

# JOURNAL OF COMMISSION PROCEEDINGS

November 1, 2022

Regular City Commission Meeting

Mayor Pro Tempore Wolff presiding  
Commission Chambers Room 206

**CALL TO ORDER:** 7:00 PM

## PLEDGE OF ALLEGIANCE

**ROLL CALL/STAFF INTRODUCTIONS:** City Commission members present: Susan Wolff, Eric Hinebauch, Joe McKenney and Rick Tryon. Mayor Bob Kelly was excused. Also present were Deputy City Manager Chuck Anderson, Planning and Community Development Director Craig Raymond, Finance Director Melissa Kinzler, Interim 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:** In the interests of transparency, Commissioner McKenney referred to Agenda Item 11 and disclosed that he had been in the hospitality industry for 40 years and retired from that industry two years ago.

**PROCLAMATIONS:** Extra Mile Day [November 1, 2022].

## MILITARY UPDATES

1. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM MALMSTROM AIR FORCE BASE.**

Mayor Pro Tempore Wolff announced that Col. Little was not in attendance this evening. An update will be scheduled at a later date.

2. **PETITIONS AND COMMUNICATIONS**

**Tohni Laverdure**, member of the Little Shell Tribe and International Traditional Games Organization, commented that the organization invests its time and efforts into its next generation. The next event is Gathering of Families 2023. The traditional games has always been a vital part of their teachings of the ages and stages of youth development. The traditional games teach how to develop healthy minds, body, spirit, and connection to identity.

**Brandon Fish**, Lead Instructor for the International Traditional Games Society, commented that a unification of organizations has been created and its partnerships are initiating a movement toward a healthy organized way to celebrate indigenous peoples through the Gathering of Families, which means to come together, celebrate culture exchange, compete in events, and to offer solutions to identity crisis and divisions. The week long schedule of events will offer a pow-wow, art show and gallery, education, film, entertainment, horse games, and a parade. The hope is to lay the foundation for an eventual International Traditional Games Olympics.

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He welcomed everyone to attend the statewide event in Great Falls for people to experience the culture and heritage of Montana's Tribal Nations October 8-14, 2023, and to create unity and move forward in a healthy way.

**Tom Moore**, Superintendent of Great Falls Public Schools, expressed appreciation for the unity that the School District and the City have forged together on the Whittier Elementary School project and Kranz Park/Great Falls High School project. He also expressed appreciation to the Great Falls Police Department School Resource Officers that are protecting and serving in the public schools on a daily basis.

**Ben Forsyth**, City resident, discussed the negative effects of marijuana penetrating our community and affecting lives. THC reduces the density and material of certain parts of the brain and those parts of the brain do not function as well. He opined that has been exemplified in Great Falls in December when young men, high on THC, lit the Gibson Flats fire causing 44 people to lose everything they owned and over \$2 million in damages.

## 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 the following:

- City Attorney recruitment is ongoing. Three candidates will be interviewed on Friday.
- The abatement phase of the HR remodel has been completed.
- City offices will be closed November 8 for Election Day and November 11 for Veterans Day.
- Effective yesterday he handed over the duties of Public Works Director to Chris Gaub.

Public Works Director Chris Gaub introduced himself and provided background information. He thanked Manager Doyon for selecting him and he is looking forward to bringing his 28 years of experience and leadership development to the City.

## CONSENT AGENDA.

### 6. Minutes, October 18, 2022, City Commission Meeting.

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7. Total Expenditures of \$2,334,601 for the period of October 4, 2022 through October 19, 2022, to include claims over \$25,000, in the amount of \$1,734,083.
8. Contracts List.
9. Set a public hearing for Resolution 10481, a Request for a Conditional Use Permit for a “Two-Family Residence” Land Use Upon the Property Addressed as 306 21<sup>st</sup> Avenue South.

**Commissioner Tryon moved, seconded by Commissioner Hinebauch, that the City Commission approve the Consent Agenda as presented.**

Mayor Pro Tempore Wolff asked if there were any comments from the public or discussion amongst the Commissioners.

Hearing none, Mayor Pro Tempore Wolff called for the vote.

Motion carried 4-0.

### **PUBLIC HEARINGS**

#### **10. CDBG & HOME 2023-2024 ANNUAL ACTION PLAN.**

Mayor Pro Tempore Wolff declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that this agenda item is a public hearing for the community to provide testimony related to observed needs in the community that the City could address through targeted specific CDBG and HOME funding. The City Commission will not take action tonight as the information being gathered tonight will be compiled by staff and brought to the Commission along with other input received through putting the citizen participation plan into action. Staff will also bring forward specific recommendations on possible funding strategies at the appropriate time.

As part of the City’s obligation as recipients of CDBG and HOME monies, the Commission is required to hold this hearing in order to provide an opportunity for the community to express to the City Commission and City staff what needs exist in the community that the City may address through the CDBG and HOME programs. This information is important to consider when the Commission makes decisions on funding priorities.

A significant change is staff is recommending that the City switch back to an annual competitive grant process in lieu of a year round application process. The year round process is having an effect on the timely completion and payout of grants and is negatively impacting the City’s timeliness test with HUD whereby the City cannot have more than 1.5 times the annual allocation on hand, unspent.

The rough timeline or schedule for the remainder of the annual allocation is:

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- Application made available – November 18, 2022
- Applications due – January 6, 2023 at 4:00 p.m.
- Application review by City Grant Committee – late January to early February
- City Commission Work Session to present proposed projects and priorities – February 21, 2023
- 30-day public comment period on proposed Plan and Projects – March 6 to April 5, 2023
- City Commission public hearing on the proposed Plan and Projects and Commission action – May 2, 2023
- Plan submission to HUD – May 2023

Staff requests that the Commission conduct the public hearing and consider testimony carefully as staff moves forward with the application and funding schedule.

Mayor Pro Tempore Wolff asked if the Commission members had any questions of staff.

Commissioner Tryon received clarification that the competitive grant application process starts now for the next funding cycle.

Commissioner Tryon inquired if staff received input one way or the other from local applicants about the change in application process.

Director Raymond responded that the Commission received written comments from NeighborWorks that indicated they were less than enthusiastic about the timeline.

Mayor Pro Tempore Wolff declared the public hearing open.

**Andrew Wright**, Housed Great Falls, a 501(c)3 corporation, commented that Housed Great Falls is working on a pilot project of developing 20 pallet houses with showers, lavatories, fencing, and security, to help individuals improve their status. Completion of this pilot project will positively impact people's lives until the Baatz building is complete in 2024/2025. Another appalling issue that needs to be addressed is the 145 homeless kids currently in the school system. The homeless problem is not going away and this community needs to get involved.

**Casey More**, Director of Real Estate Development for NeighborWorks Great Falls, commented that NeighborWorks is in favor of the annual competitive round process, but has concerns about the timeline. Affordable housing is one of the main priority needs in Great Falls. Vouchers and funding are available, but voucher holders and working families cannot find housing. There are fewer landlords that are willing to accept vouchers and also accept the rent limits imposed on the vouchers by HUD. NeighborWorks is looking into partnering with agencies to assist with that problem specifically. The timeline of four to five months would hinder that real estate market. She suggested shortening the timeline and setting aside funds specifically for housing needs.

She also commented that the non-profits are stretched thin with increasing costs and cannot keep up with the increased workload because of the housing crises. She suggested the City assist NeighborWorks with funding operating expenses, specifically salaries and wages, for employees who are helping to solve these problems.

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Additionally, as NeighborWorks works on developing the Baatz building and getting it on-line, it is working with service providers to come up with a plan and funding solution to ensure the longevity and affordability of the project. NeighborWorks will be interested in using CDBG funds for public services for the Baatz building and that population's supportive services.

**Jolene Schalper**, Great Falls Development Authority (GFDA), commented that GFDA approaches its work through market research and data analysis. Two studies commissioned in the past year have shown the need for quality housing and quality child care. These are two of the higher needs in the community in order to have economic development, but also to retain the community way of life that currently exists. Homes and child care need to be kept affordable to all levels of our community. She urged the City to prioritize housing and child care in its use of CDBG and HOME funds.

**Laurie O'Leary**, Director and Owner of Educare Preschool and Child Care, and Chair of the Steering Committee for Community Early Education Child Care that is planned for the Community Recreation Center, commented that they are working towards increasing the quality and affordability of child care in our community. Affordability is a huge challenge right now. It is challenging to keep charging affordable rates to families but pay huge wage increases to employees to keep high quality staff. She encouraged use of CDBG funds for high quality child care to be able to provide the best care for children and keep them safe.

**Sheila Rice**, 913 3<sup>rd</sup> Avenue North, commented that an annual allocation and grant funding round is more efficient than an application process that runs all year. She encouraged use of a specific portion of CDBG funds for housing. CDBG offers flexibility in housing that they don't have with the HOME funds. She also encouraged the City to consider awarding operating funds to grant recipients in conjunction with CDBG and HOME allocations. She concluded that housing is on everyone's lips in the State of Montana. The Governor's Task Force recently recommended State funding be put into housing. There are many solutions that need to be implemented, but they all need the funding.

Written comments were submitted by:

**Brett Doney**, Great Falls Development Authority, urging the City to prioritize CDBG and HOME funds to support the creation of more affordable housing and child care services.

**Martin NoRunner**, Habitat for Humanity, supporting affordable housing, child care assistance, utilizing facilities and housing to develop multiple care centers for our elderly, and focusing on a solution for aggressively addressing our increasing homeless population.

**Sherrie Arey**, NeighborWorks Great Falls, suggesting to separate allocations and make a housing round of funding with HOME funds and a portion of CDBG funds in a timeline that would not hinder the progress of affordable housing development, and another round for all other CDBG activities. There is a need for CDBG funds to be set aside for housing activities and housing for households with vouchers, and data research for affordable housing and data for the cost of Frequent Users Systems Engagement (FUSE) individuals. She also suggested CDBG funds for financial support for operations including the ability to use funds to pay salaries and implementation of CHDO operating expenses.

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**Shyla Patera**, North Central Independent Living Services, Inc., supporting accessibility in all housing projects, incorporating accessibility and green designs in tiny houses, exploring the possibility of homeless waivers, and that infrastructure planning includes ADA transition plans in regard to pedestrian, public transit, ridesharing, taxis and sidewalk improvements.

Mayor Pro Tempore Wolff asked if there were any comments from the Commissioners.

Commissioner McKenney commented that the reoccurring theme is housing and child care. He is looking forward to the grant allocations to fill some of these needs.

Commissioner Tryon thanked community partner, Andrew Wright of Housed Great Falls, for coming up with the proposal of pallet housing as he believes it is a huge need and vitally important.

Commissioner Hinebauch and Mayor Pro Tempore Wolff expressed appreciation to the presenters for the ideas and comments.

There being no further comments, Mayor Pro Tempore Wolff closed the public hearing.

11. **ORDINANCE 3251, AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO CASINOS AND THEIR SPECIAL STANDARDS FOR LOCATION AND DEVELOPMENT.**

Mayor Pro Tempore Wolff declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond first clarified page number references in the agenda report and agenda packet.

He reported that the Commission is being asked to conduct a public hearing for Ordinance 3251 which would, if approved, provide for greater flexibility related to casino location and development. Although the request is from one specific applicant as a result of one specific casino proposal, if approved, it affects all future casino related development in Great Falls city limits.

For some time, the City of Great Falls has had specific provisions in its code that significantly affected where and how casinos are located. For example, there are provisions that restrict casino location within certain distances from other uses such as parks, playgrounds, worship facilities and education facilities. Casinos are also regulated in regard to what zoning districts they are allowed to be located. If Ordinance 3251 is adopted, new casino locations would no longer be specifically prohibited from locating within certain distances to these uses by City Code. The State of Montana may elect to restrict and enforce through its own licensing regulations, but the City would not be the enforcement arm of those regulations.

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A current additional “special” standard for casinos is how and where landscaping is required on the property. Currently, 50% of the required landscape must be located within the front lot line and the building. The boulevard does not count toward this calculation. He opined this was adopted as some sort of measure to “screen” casinos from public view. In practice, the specific landscape standards don’t really achieve this and in some cases created conflicts with other provisions of the City Code such as minimum parking standards whereby parking stalls need to be sacrificed in order to comply with the 50% rule. This often creates problems when dealing with existing buildings and parking lots.

Director Raymond emphasized that adoption of this ordinance does not provide for more casinos in Great Falls. The State of Montana is the authority having jurisdiction regarding number of casino licenses in each community. Additionally, adoption of the ordinance does not provide for opening new casino uses in land use zoning districts that do not already allow for casino uses. In simple terms, adoption of Ordinance 3251 provides that casinos are treated essentially the same as other uses that are of similar use and impact from a land use standpoint which could be viewed in a straightforward fashion. On the other hand, many in the community view casinos and gambling in general through a social impact lens. Each of these issues, land-use and social impact, can and should be considered in these types of land use ordinance deliberations.

Staff requests that the City Commission conduct the public hearing and adopt Ordinance 3251.

Mayor Pro Tempore Wolff asked if the Commission members had any questions of staff.

Commissioner Tryon inquired if reference to the Design Review Board approval was an oversight in OCCGF 17.20.6.140 E.

Director Raymond responded that section is still in the City Codes, but staff doesn’t apply it because the Commission previously dissolved the Design Review Board.

Commissioner Tryon requested that reference to Design Review Board be removed from City Codes. Director Raymond agreed.

Mayor Pro Tempore Wolff received confirmation that if the Commission adopts this ordinance there will not be local distancing requirements. Director Raymond explained that the State Department of Revenue deals with the licensing of these businesses and enforcement of State distancing requirements.

Mayor Pro Tempore Wolff asked if there were any comments from the public in support of Ordinance 3251.

**Bill Heisler**, 90 Elk Drive, commented that he is the applicant. He explained that 37 years ago his family built and developed the property formerly known as Bingo Bananza. They operated the bingo hall, casino and restaurant for 32 years. Because he hasn’t operated the business in over two years he has to comply with the requirements of the current codes. The newer codes would require him to take out 18 parking places, which is more than half of the parking spaces.

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He has a potential buyer that is conditioned upon adequate parking for the building. He urged the Commission's affirmative support.

**Brad Watson**, 1204 Buenna Drive, commented that he plans on buying the Bingo Bananza building. He plans on reopening the casino and leasing the rest of the building to a commercial business. With the current zoning and landscaping codes, it would take away most of the parking making it impossible to do anything with the property.

**Tom Heisler**, City resident, commented that a big fear is new casinos coming to town. The State of Montana controls the alcohol and beer/wine licenses and issues gambling endorsements on licenses. The endorsements were grandfathered in several years ago. All new licenses that would be issued would not have the gambling endorsement. He provided a handout of Mont. Code Ann. § 23-5-119 with his notes.

**John Hayes**, 619 Carol Drive, reviewed a handout explaining the State of Montana Alcohol Licenses and Quota System. The quota system was established for the state in 1947 and was based on population of a city. Every major city in Montana was over quota in 1947. The State of Montana grandfathered all licenses. Great Falls is currently 41 licenses over quota based on the current population. Other cities in Montana have reached their quota with population growth and are being issued liquor licenses without gaming. He concluded that Great Falls would need to see a population growth of over 60,000 people before the State of Montana would issue a new liquor license in this city – with no gaming privileges.

**Gregg Smith**, 2807 Park Garden Lane, commented that there are two perceptions often heard in Great Falls: (1) Great Falls has more casinos than other communities in Montana, and (2) every time we turn around we see another casino. Neither are true based on the information reported by the State. He reviewed Montana Department of Justice Gambling Control Division handouts and discussed the number of licensed gambling locations and video gaming machines in Great Falls for the period 2010 [105 licensed gambling establishments with 1753 licensed gambling machines] to 2020 [85 gambling establishments and 1381 gaming machines]. Rather than figuring out how many gaming machines per capita, the State of Montana figures the level of gaming in a community by how many people there are per gambling machine.

Another handout set forth the ratio of people to gaming machines in Great Falls compared to the average of the other 18 communities that the State keeps statistics. In every year but one, Great Falls had more people per gambling machine than the State average.

The two perceptions about Great Falls are based on something that isn't true. He suggested the reason for the misperceptions was because of the City broadening the 600 foot rule over State law, causing the establishments to be crowded into a few locations within the City of Great Falls. That gives people the perception that Great Falls has a lot more casinos than any other city and that Great Falls is getting more casinos all the time. He urged the Commission's affirmative vote.

**Bob Sechena**, 1526 Central Avenue, commented he is a real estate broker in Great Falls. He urged the Commission's affirmative vote on this favorable change. He noted it is difficult to sell



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to people when they don't know the rules, or there is one set of rules here and another set of rules there. Putting it all in the same playing field will simplify things.

Mayor Pro Tempore Wolff asked if there were any comments from the public in opposition to Ordinance 3251.

**Ben Forsyth**, City resident, commented that there is research that shows that the closer a home is to a casino, the higher the probability is that home will have financial difficulties. Casinos harm the economic viability of families. He recommended casinos not be allowed within a mile of a home.

Written communication was received from **Giordano Lahaderne**, City resident, and **Ashleigh McCann**, City resident, expressing opposition to relaxing guidelines for casinos, especially their distance from schools and churches, and landscaping requirements, as well as making it easier for the establishment of new casino businesses.

Mayor Pro Tempore Wolff closed the public hearing and asked the will of the Commission.

**Commissioner McKenney moved, seconded by Commissioner Tryon, that the City Commission adopt Ordinance 3251.**

Mayor Pro Tempore Wolff asked if there was any discussion amongst the Commissioners.

Commissioner Tryon commented that, based on his research, he concurs with the proponents comments. He also reviewed the Planning Advisory Board/Zoning Commission's consideration of this item. At the conclusion of that meeting it was a unanimous vote of the Board to move this forward and recommend adoption to the City Commission. This change comports with the City's effort over the past several years to streamline and simplify the development review process in Great Falls. The Bingo Bananza building is big enough that it isn't just going to be a casino. It will also include a commercial enterprise and space for other businesses. Keeping that in mind, the extra 18 parking spaces are needed in order for employees and customers to park. He concluded that this is also a basic issue of fairness - one rule for everybody.

Commissioner McKenney agreed with Commissioner Tryon. He added that when he purchased the Cartwheel Bar and Casino in 2008 he paid attention to the 12-block area of competitors. Fifteen bars and casinos went out of business in that 12-block area and nobody noticed. But, if one opened, the perception was Great Falls was getting yet another casino. The perception is wrong.

There being no further discussion, Mayor Pro Tempore Wolff called for the vote.

Motion carried 4-0.

### **OLD BUSINESS**

12. **CENTRAL AVENUE/3<sup>RD</sup> STREET DRAINAGE IMPROVEMENTS PHASE 1 PROJECT (OF 1779.0).**

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Deputy City Manager Chuck Anderson reported that there has been an increasing number of short duration high intensity rainfall events that have resulted in flooding within the City in recent years. One area that has been problematic from a flooding perspective is the Downtown Business District.

The City retained Great West Engineering to perform a basin study for the project area. The study included assessments of the existing storm drainage piping. The study helped to identify system deficiencies and make recommendations for improvements to the storm drainage network that will help reduce the duration and amount of future flooding.

City Staff presented this project to the Downtown Development Partnership (DDP) at its June 2022 monthly meeting. The DDP voted to recommend support for both the Public Works drainage projects as well as amending the Downtown Urban Renewal Plan (DURP) document, which allowed use of TIF funds to partially pay for the project.

The purpose of this phase of the project is to implement Phase 1 of three phases of the improvements recommended in the zone identified as “Area 1” in the December 2020, 9th Ave S and Central Ave/4th St Drainage Basin Study prepared by Great West Engineering.

The specifications were advertised three times in the *Great Falls Tribune*. Two bids were received on October 18, 2022 ranging from \$1,483,052 to \$1,487,693. Ed Boland Construction submitted the low bid.

The project has been selected, prioritized, and executed in accordance with the Public Works Capital Improvement Program. The project was included in the 2023 budget within the storm drain utility enterprise fund.

State ARPA Grant funds, City storm drain funds, and Downtown TIF funds are programmed for funding this project.

**Mayor Pro Tempore Wolff moved, seconded by Commissioner Tryon, that the City Commission award a contract in the amount of \$1,483,052 to Ed Boland Construction for the Central Ave/3<sup>rd</sup> St Drainage Improvements Phase 1 Project, and authorize the City Manager to execute the necessary documents and to make the payments.**

Mayor Pro Tempore Wolff asked if there was any discussion.

Commissioner Tryon noted the close amounts of the bids received.

Mayor Pro Tempore Wolff called for the vote.

Motion carried 4-0.

**NEW BUSINESS**

**ORDINANCES/RESOLUTIONS**

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**CITY COMMISSION**

**13. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

None.

**14. COMMISSION INITIATIVES.**

None.

**ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Tryon moved, seconded by Mayor Pro Tempore Wolff, to adjourn the regular meeting of November 1, 2022, at 8:26 pm.**

Motion carried 4-0.

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Mayor Pro Tempore Wolff

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City Clerk Lisa Kunz

**Minutes Approved: November 15, 2022**