

# **JOURNAL OF COMMISSION PROCEEDINGS**

**March 5, 2024**

Regular City Commission Meeting

Mayor Reeves presiding  
Commission Chambers Room 206

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

## **PLEDGE OF ALLEGIANCE**

**ROLL CALL/STAFF INTRODUCTIONS:** City Commission members present: Cory Reeves, Joe McKenney, Rick Tryon, Shannon Wilson and Susan Wolff. Also present were City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Planning and Community Development Director Brock Cherry; Finance Director Melissa Kinzler and Grant Administrator Tom Hazen; City Attorney David Dennis and Deputy City Attorney Rachel Taylor; 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:** Commissioner McKenney referred to agenda items 19 and 20, and noted that he is a full-time realtor. There is no personal gain, loss or conflict pertaining to those two items and he will be participating.

## **PROCLAMATIONS**

1. National Deaf Youth Day [March 6, 2024] and Community Week of Compassion and Fast [March 3-9, 2024]

## **MILITARY UPDATES**

2. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM MALMSTROM AIR FORCE BASE (MAFB).**

**Colonel Barry Little, MAFB Commander,** announced:

- General Bussiere and all of the stakeholders of the MH-139 Helicopter program and Weapons Generation Facility will be here Saturday for a groundbreaking ceremony.
  - MAFB will be the second of four sites in the Air Force to receive the new Weapons Generation Facility, which is one of the most advanced and secure infrastructure systems in the United States. This concept will consolidate weapons, maintenance, storage and training functions under one facility.
  - The Grey Wolf Helicopter arrived today. MAFB is officially the first unit in the Air Force to receive one of these platforms. The ribbon cutting is scheduled for Saturday.
- General Cotton will be delivering the Omaha Trophy back to MAFB the first week in April.

**Mr. Russell Bartholomew, Sentinel Systems Director,** responded to five questions that the Air Force received:

## **JOURNAL OF COMMISSION PROCEEDINGS**

**March 5, 2024**

Q1. Knowing that funding for community public safety is not included in the build out and construction phases over the length of the project, how do we best coordinate planning and performance for safety and medical emergency services to the work force hubs in the city and county? As you know, public safety is top of the mind for all of the commissioners, city management and department managers.

A1. Early and often communication to advise the City when things are coming. The first work force hub location is FE Warren Air Force Base in Kimball County. They are communicating with them, and he hopes City staff is also communicating with them. He will come here and provide any information that is asked at whatever frequency is requested.

Q2. Are Fire and EMS personnel at MAFB expected to provide those services at the hub?

A2. The hubs will have some form of emergency medical services, but that is not expected to supplant what is already going on. That conversation will include a lot of planning and will be part of the dialogue between MAFB, the contractor and the City.

Q3. If non-military exploration for additional congressional appropriations for public safety would occur, how do we best coordinate with Malmstrom and the Air Force?

A3. MAFB Wing Commander Colonel Little.

Q4. Will the City departments be included in the location and design of the hub, or will the design be predetermined for all three bases, in terms of infrastructure at the site and its ongoing usability once the project is complete?

A4. It is written in the documents that the contractor and the Air Force will be working with the cities on the location and the functionality post use. He encouraged communication with the Air Force and contractor to make sure it is the best use for the city. It will be different how Kimball, Lewistown and Great Falls expect to use it. They do not expect a one size fits all.

Q5. One of the things to be ready to address is housing. We realize that there will be housing as part of the work force hub, but there have been a lot of meetings and conversations the last couple of weeks regarding housing. Several people have mentioned or had questions pertaining to additional housing needs over the course of the installation.

A5. The work force hub is going to house the workers, but the analysis has shown that there will likely be over one thousand additional secondary and tertiary personnel. During the analysis period, there was enough housing to be able to accommodate that, although that would put it right to the limit of what's available. It would likely increase the rental prices as a result.

Colonel Little recognized that there are many competing interests for housing in Great Falls. With the expected and desired growth, there are going to be challenges there. While the specific analysis supported that response, he also recognizes that Great Falls has had some challenges in the past and he is anticipating needing some housing solutions with Sentinel coming.

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

Commissioner Wolff expressed appreciation to the Air Force and both gentlemen for the community open house and being responsive to questions.

3.

### PETITIONS AND COMMUNICATIONS

**John Hubbard**, City resident, discussed his request for a recount on the Library election, \$303 million dollars in marijuana tax revenue going to behavioral management, the Department of Revenue raising property taxes, and this country not being able to sustain the number of people coming across the border.

**Jeni Dodd**, City resident, commented that the meeting decorum statement and associated Rule 10 are unconstitutional. Number 4 of Rule 10 does not treat people justly and equally, and Numbers 7 and 12 have too many subjective terms. She cited Ninth Circuit Court case of *Norse v. City of Santa Cruz*. Ms. Dodd commented that she has proven the Library did not provide the annual reports, and she was threatened to be thrown out of the Library Board meeting unfairly. She feels her rights were violated. If the City does not do anything about it, she is going to seek legal counsel.

### NEIGHBORHOOD COUNCILS

4.

#### MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

None.

### BOARDS AND COMMISSIONS

5.

#### APPOINTMENT TO THE BUSINESS IMPROVEMENT DISTRICT (BID) BOARD OF TRUSTEES.

Mayor Reeves reported that Michelle Houghton (Bebbington) was appointed to the BID Board in December 2021 with a term end date of June 30, 2024. She recently resigned from the Board. The City advertised for the vacancy to solicit citizen interest through the City's website and the local media. An application was received from Erica Ferrin who will represent the Pennington Property owned by Matthew Robb at 427 Central Avenue. Ms. Ferrin is the owner/operator of GRAE + Co at this location and Mr. Robb has sent consent to the BID to allow Ms. Ferrin to represent his property.

**Commissioner Wolff moved, seconded by Commissioner Wilson, that the City Commission appoint Erica Ferrin to the Business Improvement District Board of Trustees to fill the remainder of a four-year term through June 30, 2024.**

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

Commissioner McKenney commented it is a pleasure to serve as an ex officio member of the BID Board. They are very active in the community and downtown. The Board approved the appointment of Ms. Ferrin.

## **JOURNAL OF COMMISSION PROCEEDINGS**

**March 5, 2024**

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

Motion carried 5-0.

### **6. DESIGNATE CITY COMMISSION REPRESENTATIVE TO THE POLICY COORDINATING COMMITTEE (PCC) FOR TRANSPORTATION PLANNING.**

Mayor Reeves reported that the PCC guides transportation planning in the Great Falls area. As outlined in the 2005 Cooperative Agreement, the City Commission representative on the PCC is a Commission designee appointed from its membership. Commissioner Wilson has offered to fill this role.

**Commissioner McKenney moved, seconded by Commissioner Tryon, that the City Commission designate Commissioner Wilson as our representative on the Policy Coordinating Committee.**

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

Commissioner Wilson commented that she is the Commission liaison on the Transit District Board, so it makes sense that she serve on the PCC.

Mayor Reeves called for the vote.

Motion carried 5-0.

### **7. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Wolff noted that she learned at the Airport Authority Board meeting last week that a male scaled the fence and ran across the airfield. That person was caught and turned over to the City police.

**CITY MANAGER**

### **8. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon made the following announcements:

- Employees at the Great Falls Animal Shelter graduated from the Fear Free Shelter Program. The program focuses on a strong commitment to the health, safety, and emotional wellbeing of the animals in their care.
- Sylvia Tarman accepted an open CDBG Administrator position with the City. She will be wearing two hats until the ARPA projects are complete.
- He and Mayor Reeves attended an annual MLCT, MMIA and LGC training for City managers and mayors in Sidney, MT. It was a great opportunity to gain perspective of what is happening in other communities.

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

### CONSENT AGENDA.

9. Minutes, February 20, 2024, City Commission Meeting.
10. Total Expenditures of \$3,000,805 for the period of February 8-21, 2024, to include claims over \$25,000, in the amount of \$2,544,418.
11. Contracts List.
12. Approve a Final Payment for the Sanitary Sewer Trenchless Rehabilitation Phase 25 project, totaling \$51,296.90. This comprises \$50,783.93 to Planned and Engineered Construction, Inc. and \$512.97 to the State Miscellaneous Tax Fund and authorize the City Manager to make these payments. **OF 1675.8**
13. Approve an application for FEMA, Assistance to Firefighters Grant for Operations and Safety Equipment in the amount of \$74,570.25.
14. Set a public hearing on Resolution 10536, Park and Recreation Fees, for March 19, 2024.
15. Set a public hearing on Resolution 10540, Golf Fees, for March 19, 2024.

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

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

Commissioner Wolff was happy to see final pay for item 12, and she certainly approves item 13 for GFFR to apply for a grant to replace 20-30 year old fire hoses.

Commissioner Tryon referred to agenda item 11C and received confirmation that the City of Great Falls is leasing vehicles to the Russell Country Drug Task Force through a grant from Rocky Mountain High Intensity Drug Trafficking Area (HIDTA) program.

Manager Doyon will check on the number of City vehicles and where they were purchased and follow up with Commissioner Tryon.

Commissioner Wilson noted a typographically error on the term of agenda item 11C. The correct lease term is January 1, 2024 through December 31, 2025. With regard to agenda item 12, she inquired if there were plans to complete the additional 650,000 feet of sanitary sewer.

Manager Doyon responded that typically a certain annual amount is allocated to cover what was programmed out. He will follow up with the Public Works Director and report back.

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

Motion carried 5-0.

# JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

## PUBLIC HEARINGS

### 16. BUSINESS IMPROVEMENT DISTRICT (BID) FY2024 BUDGET AMENDMENT.

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

BID Executive Director Kellie Pierce reported that the BID budget was approved in June. The BID boundaries were expanded to the 800 block of Central Avenue in FY22 that incorporated 20 new parcels. With that, there was an increase in the BID annual budget that is collected through an assessment on the parcel owner's property taxes in the total amount of \$39,272.54. The BID wishes to improve holiday season lighting decorations, hire a part-time staff person, and increase travel and education opportunities.

Mayor Reeves asked if the Commissioners had any questions of BID Director Pierce.

Mayor Reeves received confirmation that there is no financial impact to the City.

Commissioner Wilson noted a BID goal over the next fiscal year was conversion of one-ways.

BID Director Pierce responded that the BID Board has discussed conversion of some of the downtown one-ways to calm traffic and to support local shopping.

Commissioner Wilson noted the assessment formula is dictated by the Montana Department of Revenue. She expressed concern about the market valuations going up hitting the business owners even harder.

BID Director Pierce responded that the same assessment formula has been in place since 1989, and Great Falls has the oldest and smallest Business Improvement District in the state. The property owners are appreciative of the BID services.

Commissioner Wilson inquired how last year's meeting turned out when the Masonic Temple objected to being included in the BID boundaries.

BID Director Pierce responded that expansion was not passed at that time. The BID would like to seek further expansion, and that is another process.

Mayor Reeves asked if there were any comments from the public in support of the BID's FY2024 budget amendment

**Christian Leinhauser**, Downtown Business Development Officer for the Great Falls Development Alliance, expressed appreciation for the Commission's continued support for downtown and the BID's revitalization efforts.

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

Mayor Reeves asked if there were any comments from the public in opposition to the BID's FY2024 budget amendment.

**Jeni Dodd**, City resident, commented she is against TIF Districts. She received clarification that the BID is different than a TIF District.

There being no one further to address the Commission, Mayor Reeves asked the will of the Commission.

**Commissioner Wolff moved, seconded by Commissioner McKenney, that the City Commission approve the FY2024 Business Improvement District Budget Amendment.**

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

Motion carried 5-0.

### 17. **MONTANA STATE-LOCAL INFRASTRUCTURE PARTNERSHIP ACT (SLIPA).**

Mayor Reeves declared the public hearing open and asked for presentation of the agenda report.

Grant Administrator Tom Hazen reported that the State-Local Infrastructure Partnership Act (SLIPA) is a state funded program to help local governments finance the maintenance/repair of public facilities. The State of Montana appropriated \$20 million from the state general fund to the Department of Commerce to be distributed to Montana communities. Distributions were calculated using formulae that took account of street mileage and populations. Great Falls was allocated \$755,461.00.

Eligible SLIPA projects must be selected from activities improving drinking water, wastewater, fire suppression systems if independent of the drinking water system, streets, roads, bridges, landfills, streetlights, airports, and public grounds and buildings. Investments may only be made in existing infrastructure, and SLIPA cannot be used to expand or create new infrastructure. The Act placed priority on drinking water, wastewater, and independent fire suppression systems. However, the Department of Commerce clarified that this priority is not demonstrative. A recipient may opt not to use the funds for those prioritized uses, providing that a reasonable rationale is provided. Finally, the Act requires that local governments provide a match equal to 25% of the total project cost. Match must be "local cash" or "revenue generated by local government, including via its tax system." Federal and State grant funds cannot be used for match.

Upon notification of the allocation, staff prepared a memo that was distributed to City Department Heads requesting eligible project proposals. Twenty-three projects totaling approximately \$8.4 million were submitted. Projects were reviewed with three primary factors in mind. First, was the proposed project previously identified as a priority for ARPA usage by the City Commission? Second, what other funding opportunities are available for the project or specific department?

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

Third, what is the proposed source of funding for the required match? Based upon these criteria, staff is recommending the following projects for funding:

- Great Falls Police Department Front Counter Remodel
- Civic Center Elevator Improvements
- Mansfield Theater Seat Replacement
- Animal Shelter Canine Housing Improvements, Exterior Door Repairs, and Kitchen Repairs
- Park and Recreation Visitor Parking Lot

Additionally, staff is identifying the Great Falls Fire Department Façade Renovation, IT Uninterruptible Power Supply, Public Works Lift Station #1 Electrical Upgrades Alt #3, and the Public Works Water Treatment Plant Corrosion Protection Upgrades projects as alternates.

SLIPA offers a unique opportunity to recoup projects eliminated from ARPA usage due to budgetary increases. Additionally, this funding provides the rare occasion to inject capital into projects that typically are not eligible for State and/or Federal grant funding.

The requested action is that the City Commission approve the recommended use of SLIPA funds as presented.

Mayor Reeves asked if the Commissioners had any questions of staff. Hearing none, Mayor Reeves asked if there were any comments from the public in support of or opposition to the recommended use of funds allocated to the City by SLIPA.

Hearing none, Mayor Reeves closed the public hearing and asked the will of the Commission.

**Commissioner Wolff moved, seconded by Commissioner Tryon, that the City Commission approve the recommendation for use of funds allocated to the City of Great Falls by the Montana State-Local Infrastructure Partnership Act.**

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

Commissioner Tryon commented that this is a great opportunity and great use of funds on these projects.

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

Motion carried 5-0.

### **OLD BUSINESS**

18. **AMENDMENT TO THE ORIGINAL CONSULTING AGREEMENT WITH POWERGAS CORPORATION EXECUTED ON NOVEMBER 7, 2023.**

## **JOURNAL OF COMMISSION PROCEEDINGS**

**March 5, 2024**

City Manager Greg Doyon reported that, although the City no longer operates Electric City Power, the City still must purchase its electricity on the open market. While that historically has had advantages to the City, those days were numbered. The City had a very good electric rate in the past.

Since 2018, the City has used consultants to assist with purchasing power on the market. Most recently, the City had retained the services of Jim Morin to assist with negotiating electric and gas supply on the market. In addition to purchasing power, the City has regularly pursued ways of managing its usage and consumption. Some efforts include energy audits and, when possible, updating buildings with more energy efficient lighting and heating and cooling services to lower costs.

In February 2023, the City had a rude awakening with its electrical costs. In order to protect the City from a volatile energy market, the City performed what is referred to in the industry as a blend and extend with EKI, the City's current electric provider, as forward indicative pricing was showing our megawatt hour would be over \$100. The consultant ultimately negotiated an \$89.95 megawatt hour rate through October 2024, as compared to its previous rate of \$29.25 a megawatt hour. The increase had a sharp impact and will continue to have a sharp impact on the City's budget, especially high users like the Public Works Department and specifically its water and sewer divisions. The rates also significantly impacted general fund operations, to the point that staff needed to evaluate options of managing its energy consumption. The contract proposal before the Commission for consideration will enable the Finance Department, with the consultant, to monitor and collect consumption data by meter in a specific and detailed way. With that data, the City will be in a better position to develop a long-term energy strategy and to negotiate future electric supply contracts.

Additionally, all of the City's meters will be billed under the contract, creating administrative efficiencies for Finance, but also potentially catching excessive usage and/or billing mistakes from NorthWestern Energy and EKI.

Finance Director Melissa Kinzler added the service will also help the City meet the latest standard in sustainability reporting, which is something the City is looking at also in the future. It will also allow all City departments to track their own meter usage of electricity and gas in a much more efficient manner.

**Commissioner McKenney moved, seconded by Commissioner Tryon, that the City Commission approve the Amendment to the original Consulting Agreement with PowerGas Corporation executed on November 7, 2023.**

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

Commissioner Tryon commented that Jim Morin has presented at a couple of work sessions. The Commission has been through a detailed presentation on a very complicated issue. He requested that the City Commission get regular updates pertaining to the savings.

Commissioner McKenney concurred. He expressed concern that the total fiscal impact is \$191,500 over three years. If we want to make improvements, there is certainly a cost to it. He inquired how

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

Manager Doyon anticipated the new data being organized, and how it translates in to energy cost savings.

City Manager Doyon responded the greatest savings could come from analysis of the City's meters and making sure the meters are accurately read and reported, and to have someone to speak to if there is an issue.

Another point is Moody is starting to do a risk profile that is called ESG (Environment, Social and Governance) factors. The conversation was interesting the last time Moody rated the City on these elements. This might help with that. It is arguable how much of an impact that would have on a potential investor if the City were to go out and sell bonds for a particular project. However, it is a factor. There have been comments and considerations about what is the City doing overall to reduce its energy usage. Mr. Morin's services will help the City focus in on buildings, facilities, and services provided, and have better tools to identify specific large energy draws that the City might be able to do something about.

Director Kinzler added that the electric bills are complicated to read with the different energy supply and transmission charges. Each meter gets three or four bills for energy. This will allow us to simplify some of the costs, look for any savings and make sure we are being charged the correct rates for all of those tariffs. Hopefully, going forward with that expertise, there will be a cost savings, especially for the demand meters.

Commissioner Wolff noted that this will save on how staffing is used and will free up some of the staff to do other things that they have not been able to get to.

Director Kinzler agreed, and added they will be able to analyze the bills in a complete manner.

Commissioner Wilson commented she appreciates Mr. Morin's expertise on negotiating these contracts. She inquired how that was going and what the going rate was per megawatt hour.

Manager Doyon responded he is not prepared to talk about that yet. There are ongoing discussions and a lot of monitoring. It is really about transmission and generation. Not having control over some of those factors leads to great instability. They are looking for the most affordable rate and the next contract is probably not going to be a long-term contract. Preferably, he would like to have a contract over a longer period of time for the stability and having that predictable rate that they can build into the budgets rather than having short contracts that fluctuate dramatically.

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

Motion carried 5-0.

### NEW BUSINESS

19. ADMINISTRATIVE MINOR SUBDIVISION PLAT OF LOT 1, BLOCK 2 OF THE NEW CASTLE CONDOMINIUMS, CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA.

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

Planning and Community Development Director Brock Cherry reported that this item is a request to amend a minor subdivision known as the Castle Pines project, or also the Castle Pines PUD. This development was first subdivided and established in 2008.

The applicant is requesting that the remaining portion of the project, which is approximately one acre, be separated into four distinct lots. Initially, when the project was proposed, the applicant planned on doing a condominium plat so that each unit could be individually owned. The market has changed since 2008 and the applicant wants to have a model where there could be potential investors that could buy the triplex homes as a whole for a potential rental product.

The State has made this item an administrative action. However, when an adjacent property owner protests, then staff is obligated to bring it before the Commission. This project was approved in 2008. The protesting party expressed worries that this is going to add to the density. This request will not add any more density than what was previously approved. A PUD (Planned Unit Development) is associated with an agreement between the parties. There is no material change to that agreement other than the ownership of those lots.

The requested action is that the City Commission approve the minor subdivision.

**Commissioner Tryon moved, seconded by Commissioner Wolff, that the City Commission approve the Amended Plat of the Minor Subdivision, as legally described in the staff report.**

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

Written correspondence was received from **Josh Racki**, City resident, expressing concerns about the lack of road infrastructure and the proposed homes blocking the view and sunshine to his and his neighbor's property. Mr. Racki requested that the Commission deny the amended plat until a more neighborhood friendly plan can be proposed.

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

Commissioner Wilson commented that the property is actually at the SE corner. She noted concerns of the protesting citizen about the building obstructing his view and blocking his sunlight. Looking back from his property all you see are the triplex homes that are at the end of that vacant lot and he will not have sunlight blocked from it. She thinks they already crossed the bridge of having those types of buildings there. As far as changing the character of the neighborhood, it was changed long ago. Adding a few more buildings is not going to change that.

Commissioner Wolff noted this was an infill project that could be better supported with public safety needs. Building has been stalled for quite some time in that subdivision.

Commissioner McKenney commented SB 170 was passed last session. The purpose was to speed up certain minor subdivisions and give administrative decision-making authority to the Planning and Community Development Director. If there was not a protest, he inquired if SB 170 worked as advertised.

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

Director Cherry responded in the affirmative. The request does not add any more units than were already approved. The developer could go ahead and build the project today, and it would have the same number of units. In this situation, the intent of the bill was absolutely met.

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

Motion carried 5-0.

**20. ORDINANCE 3264 TO REZONE THE PROPERTY ADDRESSED AS 805 2<sup>ND</sup> STREET SW, FROM R-1 SINGLE-FAMILY SUBURBAN TO M-2 MIXED-USE TRANSITIONAL.**

Planning and Community Development Director Brock Cherry reported that the rezone application process includes notification of property owners, a visit with the Neighborhood Councils, and significant due diligence, which has been done. This item went before the Planning Advisory Board/Zoning Commission for a public hearing, and that body made a recommendation to the City Commission on how to proceed. The City Commission is required to conduct an additional public hearing. Staff provided a 183-page comprehensive agenda report and supporting documents for Commission consideration to facilitate the due process of the property owner, surrounding residents, and the applicant.

Before the Commission is the recommendation to schedule the public hearing for April 2, 2024. This is an active item and his department receives comment frequently. Planning staff has been working closely with the Legal department to ensure adequate due process and careful analysis of everything before the Commission.

The requested action is that the City Commission set the public hearing for April 2, 2024. At that time, the public will not only be able to ask questions pertaining to the project, but also express any opinions they may have. The applicant will have a presentation as well.

**Commissioner Wolff moved, seconded by Commissioner Tryon, that the City Commission accept Ordinance 3264 on first reading and set a public hearing for April 2, 2024.**

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

**Maurice Cameron**, 607 10<sup>th</sup> Avenue SW, opposes this item stating it affects quality of life, safety, financial health, and the environment. Ingress and egress to the project site is not safely supported with existing infrastructure of 10<sup>th</sup> Avenue SW, 2<sup>nd</sup> Street SW and 6<sup>th</sup> Street SW. Mr. Cameron requested the City Commission not accept Ordinance 3264 on first reading and not consider the spot rezoning to M-2. He further suggested a current growth plan that includes a vehicle, foot, and bicycle traffic survey be implemented before proceeding with this proposal.

**Kirby Berlin**, 825 2<sup>nd</sup> Street SW, commented that 101 property owners oppose this zoning. The Neighborhood Council unanimously rejected it. He was informed at the Planning Advisory Board/Zoning Commission meeting that a direct economic impact study has not been conducted on what this project will do to the property values in the neighborhood. People are counting on the equity in their homes for the later stages in life. People move to R-1 residential areas to have peace, comfort and the mindset of knowing they are not going to have a 94-unit apartment complex in the

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

neighborhood. The Planning Advisory Board/Zoning Commission already done their job of zoning and planning where those places should be.

**Bill Budeski**, 614 10<sup>th</sup> Avenue SW, commented the project would have a big impact. The streets are non-conforming, there are traffic problems already on 10<sup>th</sup> Avenue SW, and it is unsafe for pedestrians and bikers. He commented that thousands of yards of fill was brought on to the property with no permit in the floodplain. He urged the Commission to take into account the majority of neighbors in opposition, and to table this item.

**Nicholas Sudan**, City resident, commented that a zoning change of residential R-1 to mixed-use is dramatic. At the Planning Advisory Board/Zoning Commission meeting, he brought up an issue of illegal spot zoning. He referred to the spot zoning memo included with the agenda packet and discussed case law pertaining to the three-part framework to determine whether an impermissible spot zoning has occurred. He suggested that further evaluation be done by the City's legal staff to see whether exposure is being made for an illegal spot zoning challenge.

**Pam Wagner**, 2308 Central Avenue West, commented she is on Neighborhood Council 2. They were informed at their November meeting by Great Falls Development Alliance that there was an apartment shortage. Ms. Wagner commented there are quite a few apartments available, including at the Arc Apartments. She also noted that this is part of the Missouri River Urban Corridor Plan. She would like to see responsible development. She encouraged the Commission to table this item.

**Jeni Dodd**, City resident, commented that she has concerns about the residents not having their concerns and questions answered. Because there is significant public interest in this item, she suggested that the Commission table this item and schedule a public meeting to address questions.

**Brooke Corry**, 405 10<sup>th</sup> Avenue SW, commented she is well aware of the housing and affordable housing situation. One of the goals in the Growth Policy that stood out to her was "provide permanent housing options while strengthening the sense of community in Great Falls by respecting others." One of the things left out of these meetings is that retired Lawrence Gadbaugh, who takes care of his elderly mother, lives on the corner of this street and all of this is going to be in his backyard. His security and peace will be stripped away. There are also concerns about what the M-2 zoning designation could include in the future. She suggested the Commission table this item.

**Lawrence Gadbaugh**, 803 2<sup>nd</sup> Street SW, commented that all the homes in Garden Home Tracks are single-family dwellings. Ninety percent of the people he spoke with agreed that this is not what they wanted in their neighborhood. They are not opposed to the property being developed, just not in this manner. With regard to spot zoning, there are other areas in this area that are zoned M-2, but not in the housing part of the neighborhood.

**Dave Broquist**, resides in the neighborhood on 10<sup>th</sup> Avenue SW, commented that setting precedent is a great concern of this neighborhood. They do not want to sacrifice quality of life for future growth to make money off of development that does not fit in the neighborhood. He also expressed concern about public infrastructure costs in the future.

**Sheryl Schmidt**, 910 2<sup>nd</sup> Street SW, commented that she does not want her quiet, tight neighborhood disrupted for the developer's gain. She expressed concern that the water and sewer

## JOURNAL OF COMMISSION PROCEEDINGS

March 5, 2024

infrastructure would be overwhelmed with the addition of this project. Garden Home Tracks is a historical area where the people that worked on the railroad lived and grew produce for the stores. Other places could be developed.

**Jake Clark**, Great Falls Development Alliance, commented that the motion before the Commission is to set that public hearing where all concerns can be heard and dealt with, and where all processes that currently exist and have been agreed upon can play out in favor of a vote for this zoning change. There are processes to change zoning, because the needs of the community do change over time and evolve. The location of the project is beneficial for density because it exists within the city services as an infill project. In addition, this aspirational project is extremely similar to what was envisioned in the Missouri River Urban Corridor Plan. The City has hoped for development along the river and put that forth in planning documents. In those documents, the zoning changes that would be required to make that plan a reality are the type, and the type of use, before the Commission. Given City staff's diligence on this project, setting the public hearing for April 2, 2024 would be appropriate.

Written comments in opposition to Ordinance 3264 were submitted by: **Jane Brinkman**, City resident, **Judith Mortensen**, **Nicholas Sudan**, City resident, **Terry Bjork**, and **Wayne Young**, on behalf of Neighborhood Council 2.

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

Mayor Reeves inquired what the City Attorney's findings were in response to illegal spot zoning and case law that was referenced.

City Attorney David Dennis cautioned that spot zoning is not the question here. Legal staff concluded that this was not illegal spot zoning. The question before the Commission turns on the considerations that go into making the rezoning determination.

Deputy City Attorney Rachel Taylor responded that she has looked at the illegal spot zoning issue, reviewed case law, and determined there is no reason to believe this is illegal spot zoning. They applied the three factors in *Little*, looked at all the different factors and the guidance of the Montana Supreme Court.

Commissioner Wilson received procedural clarification that the formal protest section that requires two-thirds for a favorable vote pertains to the public hearing when the Commission is actually making the decision that would put the ordinance into effect. Commissioner Wilson commented she will save her comments and questions for the public hearing. She encouraged people to talk to Director Cherry if they have further questions.

Commissioner Wolff commented that she spent a lot of time on this item and has a lot of questions too.

Commissioner Tryon commented he would not vote in favor of the motion. He recommended that the motion be tabled. He doesn't think the Commission will be ready to make a decision on April 2, 2024, and would rather wait until they have some sort of idea of what the Growth Policy plan is going to look like, which could be a couple of years down the road.

## **JOURNAL OF COMMISSION PROCEEDINGS**

**March 5, 2024**

City Attorney Dennis commented that the proper motion would be to postpone to a date certain or indefinitely.

Commissioner Wolff received clarification that she could reach out to City staff to have her questions answered.

Mayor Reeves inquired about holding a separate two-hour meeting with the residents.

Director Cherry responded the Commission has adopted a zoning ordinance that has a process. The items City Attorney Dennis mentioned is what the Commission should be concerned about. The zoning ordinance is what the development community utilizes in order to develop within the City. If the motion was going to be tabled, it would be good for staff to know precisely for what reason.

Commissioner Tryon clarified that his request to table was just to postpone the public hearing. He does not think the Commission will be ready to have a public hearing by April 2, 2024. He inquired if there was a legal issue, or process issue, with that.

City Attorney Dennis commented that one of the options in front of the Commission is to postpone the decision on whether or not to set this matter for a public hearing.

Commissioner McKenney commented that when the Commission sets a public hearing then it also hears from both sides. At that time, the Commission will have the same options that it does today. The Commission could vote yes, no or could postpone. He thinks that would be the time to make one of those three decisions, because the motion before the Commission today that was sent out to the public was to set a date for a hearing.

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

Motion carried 4-1 (Commissioner Tryon dissenting).

### **ORDINANCES/RESOLUTIONS**

#### **CITY COMMISSION**

#### **21. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

None.

#### **22. COMMISSION INITIATIVES.**

Commissioner Wolff proposed hiring a polling entity to assess the public's thought process on public safety and to get a better idea of what they are willing to support.

In response to Mayor Reeve's inquiry, City Manager Doyon commented that for those communities that engaged a polling entity to help assess the public's thought process on a levy, the information they received was invaluable and helped them construct a request that was commensurate with the community threshold for that ask.

## **JOURNAL OF COMMISSION PROCEEDINGS**

**March 5, 2024**

For a population this size, a polling entity would cost about \$35,000 - \$45,000.

Commissioner Tryon would not be in favor of spending that sum of money from the general fund to do a poll. He would be in favor if the money was privately raised, or they got the money some other way. Rather than questions being framed around how much the taxpayers are willing to pay for public safety, the question should be “what would you cut in the City services in order to fund public safety.”

Manager Doyon suggested he could get the polling questions from the other communities.

Commissioner McKenney suggested the public safety panel advise the Commission first and then conduct the poll.

Commissioner Wilson commented that she would not count on a poll as the “be all end all” since public participation is often low, or it could produce skewed results.

Mayor Reeves summarized that the direction from the Commission is for Manager Doyon to get the polling information from sister-cities for the Commission to look at.

### **ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Tryon moved, seconded by Mayor Reeves, to adjourn the regular meeting of March 5, 2024, at 9:18 p.m.**

Motion carried 5-0.

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Mayor Cory Reeves

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City Clerk Lisa Kunz

**Minutes Approved: March 19, 2024**