell, which only allows marijuana business activities in certain zoning districts within city limits.

Commissioner Hinebauch received clarification that Kalispell chose not to do a vote and authorized all of the seven commercial marijuana activities, but only in certain zoning districts within city limits.

Commissioner McKenney inquired about a timeline for a second judge to be seated.

City Attorney Hindoien responded that if the electorate approves the charter amendment and the Commission takes action to enact the ordinance, a second judge could potentially be seated in January 2023.

Commissioner Tryon commented that HB 701 indicates that a petition is required prior to putting it on a ballot and lays out some of the parameters that govern recreational marijuana activities within the county; however, the language is ambiguous. He inquired if the same requirement in HB 701 applies to the City.

City Attorney Hindoien responded that the County Commission has decided that it does not have the legal authority to put a county initiative on a ballot and could only be undertaken by an elector initiated petition. It is unclear if that were to happen whether the City would have the independent ability to do a referendum or whether the voters could come back with an initiative. By statute, anything enacted by the voters through the initiative or referendum process would be intact for a minimum of two years for municipalities.

Commissioner Tryon received clarification that potentially a County and City proposal could be on the ballot at the same time. He concurred with Ms. Bass that if the City puts a marijuana referendum on the ballot, the language needs to be simple and straight forward; however, it could be difficult if the City includes seven different recognized marijuana business categories.

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3. ARPA PROJECT UPDATES.

Finance Grant Administrator Tom Hazen provided and discussed Total ARPA and CARES Funds Available and Tier One ARPA Projects Status Update handouts.

Mayor Kelly received clarification that the Fire Station Doors Project includes all of the fire stations.

City Manager Greg Doyon explained that the City might need to hire a Project Manager to oversee all of the projects.

Grant Administrator Hazen reported that cost estimates would increase for the Fire Station Infrastructure and Great Falls Police Department Evidence Building projects because of inflation or a shortage of materials. The total ARPA and CARES funds available to allocate is \$27,022,785 and the City identified the need to distribute ARPA funds into the community. The ARPA Application Process Q&A Sessions have been well attended and two applications have been received. He requested putting a set cap amount on the City applications to provide guidance to applicants with regard to an amount they could request.

Mayor Kelly received clarification that the cap amount is the total gross amount of City applications coming in.

Mayor Kelly suggested a \$4 million cap for the maximum amount.

Commissioner Wolff received clarification that the City received grants for the Public Works Department and HB 32 ARPA funds to utilize for City projects. Commissioner Wolff suggested having a cap per project in order to give equal opportunity for all applicants.

Mayor Kelly commented that the revolving loan funds could be a large amount and having a cap for individual applicants would be too restrictive.

Commissioner McKenney commented that the City has so much deferred maintenance and the needs of community partners are unclear. He added that a \$4 million cap is too high and would be more comfortable with 10% of ARPA and CARES funds being set aside for community partners.

Commissioner Tryon mentioned that the City has a one-time opportunity to utilize ARPA and CARES funds for City projects and should take advantage of it. He explained that Community Development Block Grant (CDBG) and other HOME Investment Partnership funds are available annually for community partners to apply for funding. Commissioner Tryon added that he is aware that utilizing the entire amount of ARPA funds for City projects is not the desire of the Commission and concurred with Commissioner McKenney's suggestion of a 10% cap.

Commissioner Hinebauch suggested a \$3 million cap because of the potential increasing costs for projects and expressed opposition to a cap for each applicant because some projects merit more than others.

Mayor Kelly suggested a 10% cap and rounding it off to a \$3 million cap.

Commissioner Wolff concurred with Mayor Kelly's suggestion; however, she commented there needs to

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be some parameters with regard to having a cap per project.

It was the consensus of the Commission to ponder the \$3 million cap, as well as parameters to having a cap amount per project, and to make a determination at the June 7, 2022 work session. Mayor Kelly also requested that Grant Administrator Hazen provide the Commission with his recommendations with regard to a cap amount.

4. UPDATE ON CITY COUNTY HEALTH BOARD.

Commissioner McKenney reported that HB 121 was passed in the 2021 Legislative session and was a reaction to the COVID-19 shutdowns enacted by local health departments. Several citizens believed that the local health departments had too much power and elected officials should have the final authority adopting emergency orders. A governing body of the health board may amend a directive, mandate or order given by the local board of health or the local health officer during time of emergency or disaster. The City and Cascade County currently have a multi-jurisdictional board of health and HB 121 gives the City and the County the authority to negotiate the makeup of the governing body. The City and County have been unable to agree on the makeup of the governing body and the issue is currently in court.

Commissioner McKenney provided and discussed a letter he received from the sponsor of HB 121, Representative David Bedey, that states any elected official may serve on the governing body with regard to a multi-jurisdictional health department.

Commissioner McKenney further reported that he had open, robust conversations with each County Commissioner and there is a clear understanding of each other's concerns. There has been progress; however, an agreement cannot be reached. He suggested proposing a draft Amendment No. 2 to Agreement to the County Commission that includes that the governing body consist of two Cascade County Commissioners and one City Commissioner having equal participation and voting rights. Commissioner McKenney further explained that the County Commission expressed concern with regard to other joint agreements between the City and County. Commissioner McKenney suggested that the City look at all prior agreements in good faith and see if there is room to make adjustments.

Mayor Kelly explained that Commissioner McKenney's suggestion about a proposed Amendment No 2 to Agreement would need to be added to the June 7, 2022 Agenda in order to have public participation, prior to making a decision. He expressed appreciation to Commissioner McKenney for his time and efforts with regard to negotiations with the County Commission.

DISCUSSION OF POTENTIAL UPCOMING WORK SESSION TOPICS

City Manager Greg Doyon reported that the June 7, 2022 work session will consist of an update about the hiring and retention process from Human Resources, as well as a ballot discussion on marijuana and potential zoning.

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ADJOURN

There being no further discussion, Mayor Kelly adjourned the informal work session of May 17, 2022 at 6:42 p.m.