

Regular City Commission Meeting

Mayor Winters presiding

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

**PLEDGE OF ALLEGIANCE** – Boy Scout Troop 26

**MOMENT OF SILENCE**

**ROLL CALL:** City Commissioners present: Michael Winters, Bob Jones, Bill Bronson, Mary Jolley and Fred Burow. Also present were the City Manager; Interim City Attorney; Directors of Fiscal Services and Planning and Community Development; Fire Chief; City Engineer; Police Captain; and the Acting City Clerk.

**PROCLAMATIONS:** Mayor Winters read a resolution of appreciation for the family of Joan K. Bennett for her service to the City of Great Falls and its citizens, and proclamations for Down Syndrome Awareness and Malmstrom Air Force Base Airmen Month.

*\*\* Action Minutes of the Great Falls City Commission. Please refer to the audio/video recording of this meeting for additional detail. \*\**

### **NEIGHBORHOOD COUNCILS**

#### **1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

There were no miscellaneous reports and announcements from Neighborhood Council representatives.

### **BOARDS & COMMISSIONS**

#### **2. REAPPOINTMENTS, BOARD OF ADJUSTMENT.**

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission reappoint Jeffry Foster and Christopher Ward to the Board of Adjustment three-year terms through September 30, 2015.**

Mayor Winters asked if there was any discussion amongst the Commissioners or comments from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

#### **3. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

**Judy Tankink**, 3620 9<sup>th</sup> Avenue North, expressed concern that the meeting of the Environmental Working Group for the Growth Policy Update last Thursday was held in the small Planning and Community Development conference room, even though larger meeting rooms were available. She believes the occupancy of the room that night may have been in violation of City Code, and that the cramped, stuffy room discouraged participation from taxpayers.

**PUBLIC HEARINGS****4. RESOLUTION 9992, CONDITIONAL USE PERMIT FOR A CONTRACTOR YARD, TYPE 1, AT THE PROPERTY ADDRESSED AS 424 8<sup>TH</sup> AVENUE SOUTHWEST.**

Planning and Community Development Director Mike Haynes reported the applicant, the Concrete Doctor, Inc., has used the property to store equipment and materials since 2007. In 2010, a zoning determination found that a Contractor Yard Type 1 was not a legally nonconforming use on the subject property, but a Contractor Yard Type 1 could be permitted with conditional use approval in the R-1 zoning district.

In May 2012, a complaint was received regarding use of the subject property, at which time planning staff revisited the issue and reiterated to the owner that to continue operation he needed to apply for and be granted a Conditional Use Permit (CUP)

Director Haynes noted that there is ongoing litigation between the property owner to the north and the applicant over access to the subject property. The applicant claims a prescriptive easement over private property from Huffman Avenue to the north and continues to use that easement to access the subject property. Regardless of the final outcome of that litigation, the subject property and other properties on 9<sup>th</sup> Avenue Southwest have legal access via an access easement that runs along the north boundary of their properties to the intersection of Huffman Avenue and 3<sup>rd</sup> Street Northwest.

Key conditions of approval proposed by planning staff require the applicant to file an amended plat that consolidates the property into one lot within six months and to fence the property within one year. The CUP would also be limited to the current business and would expire at such time as the Concrete Doctor, Inc. ceases operation.

At the meeting on August 14, 2012, the Planning Advisory Board/Zoning Commission recommended that the City Commission approve the CUP, subject to conditions of approval. At that meeting the applicant acknowledged that the proposed conditions of approval were acceptable.

Mayor Winters declared the public hearing open.

No one spoke in favor of or in opposition to Resolution 9992.

Mayor Winters declared the public hearing closed.

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9992.**

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

Motion carried 5-0.

**5. 1359 13<sup>th</sup> AVENUE SOUTHWEST, LEGALLY DESCRIBED AS MARK 1, SUN RIVER BRIDGE GARDEN TRACTS, SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA, AND PORTION OF ABUTTING 13<sup>TH</sup> AVENUE SW**

**RIGHT-OF-WAY AND SUN RIVER.****A. RESOLUTION 9994, ANNEXES SAID PROPERTY.****B. ORDINANCE 3095, ASSIGNS ZONING CLASSIFICATION OF R-1 SINGLE-FAMILY LOW DENSITY RESIDENTIAL DISTRICT.**

Planning and Community Development Director Mike Haynes reported that this is a request to take final action on Resolution 9994 for annexation of a single-family residential lot at 1359 13<sup>th</sup> Avenue SW and portions of the 13<sup>th</sup> Avenue SW right-of-way (ROW) and the Sun River, the Annexation Agreement, and Ordinance 3095 that would assign initial zoning of R-1 (Single-Family Low-Density) to the subject property.

The residential lot contains a single-family home and is located between 13<sup>th</sup> Avenue SW and the Sun River adjacent to and west of the Beacon Bar. The subject property is in an unincorporated enclave, and annexation is needed to achieve contiguity. Annexation into the City would allow the property owner access to water and sewer services.

At a public hearing held on June 12, 2012, the Planning Advisory Board/Zoning Commission recommended that the City Commission approve annexation and assigning of R-1 zoning to the subject property. Due to problems that the applicant had with securing the funds for infrastructure improvements, the City Commission was asked to vacate an earlier public hearing on August 7, 2012.

Mayor Winters declared the public hearing open.

No one spoke in favor of or in opposition to Resolution 9994 and Ordinance 3095.

Mayor Winters declared the public hearing closed.

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission adopt Resolution 9994, and approve the Annexation Agreement, all pertaining to 1359 13<sup>th</sup> Avenue SW.**

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

Motion carried 5-0.

**Commissioner Bronson moved, seconded by Commissioner Jolley, that the City Commission adopt Ordinance 3095.**

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

Motion carried 5-0.

**6. AGRI-TECH PARK ADDITION.**

- A. **RESOLUTION 9993, ANNEXES SAID PROPERTY.**
- B. **ORDINANCE 3097, ASSIGNS ZONING CLASSIFICATION OF I-2 HEAVY INDUSTRIAL TO THE 10 LOTS IN THE SUBDIVISION.**

Planning and Community Development Director Mike Haynes reported that this is a request for annexation of the ±196.549-acre AgriTech Park property, the Final Plat and Annexation Agreement, and to assign initial zoning of I-2 (Heavy-Industrial) to the subject property. The property is located north of 18<sup>th</sup> Avenue North, west and east of 67<sup>th</sup> Street North, and is adjacent to Giant Springs State Park and conservation land owned by PPL Montana and maintained by Montana Fish, Wildlife and Parks.

The applicant, Great Falls Development Authority (GFDA), proposes to develop the property, which is now crop land, with a rail-served heavy industrial park containing 10 lots, and is requesting initial zoning of I-2 Heavy Industrial on the entire property: eight lots west of 67<sup>th</sup> Street North that currently have I-2 zoning in Cascade County, and two lots east of 67<sup>th</sup> Street North that currently have Agricultural zoning in Cascade County.

Director Haynes noted that 67<sup>th</sup> Street North is currently an easement over private property; through the Final Plat, it would be converted to public right-of-way.

Proponents of the project have argued the City needs shovel-ready, rail-served, heavy industrial lots. Opponents have argued that proximity to the Missouri River and its scenic overlooks, Giant Springs and the River's Edge Trail, as well as concerns over stormwater runoff, especially to Whitmore Ravine, make this location unsuitable, or at least undesirable, for industrial development.

At a public hearing held on July 10, 2012, the Planning Advisory Board/Zoning Commission (PABZC) recommended that the City Commission annex the subject property into the City with an initial zoning of I-2. The approval process continued with the City Commission considering the preliminary plat on August 7, 2012, the PABZC considering the final plat on August 28, 2012, and the City Commission setting the public hearing on September 4, 2012.

Director Haynes restated questions that professional planning staff has posed since first being introduced to the AgriTech Park concept in early 2010:

1. Given that we all want to see Great Falls' economy grow and the City prosper, is this an appropriate location for Heavy Industrial development?
2. If it is, given that we don't know what specific industries or companies might locate in the AgriTech Park, do we have adequate mechanisms in place to protect surrounding properties and the natural environment?
3. If we do, given that the applicant is already floating the idea of potential future phases of development, how much Heavy Industrial development is appropriate in that area, given its location and physical constraints?

City staff attempted to address these questions and concerns with a balanced approach that would allow the establishment of the AgriTech Park, while retaining the right of the City to review and

approve specific development plans as they evolved. Two key planning controls were recommended to the PABZC:

- An expedited Specific Parcel Master Plan (SPMP) review by the PABZC and City Commission of specific development proposals for each lot as prospective buyers emerge, to assess and mitigate known impacts of that development and the accumulated impacts of the entire project.
- Assigning I-2 (Heavy Industrial) zoning only to the property west of 67<sup>th</sup> Street North, consistent with existing zoning in Cascade County. Deferring assigning I-2 zoning to the property east of 67<sup>th</sup> Street North until the impacts of the first phases of development could be assessed, as well as impacts on Whitmore Ravine from current and proposed future phases of development.

GFDA argued that these controls would make the project economically infeasible.

The PABZC voted 6-2 to zone the entire subject property I-2, and staff's proposed SPMP process attracted little discussion or support. Subsequent to and based on that vote, the PABZC directed staff to meet with the applicant to resolve numerous outstanding issues, and the results of that meeting are reflected in the draft Annexation Agreement.

Mayor Winters declared the public hearing open.

Speaking in opposition to Resolution 9993 and Ordinance 3097 were:

**Matthew Marcinek**, Montana FWP Regional State Parks Manager, stated Montana State Parks is the adjoining landowner at Giant Springs State Park. Mr. Marcinek referenced a letter previously submitted to the Commission, and believes the testimony of Montana State Parks is neutral.

Mr. Marcinek stated Montana State Parks is not opposed to the AgriTech Park, but hopes the protections provided in the draft Annexation Agreement can be maintained and possibly strengthened. Montana State Parks would like the list of prohibited uses in Section 6 to be more clearly defined. Montana State Parks supports very low impact, low rise development, with significant mitigation for Lot 8, and Lots 9 and 10 be retained in parks and open space until Lots 1-8 are developed and a permanent solution to stabilize Whitmore Ravine is approved and funded.

Mr. Marcinek reported Montana State Parks would like the restrictions to be clarified for night lighting and building colors so buildings can blend with the environment. Because of the erodible soils and steep slopes, several of the lots flow directly into Giant Springs State Park and will likely have a dramatic impact on the coulees and infrastructure. Montana State Park supports the higher stormwater retention parameters and would be prepared to do stormwater easements across their property.

Mr. Marcinek added Montana State Parks appreciates the transportation and weight restrictions that would prohibit through truck traffic along Giant Springs Road.

**Beth Hill**, President of Upper Missouri Breaks Audubon Society, concurred with the comments made by Matthew Marcinek. She added that Giant Springs is the most visited State Park in Montana and is a great bird magnet and a great draw for visitors. She expressed concern how

development in agricultural land will affect the bird magnet.

**Bob Boland**, 310 7<sup>th</sup> Street North, questioned why industrial development cannot occur at the Central Montana Ag-Tech Park.

**Mike Witsoe**, 510 11<sup>th</sup> Street South, believes BNSF has not committed to the rail spur and proposed rail lines for AgriTech Park.

Speaking in support of Resolution 9993 and Ordinance 3097 were:

**Jeremiah Johnson**, Vice President-Marketing, GFDA, speaking on behalf of the GFDA team, stated the AgriTech Park development will support the growth of high wage jobs for current and future residents. Approval of annexation will provide shovel-ready lots with rail access for many prospective companies that can provide much needed growth, diversification, and strong wages that can support families in Great Falls.

Mr. Johnson reported the development project has been driven by over 200 private businesses that support the mission of GFDA. He noted GFDA has proposed more stringent development guidelines in the Annexation Agreement to insure the AgriTech Park does not damage the recreational and historical significance of the Missouri River, including the River's Edge Trail, the Lewis and Clark Interpretive Center, as well as Giant Springs State Park.

Mr. Johnson noted the area is already home to North Park Industrial Park, an existing heavy industrial park.

Commissioner Bronson noted concerns that development in Lots 9 and 10 poses greater concern than development in Lots 1-8. He questioned the position of GFDA if the Commission voted to annex Lots 1-8 I-2 Heavy Industrial and Lots 9-10 parks and open space, pending future development.

Mr. Johnson responded the proposal would need to be discussed with the GFDA Board.

**Gene Thayer**, GFDA Board Chairman, believes the proposal by Commissioner Bronson makes the project not very feasible economically.

Mr. Thayer noted an oil crushing plant, oil refinery, grain elevators, two flour mills, and numerous other commercial operations on the way to the proposed AgriTech Park currently employ a great number of people and are not causing any problems in the community. He expressed concern for the longevity and viability of MAFB, which is approximately 40% of the local economy.

Also speaking in support of Resolution 9993 and Ordinance 3097 were:

**Olaf Stimac**, GFDA Board member, member of North Central Building and Construction Trades Council, and business agent for Local #41; **Jerry Rukavina**, 300 24<sup>th</sup> Avenue South, President of the Central Montana Central Labor Council; **Keith Allen**, member of International Brotherhood of Electrical Workers Local #233; **Monty Ruud**, 4245 4<sup>th</sup> Avenue North, speaking on behalf of General Distributing Company; **Brad Talcott**, representing James Talcott Construction, Inc.; **Jeff Millhollin**, representing Pacific Steel & Recycling.

There being no one else to address the Commission, Mayor Winters declared the public hearing closed.

Commissioner Jones expressed support of the AgriTech Park, but questioned why Lots 9 and 10 should be annexed if those lots will only be park and open space until Lots 1-8 are developed.

Mr. Haynes responded the applicant chose to bring the 200-acre property as one piece, rather than subdivide into two lots, leaving one lot in the County.

Commissioner Jones expressed concern over Lots 9 and 10 until there is some resolution with Whitmore Ravine.

Commissioner Bronson noted that each Commissioner has done his or her own fact-finding to be as prepared as possible to consider annexation and zoning of the property. He stated the Commission is bound by State laws and local ordinances to give consideration to factors in addition to jobs and economic development. Although inclined to support the project, he believes more time is needed to reflect on the information that has been provided.

Commissioner Burow noted concern with Lots 9 and 10 and Whitmore Ravine. He also questioned if mitigation for Lot 8 would be done prior to annexation. He noted issues with the grant and expressed concern with the discrepancy between the appraisal and the cost of the lots. He questioned if two weeks was enough time to get answers to the issues that have been raised.

Commissioner Jolley also noted concern about the feasibility and the information that was received about the grant application and the problem with the appraisal of the property. She questioned if a TIF is needed to make the project feasible. She also believes some of the protections proposed by the State Parks Regional Manager are reasonable.

Mayor Winters expressed his support of the AgriTech Park, but noted concerns with Lots 9 and 10.

Commissioner Jolley referenced information provided by Montana State Parks noting the low impact provision for Lots 1 and 8 that was mentioned by GFDA President Brett Doney at a September 6, 2012, meeting.

**Commissioner Bronson moved, seconded by Commissioner Jolley, that the City Commission postpone consideration of Resolution 9993 and Ordinance 3097 until the November 6, 2012 City Commission meeting.**

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

Commissioner Bronson stated that any proposed motions should be announced well in advance to provide the public opportunity to comment at the November 6, 2012 meeting.

Mayor Winters called for the vote.

Motion carried 4-1 (Mayor Winters dissenting).

Commissioner Jones commented the Commission should work with Mr. Haynes and GFDA to resolve the issues, and FWP should be included in some of the discussions.

City Manager Greg Doyon questioned if a Work Session would be appropriate. Commissioner Burow responded a meeting should be held with all the players to try to find common ground.

Mr. Doyon responded he would determine an appropriate time and location.

### **OLD BUSINESS**

### **NEW BUSINESS**

### **ORDINANCES/RESOLUTIONS**

#### **CONSENT AGENDA**

7. Minutes, September 18, 2012, Commission meeting.
8. Total expenditures of \$3,353,633 for the period of September 11-26, 2012, to include claims over \$5,000, in the amount of \$3,063,062.
9. Contracts list.
10. Set public hearing for October 16, 2012, on Resolution 9995 to assess the total charges of \$958 for the repair of dangerous sidewalk at property addressed as 501 and 503 3<sup>rd</sup> Avenue Southwest.
11. Set public hearing for October 16, 2012, on Resolution 9996 to assess the total charges of \$2,198 for the repair of dangerous sidewalk at property addressed as 511 Central Avenue.
12. Approve Professional Services Agreement in the amount of \$32,200 with Thomas, Dean and Hoskins to prepare a River's Edge Trail Maintenance Plan. **OF 1657**
13. Approve the declaration of property as surplus (recycling equipment).
14. Approve the declaration of property as surplus (generator and related items).
15. Award bid in the amount of \$85,000, including trade-in, for one new 2013 Kenworth T370 tandem axle dump truck with Henderson Mark E-TC 15-36 body to Motor Power Kenworth of Great Falls.
16. Approve final payments in the amount of \$2,772 to Kuglin Construction and \$28 to the State Miscellaneous Tax Division for the Centene Park Landscaping project. **OF 1618**

**Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission approve the Consent Agenda as submitted.**

Mayor Winters asked if there was any discussion amongst the Commissioners or from the public.

Commissioner Burow questioned the source of funding for item #12. Mr. Doyon responded the Planning and Community Development Trail Trust Fund would contribute \$3,000; Montana FWP,



\$1,000; Recreational Trails, Inc., \$5,700; Downtown Great Falls Association, \$1,000; and, PPL River Fund, \$21,500, to prepare a plan to identify the maintenance needs of the River's Edge Trail.

Commissioner Burow questioned if the recycling equipment for item #13 would be put out for bids. City Engineer Dave Dobbs responded advertisement for bids would be solicited in the *Great Falls Tribune*.

Mayor Winters called for the vote.

Motion carried 5-0.

### PETITIONS AND COMMUNICATIONS

#### 17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Winters opened the meeting to Petitions and Communications.

- A. **Mike Witsoe**, 510 11<sup>th</sup> Street South, made local announcements.
- B. **John Hubbard**, 615 7<sup>th</sup> Avenue South, discussed ECP and expressed his views of misappropriation of public funds.
- C. **Sam Boor**, 15 Trapper Valley Road, commented on the AgriTech Park and the Convenience/Recycling Center.

### CITY MANAGER

#### 18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon announced that he would be attending the Montana League of Cities and Towns conference the rest of the week and the ICMA annual conference next week. The Deputy City Manager will also be attending the ICMA conference. Fire Chief Randy McCamley will be Acting City Manager in their absence.

Mr. Doyon reported that Great Falls made the top ten list of Montana's 25 largest cities that are business-friendly. The research was performed by the Montana Policy Institute. Factors used were economic vitality, business tax burden, and community allure. Copies are available by request.

Commissioner Bronson requested copies of the study for the City Commission.

### CITY COMMISSION

#### 19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

There were no miscellaneous reports and announcements from the City Commission.

#### 20. COMMISSION INITIATIVES.

There were no Commission initiatives.

**ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Bronson moved, seconded by Commissioner Jolley, to adjourn the regular meeting of October 2, 2012, at 8:57 p.m.**

Motion carried 5-0.

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Mayor Winters

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Acting City Clerk

Minutes Approved: October 16, 2012