

JOURNAL OF COMMISSION PROCEEDINGS

August 16, 2022

Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

Commission Chambers Room 206

PLEDGE OF ALLEGIANCE

ROLL CALL/STAFF INTRODUCTIONS: City Commission members present: Bob Kelly, Eric Hinebauch, Joe McKenney, Rick Tryon and Susan Wolff. Also present were City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Finance Director Melissa Kinzler; City Attorney Jeff Hindoien and Deputy City Attorney David Dennis; Police Chief Jeff Newton; and, City Clerk Lisa Kunz.

AGENDA APPROVAL: There were no proposed changes to the agenda by the City Manager or City Commission. The agenda was approved as presented.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: None.

COMMUNITY INITIATIVES

1. UPDATE FROM CASCADE COUNTY SHERIFF'S OFFICE – SHERIFF JESSE SLAUGHTER.

Sheriff Jesse Slaughter provided the following updates:

- Influx in crime
- Drug detection canine “Oz” is completing his training
- Staffing shortages include detention officers and deputies
- A public safety mill levy is being proposed this year to increase pay, school safety, pre-trial services, and prosecutory services to build that infrastructure for the future

Mayor Kelly suggested Sheriff Slaughter come back for a work session to educate the Commission more about the County proposed public safety mill levy.

2. **PETITIONS AND COMMUNICATIONS**

Jeni Dodd, City resident, suggested the list of organizations that have requested ARPA funds through the City be made available, and that organizations that have received ARPA funding from Cascade County be considered. She opposed Great Falls Development Authority's request for CARES funds in the amount of \$1.4 million dollars to provide gap funding for the Milwaukee Station project. She concluded that CARES and ARPA were meant to benefit the majority of residents in the funding area.

Ross Quick, City resident, commented that homelessness is a nationwide problem. If the pastor's plans for the homeless would have gone as planned for the First United Methodist Church, it could have been a model for the state and possibly the nation. He suggested connecting with other cities to discuss what worked and what did not work in their communities.

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Jeff Faulk, City resident, commented that he is homeless, not because he is lazy but because he is disabled. He does not think chasing the homeless away from the encampment was the right solution. Homeless people with addictions need a place to go to dry out.

Talon Harrington, City resident, commented that his dog was attacked by a pit bull on July 1, 2022. He called the non-emergency number to report the attack and was referred to Animal Control. When he left a voicemail for Animal Control on July 5, the recorded message said someone would get back to him within one business day. He expressed concern about the lack of response and no way to leave a message, as the voicemail box is now full. Something needs to be figured out to address these types of situations properly.

Eleanore Ahenakew Lamere, City resident, suggested Covid funds be used to solve the problem of homelessness.

NEIGHBORHOOD COUNCILS

3. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

BOARDS AND COMMISSIONS

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Joan Redeen, Business Improvement District (BID), 318 Central Avenue, announced that artists are in the process of installing several new murals in downtown Great Falls during ArtsFest Montana. She invited everyone to join the BID tomorrow evening for an artist reception from 6:00-8:00 pm in the alley behind Dragonfly Dry Goods.

CITY MANAGER

5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon announced that contact information for a specialist has been provided on the table in the back of the Chambers for people experiencing homelessness or needing a resource.

The Great Falls Police Department swore in three new officers today – Abby Rodseth, Stephen Horn and Kasey Whitsitt.

Great Falls Fire Rescue is fully staffed with the addition of a new Deputy Fire Marshal, Jerry Pospisil, and four probationary firefighters that will be assigned to platoons when they complete academy training in October.

The City is still recruiting for a Public Works Director, as well as an Interim Director in the event they are not able to secure and appoint a full time director in the near future.

The Commission received Tom Hazen's memo summarizing options with regard to Great Falls Development Authority's request for an allocation. He asked that the Commission provide

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direction during Commission Initiatives whether to schedule the topic for a work session or if they need additional information.

He recently attended the Montana Municipal Interlocal Authority board retreat in Anaconda.

Commissioner Tryon requested an update on the status of the Sanitation Department workforce.

Manager Doyon responded that he does not have firm numbers tonight, but will provide an update.

CONSENT AGENDA.

6. Minutes, August 2, 2022, City Commission Meeting.
7. Total Expenditures of \$2,176,455 for the period of July 15, 2022 through August 3, 2022, to include claims over \$25,000, in the amount of \$1,421,889.
8. Contracts List.
9. Grants List.
10. Approve a Professional Services Agreement in the amount not to exceed \$153,400 to Advanced Engineering and Environmental Services, Inc. (AE2S), for engineering services for the Hill 57 Booster Station Improvements and authorize the City Manager to execute the agreement documents. **OF 1056.1**

Commissioner Tryon moved, seconded by Commissioner Wolff, 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 5-0.

PUBLIC HEARINGS

11. **ORDINANCE 3247, APPROVING THE AMENDED AND RESTATED URBAN RENEWAL PLAN FOR THE DOWNTOWN URBAN RENEWAL DISTRICT AND TO APPROVE TWO STORM DRAINAGE PROJECTS AS URBAN RENEWAL PROJECTS.**

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

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Planning and Community Development Director Craig Raymond reported that the City of Great Falls adopted the Downtown Urban Renewal Plan in 2012 along with the creation of the Downtown Urban Renewal Area Tax Increment Financing (TIF) District. The “DURP” essentially is the blueprint or roadmap for how the City wants to accomplish what the TIF district is intended to accomplish. On occasion, new needs and priorities present themselves that drive the need for change. Recent amendments included the addition of the Civic Center Façade project, and three new TIF programs that included façade renovation, Environmental Safety and Code Compliance and Public Safety programs.

This request is for the Commission to consider an additional amendment to the plan in order to help fund a much needed public infrastructure improvement that is designed to benefit the greater public. The City’s Public Works Department is moving forward with two capital projects designed to address drainage issues within the Urban Renewal Plan area. The first project is designed to resolve flooding and ice buildup problems currently taking place within the alley behind the Celtic Cowboy and Hotel Arvon. This alley section, known as 2nd Avenue Alley, is located between Park Drive and 2nd Street South. Because there is almost no slope in the alley and buildings on either side block out sunlight, water has a tendency to pond in the alley and then turn to ice in wintertime conditions. Pedestrians regularly traverse the alley because there is a parking garage on the south side of the alley that hotel guests use.

The second project is much larger and designed to upgrade the capacity of the downtown storm drainage network. The proposed project area encompasses the streets and avenues bordered by 2nd Avenue North, 2nd Street, 4th Avenue South, and 5th Street. Additionally, the proposed project would include work from the intersection of 4th Avenue South and 2nd Street South to the east bank of the Missouri River. The project will involve adding storm drain inlets, increasing underground pipe capacity, and better conveying storm water to the Missouri River. The project is expected to take place between 2022 and 2027 and be divided into four distinct phases. The total cost of the project is estimated to be slightly over \$6.3 million. Funding for the project will come from three sources: ARPA Grant funds and City storm drain funds (\$3.8 million), and Downtown TIF funds (\$2.5 million). In order to reduce the financial impact on the TIF District’s cash balance, the request will be done in \$500,000 increments over the five-year project period. The current balance in the District is approximately \$4.1 million.

The Downtown Development Partnership reviewed the proposed projects and DURP amendment on June 22nd and voted to recommend approval of both. The Planning Advisory Board also considered the DURP Amendment and voted to affirm that the DURP was consistent with the City’s Growth Policy.

Mayor Kelly asked if the Commission members had any questions of staff.

Commissioner Tryon inquired why there appeared to be two different TIF fund balances between agenda items 11 and 13.

Finance Director Melissa Kinzler responded it was due to timing of a debt service payment.

Mayor Kelly asked if there were any comments from the public in support of Ordinance 3247.

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Brett Doney, Great Falls Development Authority, 405 3rd Street NW, commented that the amendment is an absolute necessity. One storm event could set the downtown back years.

Peter Jennings, County resident, part owner of the Hotel Arvon and Celtic Cowboy, urged the Commission's support for the whole project, but specifically the alley behind the Celtic. The Hotel Arvon, as it is now, is a child of Downtown Urban Renewal and master planning. Approval of this project is risk reduction and liability reduction.

Jeni Dodd, City resident, commented that the alley is treacherous in the winter, and that these projects are a valid use of ARPA funds.

No one spoke in opposition to Ordinance 3247. Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Hinebauch moved, seconded by Commissioners McKenney and Wolff, that the City Commission adopt Ordinance 3247.

Mayor Kelly referred to a flooding event that occurred several years ago and inquired if these projects would rectify downtown flooding events.

Director Raymond responded that flooding occurred during that big rain event in very broad downtown areas. The area of the Home Builders Association and Great Falls Society of Architects floods more frequently. The projects address a significant area and the building that houses those two businesses is just a small beneficiary of the bigger area.

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

Motion carried 5-0.

12. **RESOLUTION 10474, AMENDING PLANNING AND COMMUNITY DEVELOPMENT ENGINEERING FEES IN THE CITY OF GREAT FALLS.**

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that the City Commission adopted fees to cover costs associated with the review of civil engineering plans and construction oversight for new development projects as well as providing project management of capital projects for other city departments about a year ago. Since that time, staff has had to adapt their strategy on how to ensure that development projects could keep moving forward despite the fact that the Planning and Community Development Department (PCD) does not currently have a PCD engineer available to review projects. The City has hired a third party consulting engineer to assist with the review of said projects and provide construction oversight while the City continues to recruit engineering staff. In consideration of the planning fund balance and sensitivity to general fund investment, staff finds that directly passing along consultant fees is the only other available option under the circumstances.

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Resolution 10474 enables the pass-through of the fees that will be incurred by the City related to those development projects that are assigned to the consultant while the City is recruiting a PCD engineer. He also recommends that the City maintain a relationship with the third party engineer even when a PCD engineer is fulfilling the role to keep up with volume when development activity spikes.

Mayor Kelly asked if the Commission members had any questions of staff. No one responded.

Mayor Kelly asked if there were any comments from the public in support of or in opposition to Resolution 10474.

Shyla Patera, City resident and representative of North Central Independent Living Services, submitted written comments generally in support of this agenda item, noting that something is needed to spur development in Great Falls and especially with housing. She expressed disappointment that disability accessibility and aging in place are not a part of community discussions as much as she had hoped.

Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Wolff moved, seconded by Commissioner Tryon, that the City Commission adopt Resolution 10474, Amending Planning and Community Development Engineering Fees in the City of Great Falls.

Mayor Kelly asked if there was any discussion amongst the Commissioners. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

13. **RESOLUTION 10476 AND RESOLUTION 10477, REQUESTS FROM THE DOWNTOWN DEVELOPMENT PARTNERSHIP (DDP) TO USE DOWNTOWN URBAN RENEWAL DISTRICT TAX INCREMENT FINANCING (TIF) FUNDS TO ASSIST WITH THE COST OF DDP OPERATIONS.**

Mayor Kelly declared the joint public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that the Downtown Development Partnership (DDP) serves as the coordinating body for downtown development. DDP members include NeighborWorks Great Falls, the Great Falls Development Authority, the Great Falls Business Improvement District, the Downtown Great Falls Association, the City of Great Falls, Great Falls Public Schools, the Great Falls Area Chamber of Commerce, Neighborhood Council #7, the City of Great Falls Parking Advisory Commission and Historic Preservation Advisory Commission, Cascade County, and other downtown advocates. Just one of many elements of the DDP's activities is acting as the recommending body to the City Commission for Downtown Urban Renewal District Tax Increment Financing requests.

The City has historically approved certain annual operating costs to be funded through the TIF district. The DDP has again requested reimbursement for similar or common items but has also

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substantially increased the request in a couple of key areas. For FY 2022, the new item is a request to pay 50% of the direct costs for the Downtown Business Development Officer (DBDO). The BID and the Great Falls Development Authority will split the remaining 50% of direct costs. The DBDO's primary duties include visiting existing businesses to identify opportunities and challenges, identifying businesses and real estate developers that would likely be good targets to attract to downtown, business development services, downtown investment marketing efforts, and coordination with downtown partners. Staff has consulted with outside counsel regarding this request and feels confident that the request is supportable and consistent with TIF statutes and the Downtown Urban Renewal Plan. The key will be to ensure that the activities of the officer will remain vested in the downtown and not pursuing other GFDA projects. Staff has requested that GFDA submit regular reports that provide key performance indicators showing eligible activity and measurable outcomes.

For FY 2023, many of the requests are the same or similar to previously approved items. In addition to the new Downtown Business Development Officer, the request also includes an additional request of \$47,475 to reimburse Artsfest Montana 2022. The estimated cost associated with each artist participating in ArtsFest is between \$7,550 and \$10,550. The DDP is requesting TIF funds to cover approximately 50% of the costs for all artists. This brings the total FY 2023 request to \$100,625.

Staff supports both requests and recommends approval from the City Commission.

Mayor Kelly asked if the Commission members had any questions of staff.

Mayor Kelly noted the TIF fund balance of \$3,894,228.

Director Raymond responded that both requests definitely fit within the budget of the TIF fund.

Mayor Kelly asked if there were any comments from the public in support of Resolution 10476 or Resolution 10477.

Brett Doney, Great Falls Development Authority (GFDA), 405 3rd Street NW, commented that TIF money is used in such a way that leverages more private investment downtown to build up the tax base, but also to have a wonderful downtown for all residents to enjoy. The projects are good use of the TIF funds.

Joan Redeen, Business Improvement District (BID), 318 Central Avenue, commented that the BID is an active member of the DDP and is in support of both requests. They pursued and aggressively support a Downtown Business Development Officer. He is working on many projects and great things are happening. The BID supports the ArtsFest request as art is an economic driver and a tourism driver.

Sherrie Arey, City resident, and Executive Director for NeighborWorks Great Falls, commented that she serves on the DDP and BID boards. She supports both initiatives and the human capital that it takes to continue to grow Great Falls. The murals have made a difference in the alleys, as they are now a go to location for picture taking. The other activities that have traditionally been taking place in alleys are no longer there.

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Shyla Patera, City resident and representative of North Central Independent Living Services, submitted written comments in general support of the BID's requests, but would like community discussions on accessibility and to see what the BID is going to do for neighborhoods as well as downtown. She suggested community discussions on how to incorporate neighborhoods into the workings of the BID.

Speaking in opposition to Resolutions 10476 and 10477 was **Kevin Westie**, 602 35th Street North. Mr. Westie is opposed to anything relating to tax increment financing.

Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Hinebauch moved, seconded by Commissioner Wolff, that the City Commission adopt Resolution 10476 to allow the use of up to \$53,884 in Downtown Urban Renewal District Tax Increment Financing funds to assist DDP operating costs for fiscal year 2022.

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

Commissioner Tryon inquired how the artists are chosen to participate in ArtsFest.

Director Raymond responded that his department has no involvement in choosing artists. His department does review invoices before checks are written.

Joan Redeen, BID, explained that the BID contracts with San Francisco artist Cameron Moberg, who does mural festivals throughout the United States and world, and Cameron contracts directly with the artists. What each artist is funded is between Cameron and the artists. It is largely based upon their mural experience.

Commissioner Tryon inquired if any of the artists involved were friends or family or had any kind of business or other relationship with the organizations associated with ArtsFest.

Joan Redeen responded that there are no conflicts of interest as Cameron curates the artists.

Commissioner McKenney commented that the positive change downtown is amazing. Some of the change is due to economic development tools of the City – tax increment financing and tax abatements. The downtown area has used the tax increment financing in a very positive manner and it is working the way it is supposed to work. He is fully in support of both Resolutions.

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

Motion carried 5-0.

Commissioner Wolff moved, seconded by Commissioner McKenney, that the City Commission adopt Resolution 10477 to allow the use of up to \$100,625 in Downtown Urban Renewal District Tax Increment Financing funds to assist DDP operating costs for fiscal year 2023.

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

Commissioner Wolff expressed appreciation to all involved in ArtsFest, adding that this year's art is exceptional.

Mayor Kelly noted that there are artists here from Browning, Argentina, Toronto and other parts of the world.

Mayor Kelly called for the vote.

Motion carried 5-0.

OLD BUSINESS

NEW BUSINESS

14. **CDBG REVOLVING LOAN FUNDS REQUEST FROM C. DANIEL BATEMAN, OWNER OF THE MADISON APARTMENTS, LLC, LOCATED AT 1109 6TH AVENUE NORTH.**

Planning and Community Development Director Craig Raymond reported that there has been a lot of discussion recently about the intensifying demand for housing in Great Falls, especially affordable housing. The City offers a Housing Rehabilitation Loan Program through the use of Community Development Block Grant funds. This Program offers loans to low income residents and landlords of affordable and low-income housing units to make necessary upgrades to their properties. These loans are offered at no interest. There are three loan programs that are administered by Planning and Community Development staff:

1. Residential Improvement Loans: These funds are used primarily to assist single family homeowners in the low to moderate-income range to make necessary repairs to bring their homes up to code make them safer places to live.
2. Rental Improvement Loans: These funds are used to assist property owners to make code-related repairs to rental properties. In order for a request to be eligible for program funds, tenants must meet income eligibility criteria - meaning that at least 51% of tenants must be low to moderate income.
3. Emergency Loans (Rental & Residential): The objective of this program is to stabilize and improve necessary services such as water and sewer by providing financial assistance to landlords and homeowners who own their property. The program requires loan re-payment to begin at a 0% interest rate when the emergency repair project reaches substantial completion.

About a year ago, staff was approached by the loan applicant, Dan Bateman, who has recently purchased the former Cambridge Court assisted living property located at 1109 6th Avenue North. The property contains a vacant, 5-story building that was constructed in 1929. For many years, it was utilized as an assisted living facility until the operators closed their business in 2019. Since then, the building and grounds have started to fall into a condition of disrepair. The applicant wishes to make a significant investment in renovating the building to convert the original 90

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assisted living rooms into 50 apartment units (23 2-bedroom and 27 1-bedroom). Projected rents would range from \$652 per month to \$999 per month. The applicant's major investments include installation of a fire alarm system, fire sprinklers, new windows, new water and sewer service lines, elevator testing, and electrical service to apartment units.

There are a lot of caveats to using this program. These apartments are intended to be affordable housing units due to the use of CDBG funds. Because this specific project exceeds the \$100,000 per project maximum, City staff cannot directly authorize the loan administratively. Staff is excited to see a vacant, historical building that has been falling into disrepair being proposed for redevelopment. Staff recommends the Commission consider and approve the CDBG Revolving Loan Fund request.

Commissioner Tryon moved, seconded by Commissioner Hinebauch, that the City Commission approve the CDBG Revolving Loan Fund request from C. Daniel Bateman, owner of the Madison Apartments, LLC, in an amount not to exceed \$1,200,000.

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

Dan Bateman, City resident and Applicant of the CDBG loan funds, commented that zero percent interest money is what needs to come to the table when looking for affordable housing. He works at Pasta Montana. Most of their workforce labor cannot afford \$1,250 to \$1,400 per month for rent or it would be very difficult for the vast majority. He explained that Pasta Montana hired an entry-level managerial person. That employee could not find anything in Great Falls for under \$1,000 per month. That was his inspiration to start looking for something that could be rehabilitated to address the need for low income and workforce housing. That is when he came to find the Cambridge Court for sale. The CDBG funds would be utilized to assist in addressing some of the needs for workforce housing in Great Falls.

Jeni Dodd, City resident, commented that this is a good use of CDBG money. With the extensive work that would need to be done, she inquired if this request is a gap loan and if the developer had funding in place from a bank to complete the project.

Sherrie Arey, City resident, NeighborWorks Great Falls, commented this project will be a wonderful opportunity for workforce housing that is close to downtown.

Brett Doney, City resident, Great Falls Development Authority, commented that the CDBG loan program has proven to be a great tool. He urged Commission support of this fantastic, affordable housing project.

Shyla Patera, City resident and representative of North Central Independent Living Services, submitted written comments hoping that Cambridge Court will be remodeled to reflect current trends and that best supports low-income residents.

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

In response to Ms. Dodd's inquiries, Director Raymond responded that the CDBG loan does not fully finance the project. The developer is financing a substantial amount. The City will receive

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a commitment letter from the developer's funding agency or institution in order for the project to move forward.

Mayor Kelly inquired about income requirements.

Director Raymond responded that he does not have the exact figures tonight, but will provide the exact numbers at the next meeting.

Commissioners Tryon and Wolff expressed appreciation to the applicant.

Commissioner McKenney inquired if the applicant was ready to get started on the project or if he was waiting on anything.

Applicant Bateman commented that there certainly are delays associated with an historic building. CDBG requires historical reviews as part of the process that will slow down the project early on. Also, he will not start any of the water related work until the spring. His projected completion date is August of 2024.

Commissioner Hinebauch inquired if the \$1.2 million CDBG loan was included in the \$3.2 million total debt on the project and was responded to in the affirmative.

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

Motion carried 5-0.

ORDINANCES/RESOLUTIONS

15. RESOLUTION 10461, ANNUAL TAX LEVY.

Finance Director Melissa Kinzler reported that the City Commission is required to fix an annual tax levy by setting mills to generate property tax revenues that will balance the General Fund budget and other levy supported funds. The City received its taxable valuation from the Montana Department of Revenue (MTDOR) on August 1, 2022. With this valuation, the City can now compute and set its annual mill levy.

The total mill levy for Tax Year 2022 (FY 2023) is 211.50 mills totaling \$22,295,632. This includes mills for the general levy, Permissive Medical Levy, and the Soccer Park General Obligation Bond levy.

During the pandemic, the City did not utilize any available tax increases in FY2021 or FY2022. It was identified during the FY2023 budget process that this was not sustainable for a third year. The City is utilizing 3.37 inflationary carry-over mills and the current inflationary factor to balance the General Fund budget. The City Commission adopted the budget using the full inflationary amount available and the full permissive medical levy available.

Based on the new certified mill value the increase to a property owner with a \$200,000 market value home is \$23.04/yr., and for a \$100,000 market value home the increase will be \$11.52/yr.

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This year's newly taxable property reported by the MTDOR will generate additional revenue of \$532,812. The Tax Increment District taxable value increased from \$3.5 million to \$3.8 million for FY2023. The revenue generated from this new increment goes directly to the tax increment districts and not the general fund or other taxing jurisdictions.

The City anticipates property assessment appeals/abatement requests, which means the City will not definitively know how much of this new projected tax revenue will be available until the appeals/abatement requests are processed. The additional revenue of \$132,812 not included in the FY2023 adopted budget will be used to offset any uncollected taxes throughout the year and/or to the general fund unreserved fund balance.

The FY 2023 Budget was adopted July 19, 2022. Setting the mill levy for Tax Year 2022 (FY 2023) is the last step in the adoption of the FY 2023 City of Great Falls Budget.

Commissioner Wolff moved, seconded by Commissioner McKenney, that the City Commission adopt Resolution 10461.

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

Jeni Dodd, City resident, opposed taxing Great Falls residents instead of using all of the City's available CARES/ARPA funds towards its own expenses.

Brian Cayko, 44 34th Avenue NE, submitted written comments in opposition to the use of public tax dollars to support private non-profits.

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

Mayor Kelly noted that the budget process is onerous, burdensome, tedious, and detailed. He complimented Finance Director Kinzler and staff for making great presentations to the City Commission, as well as the Commissioners who are relatively new to this process.

Commissioner Tryon commented that he understands the concern about the use of ARPA/CARES funds. His position from the beginning was that the City should have used every penny for City infrastructure and other needs. However, had the Commission decided to do that it would not change what the Commission has to do with the budget and tax levy. It is not an easy vote. It is not a popular thing to do but it is the responsible thing to do.

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

Motion carried 5-0.

16. **ORDINANCE 3248, ASSIGNING R-2 SINGLE-FAMILY MEDIUM DENSITY ZONING TO LOT 4A, LOT 5A, AND LOT 8 OF PARK GARDEN TRACTS ADDITION.**

Planning and Community Development Director Craig Raymond reported that the owners of the properties addressed as 2715, 2903 and 2917 Park Garden Lane submitted applications in December 2021 to annex their properties into the City for the purpose of connecting to City water

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and sewer utilities. Residents along Park Garden Lane approached City staff to discuss annexation after utility mains were extended along Park Garden Lane as part of the Foxwood Estates project. Their intent was to connect to water and sewer utilities before Park Garden Lane was paved to prevent disturbing the newly paved asphalt roadway. The applicants were permitted to connect to water and sewer utilities prior to the completion of annexation with the understanding that if for any reason the annexation is not completed, the property owners will be required to disconnect from the City's water and the sewer mains.

The annexation request is for three properties: Lot 4A, owned by Timothy and Deborah Murphy, which consists of approximately 3.507 acres, Lot 5A, owned by Alexander and Celia Blewett, which consists of approximately 2.132 acres, and Lot 8, owned by Tom and Debra Lewis, which consists of approximately 1.85 acres. All are contiguous to the existing City limits on the west side of the Park Garden Lane right-of-way, which was annexed into the City as part of Foxwood Estates in 2018.

The zoning that is proposed to be applied upon annexation is R-2 Residential Medium Density. Although each lot is significantly larger than the typical R-2 zoned parcel, it is the best fit considering adjacent zoning and character of the surrounding neighborhood.

Commissioner Hinebauch moved, seconded by Commissioner Tryon, that the City Commission accept Ordinance 3248 on first reading and set a public hearing for September 6, 2022.

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

Commissioner Wolff inquired if Park Garden Estates was located in the county. Director Raymond responded that he would get that information to her. Fox Wood Estates was annexed in 2018.

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

Motion carried 5-0.

17. **ORDINANCE 3249, AMENDING TITLE 17, CHAPTER 4, CHAPTER 8 AND CHAPTER 20 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS PERTAINING TO USE OF LAND WITHIN THE CITY OF GREAT FALLS FOR COMMERCIAL MARIJUANA BUSINESS ACTIVITIES.**

City Attorney Jeff Hindoien reported that before the Commission is first reading and consideration to set or not set a public hearing for September 6, 2022 on Ordinance 3249. As discussed extensively in several work sessions, this is one piece of a multi-faceted process that the City is undertaking relating to the issue of commercial marijuana activities in the City of Great Falls. As set forth in the agenda report, the Commission took action over a decade ago when medical marijuana activities were first legalized in the State of Montana. After considerable amount of public input and consideration at that time, the City Commission made the conscious decision to not allow for any medical marijuana activities in City limits. That prohibition ordinance has been in place since that time.

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In November 2020, however, the Montana voters approved Initiative I-190 that legalized a range of adult use marijuana activities and commercial activities on a statewide basis. As enacted by the voters, I-190 contained a provision that specifically said a charter municipality, like the City of Great Falls, could not completely prohibit adult use marijuana activities.

The 2021 Legislature took that I-190 framework and modified it through HB 701, and pulled that express restriction out of the regulatory framework and set up a slightly different structure for regulating adult use and commercial marijuana activities.

This spring, a business owner submitted an application to the City for the issuance of a Safety Inspection Certificate (SIC) to operate an adult use dispensary in Great Falls. That application was not processed based upon the current prohibition ordinance. The business owners advanced a challenge to that denial. In April the Commission considered the applicants' appeal of that decision and, although the Commission voted 4-1 to deny their appeal, they also tasked City staff with preparing a package to be put to the voters of the City of Great Falls in November as to whether or not the City voters wanted to enact a specific prohibition of commercial marijuana activities as part of the City Code. Parallel to that City staff was also tasked with building a framework that would allow for commercial marijuana activities in the city if the voters made that decision not to prohibit those activities.

At the last meeting, the Commission adopted a resolution to submit the question to the voters for consideration on the November general election ballot.

For Commission consideration tonight is the parallel process that will create a framework allowing for commercial marijuana activities to occur in the City of Great Falls in the event that is the choice of the voters this fall. The City has also been on the receiving end of a lawsuit challenging its legal authority to prohibit or restrict these activities. It is also intended to become operative in the event there is a judicial ruling saying the City of Great Falls is obligated to allow for commercial marijuana activities in the city.

The requested action is that the Commission accept Ordinance 3249 on first reading and set the public hearing for September 6, 2022.

The drafted Ordinance, at this point, was based on staff's reading of input from the work sessions. As it is currently structured, it would allow for the manufacturing, cultivation and the industrial type aspects of commercial marijuana activities in the I-1 and I-2 zoning districts, and dispensary activities to occur in nearly all of the commercial districts. That framework was taken to the Planning Advisory Board/Zoning Commission last week. The board was unable to reach a consensus on what the framework ought to look like, but there was unanimous sentiment that they were not comfortable with allowing the dispensary land use in all commercial and mixed-use districts.

Commissioner Hinebauch moved, seconded by Commissioner McKenney, that the City Commission accept Ordinance 3249 on first reading and set a public hearing for September 6, 2022.

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

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Jeff Keller, 1424 3rd Avenue North, requested, if the marijuana initiative is passed by the voters or through the direction of a judicial decision, that it not be allowed in any residential areas and that it be confined to industrial or commercial zones only.

Melissa Gaspar, City resident, commented that she is a nurse practitioner. There were 147 opioid deaths in Montana. In 2018, use of medical marijuana was changed to allow for chronic pain as an acceptable diagnosis. Chronic pain is listed as a diagnosis for 30,000 out of the 40,000 current medical marijuana card holders. When medical marijuana was available in Montana and chronic pain was added, the opioid overdose deaths dropped in half from 5.7 per 100,000 [57] to 24. She does not think that was because Narcan prescriptions could also be handed out with opioid prescriptions.

Voters have already approved medical and adult use marijuana. She has never worried about any of her patients overdosing on marijuana. She discussed other Montana death statistics pertaining to alcohol use, cigarettes, and obesity. She would like to decrease the opioid deaths in Montana, and decrease prescriptions. One opioid pill can kill a person from an overdose, but it would take over 1,000 joints to overdose on marijuana.

Instead of using taxpayer money on an election that the voters already voted for, she suggested the regulations be amended and marijuana be allowed.

Talon Harrington, City resident, commented that he could drive out of city limits to get marijuana if he wanted to, but there are people who are disabled or have lower incomes that cannot. He is in favor of the way the zoning is proposed. It needs to be made accessible to all of the citizens in Great Falls if approved by the voters.

Brian Cayko, 44 34th Avenue NE, submitted written comments in opposition to Ordinance 3249. He does not support any use or sale of marijuana in the City.

There being no one further to address the Commission, Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Tryon is opposed to the ordinance as presented. His preference is to go back to the original framework of I-1 and I-2 zoning for all commercial activities. That language was changed after the previous work session based on one or two comments from two commissioners without the knowledge of the entire commission and moved forward to the Planning Advisory Board/Zoning Commission. The Planning Advisory Board/Zoning Commission unanimously voted to leave out the C-1 and C-2 language.

Because it was not agreed to by consensus, he suggested the original ordinance framework of I-1 and I-2 only be moved forward to the public hearing on September 6, 2022. At that time, the other zoning designation proposals could be added via an amendment after hearing from the public.

Commissioner Hinebauch spoke in support of the motion. He noted that there is limited commercial property in Great Falls industrial areas. He is not in favor of putting retail dispensaries in those areas. If passed by the voters for the second time, he believes it should be

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approached fairly and the zoning moved forward like anything else. He also noted a Cascade County initiative on the ballot for a sales tax on marijuana. Right now in Cascade County marijuana sales total \$1 million dollars per month.

Commissioner McKenney supports the current motion. He read the purpose of I-2 Heavy Industrial and I-1 Light Industrial, and noted that is not where the City puts retail stores. Should the voters approve marijuana sales in the City limits, he believes it should be zoned appropriately. It is a retail product. There is no danger to the public with a dispensary. His belief is that local government should strive for being less intrusive into the private sector. He suggested marijuana be allowed in the commercial zoning districts, noting that Tenth Avenue South is not a neighborhood and downtown is not a neighborhood.

Commissioner Wolff disagreed with Commissioners McKenney and Hinebauch. She does not support the current reading of the ordinance and motion. There are homes right off of Tenth Avenue South, there is downtown housing, and Whittier School is in the downtown area where commercial and retail is available. She would prefer to have marijuana limited in location and then see what happens. It could be expanded after that point. She is looking at this from an economic development and workforce development aspect for this community.

Mayor Kelly requested clarification of I-1 and I-2 zoning areas within the city as it pertains to accessibility to city residents.

Director Raymond responded that I-1 and I-2 zoning areas are located at different ends of the city.

Mayor Kelly commented that this is a strange situation to be discussing a “what if” when the City is not even sure exactly (1) how the voters are going to vote or (2) what the judge orders.

He supports the ordinance as presented. The voters already voted on marijuana and get a chance to vote on it again. The ordinance could be amended after the public hearing on September 6, 2022 or at a later date.

Commissioner Tryon pointed out that the voters did not vote for any kind of zoning whatsoever. There is nothing in this ordinance that affects what the people voted for in I-190. The Commission is not voting to make marijuana legal or illegal within the city limits of Great Falls. Recreational, adult use marijuana is currently and will continue to be legal for adults up to an ounce, regardless of what happens at the November 8 election. His objection is that the language the Commission is voting on today was not agreed to by a consensus of this Commission before it was passed on to the Planning Advisory Board/Zoning Commission.

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

Motion carried 3-2 (Commissioners Tryon and Wolff dissenting).

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CITY COMMISSION

18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Commissioner Wolff expressed appreciation to City departments that supported music and art activities in this community, the Back to School Blast held in the Convention Center and the painting of animal and bird tracks from Gibson Park to the Library.

Mayor Kelly announced the passing of Missoula Mayor John Engen, recognized his many contributions, and expressed heartfelt condolences.

19. COMMISSION INITIATIVES.

Mayor Kelly noted the memo received from Grant Administrator Tom Hazen pertaining to Great Falls Development Authority's request for ARPA and CARES funds and requested staff to place it on an upcoming agenda for Commission discussion. No one objected.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Tryon moved, seconded by Mayor Kelly, to adjourn the regular meeting of August 16, 2022, at 9:24 pm.**

Motion carried 5-0.

Mayor Bob Kelly

City Clerk Lisa Kunz

Minutes Approved: September 6, 2022