

Regular City Commission Meeting

Mayor Winters presiding

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

**PLEDGE OF ALLEGIANCE** – Cub Scout from Pack 143

**MOMENT OF SILENCE**

**ROLL CALL:** City Commissioners present: Michael Winters, Bill Bronson, Fred Burow, Bob Jones and Mary Jolley. Also present were the City Manager, Deputy City Manager, City Attorney, Directors of Fiscal Services and Public Works, Police Chief, and the City Clerk.

**PROCLAMATION:** Mayor Winters read a proclamation for Youth Art Month.

**PRESENTATION:** Mayor Winters presented Alekses Clifton with a Resolution of Commendation, Appreciation and Gratitude for creating and coordinating the building of the Bison Pantry.

**\*\* 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.**

- A. Judy Tankink, NC 4, reported that attendees at the council meeting were encouraged to contact the Great Falls Police Department to report parking violations. She also announced that the council's next meeting is scheduled for Thursday at 6:30 p.m. at Heritage Baptist Church.**
- B. Mike Vohs, NC 7, reported that, in response to a neighbor's concern about train whistles, the council started researching the matter. Representatives from BNSF and Montana Department of Transportation discussed options at the council's February meeting. The council is looking at all possible options, and he encouraged comments from citizens and the Commission.**
- C. Eric Ray, NC 5, reported that the council is facilitating a neighborhood meeting on March 7<sup>th</sup> at 7:00 p.m. at Mountain View School to resurrect the Neighborhood Watch program due to increased vandalism citywide. Mr. Ray also reported that the council continues to receive complaints about air quality due to the Cascade Ridge construction project. He spoke with Frank Soltys of Benefis today and indicated to him that something had to be done. Mr. Soltys indicated that he understood the concerns and would take care of it.**
- D. Johnathon Kenneway, NC 3, announced that the council's next meeting is scheduled for March 1<sup>st</sup> at 7:00 p.m. at Riverview Elementary.**

### **BOARDS & COMMISSIONS**

#### **2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

There were no miscellaneous reports and announcements from representatives of Boards and

Commissions.

**PUBLIC HEARINGS**

**OLD BUSINESS**

**NEW BUSINESS**

**3. GIBSON PARK WATER RIGHT 41Q 105494-00 (OF 1510).**

Public Works Director Jim Rearden reported that the City Commission is being asked to approve the submission of a motion to amend the Gibson Park Water Right claim, which supplies irrigation water to Gibson Park, to reduce the claimed flow rate from 1,000 gallons per minute (gpm) to 900 gpm in accordance with an analysis by Department of Natural Resources and Conservation (DNRC) staff, and in concurrence with the City's water rights attorney.

During the adjudication process of Basin 41Q, DNRC questioned the flow rate being claimed and requested additional information. After review, DNRC staff determined, and City staff agrees, that actual withdrawal rates do not exceed 900 gpm and that the flow rate can be amended from 1,000 gpm to 900 gpm with no impact to the City's operation.

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission approve the submission of a motion to amend water right 41Q 105494-00 to a flow rate of 900 gallons per minute.**

Mayor Winters inquired why giving up 100 gpm would be in the City's best interest.

Director Rearden responded that it is based on actual beneficial use of that water, and the City cannot prove that it had been withdrawing more than 900 gpm since it's been in use.

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

Commissioner Jones commented that the action being requested pertains strictly to flow rate, not volume of water. The volume used at Gibson Park and the pond remains the same.

Mayor Winters asked if there were any inquiries from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, spoke in opposition to the requested reduction in flow rate. Mr. Gessaman discussed the issue remark, actions of Water Right Solutions, and two pumps at Gibson Park. He does not agree with the alternatives set forth in the agenda report, noting that the objection period has ended with the Water Court. Mr. Gessaman also discussed best efficiency points (bep) and pump curves, and expressed opposition to the solution arrived at by the City and DNRC. In conclusion, Mr. Gessaman suggested this matter be postponed.

Director Rearden responded that the pump curves were submitted to DNRC for its review. The peak efficiency point on the larger pump is at about 700 gpm, and due to the long system 62 psi is not out of range.

There being no one else to address the Commission, Mayor Winters called for the vote.

Motion carried 4-1 (Mayor Winters dissenting).

### **ORDINANCES/RESOLUTIONS**

**4. RESOLUTION 9959, APPROVING TAX COMPLIANCE PROCEDURES RELATING TO TAX EXEMPT BONDS.**

Fiscal Services Director Melissa Kinzler reported that, as part of the issuance of tax-exempt bonds, notes, lease obligations or other obligations, the City is required to track the interest and expenses on the issuances under Section 103 of the Internal Revenue Code. The City has had tax compliance procedures relating to tax-exempt bonds, but now is formalizing the policies and procedures in writing on recommendation of the City's bond counsel, Dorsey & Whitney, LLP.

The formalization of the procedure is to assist the City in preserving the tax-exempt status of bonds previously issued and to be issued by the City, and to maintain eligibility to issue additional tax-exempt bonds in the future. The adoption of the policy also clarifies the need for a review of the policy on a yearly basis.

**Commissioner Jones moved, seconded by Commissioner Jolley, that the City Commission adopt Resolution 9959.**

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

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, suggested that this work be vetted by another firm as Dorsey & Whitney is the same bond counsel that provided recommendations for the Highwood Generating Station.

There being no one else to address the Commission, Mayor Winters called for the vote.

Motion carried 5-0.

**5. RESOLUTION 9960, RATIFYING THE SALE AND PRESCRIBING THE FORM, TERMS AND SECURITY OF THE \$857,000 TAX INCREMENT URBAN RENEWAL REFUNDING BONDS, SERIES 2012 (OF 1499).**

Fiscal Services Director Melissa Kinzler reported that the Commission adopted Resolution 9958 that established the terms and conditions for a private, negotiated sale up to \$900,000 in Tax Increment Refunding Revenue Bonds (Refunding Bonds) and approved D.A. Davidson & Company as underwriter to the sale. The Refunding Bonds will refund the note for West Bank Properties, LLC. The tax increment generated annually from property improvements within the district based on reports from the Department of Revenue has been determined to adequately pay the principal and interest of the Refunding Bonds for the term of the debt.

On February 14, 2012, the City Manager and Fiscal Services Director entered into and executed a Bond Purchase Agreement with the underwriter on behalf of the City. Director Kinzler reviewed

the purchase price, redemption features, interest rate and other terms and conditions of the sale of the bonds, and concluded that the agreement met all terms and limitations set forth in Resolution 9958.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission accept Resolution 9960.**

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

Motion carried 5-0.

### **CONSENT AGENDA**

6. Minutes, February 7, 2012, Commission meeting.
7. Total expenditures of \$1,435,359 for the period of February 1-16, 2012, to include claims over \$5,000, in the amount of \$1,203,184.
8. Contracts list.
9. Grants list.
10. Approve the declaration of property as surplus.
11. Approve Professional Services Agreement in the amount of \$71,813 with Gordon Whirry Architecture for the Street and Sanitation Building Addition. **OF 1455.5**
12. Approve Change Order No. 1 in the amount of \$12,700.50 and final payment in the amount of \$61,374.12 to Tamietti Construction Company and the State Miscellaneous Tax Division in the amount of \$619.94 for the Lower River Road Landslide project. **OF 1611.4**

**With the exception of Item 6 to make a correction, Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission approve Items 7 – 12 of the Consent Agenda.**

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

With regard to Item 6, Commissioner Bronson commented that the word “Interim” before Police Chief should be removed from the roll call section. The minutes are acceptable with that minor change.

There being no further comments from the Commissioners, Mayor Winters asked if there were any inquiries from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, inquired about payments listed in Item 7 for the fence at CMR Tennis Courts and I.T. equipment, and noted the payment amount to the Moulton Bellingham firm.

Manager Doyon responded that he would check into the payment for the fence and follow up with Mr. Gessaman.

Director Kinzler explained what the I.T. equipment was for and that the purchases were made from the reserves of the Information Technology equipment revolving fund.

With regard to Item 6 pertaining to Resolution 9954 to redefine the CTEP project selection process, Mr. Gessaman discussed the Planning Advisory Board meeting minutes and disagreed with the representation that was made to the Commission that there was a unanimous recommendation of approval of the Planning Advisory Board.

**Mike Witsoe**, 510 11<sup>th</sup> Street South, requested information about Item 10. Director Rearden responded that the vehicles are advertised two at a time and are sold on-site. Equipment is also utilized between departments as back up equipment.

There being no one else to address the Commission, Mayor Winters called for the vote.

Motion carried 5-0.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission approve Item 6 of the Consent Agenda with an amendment to remove the word “interim” from the roll call section.**

Motion carried 5-0.

### **PETITIONS AND COMMUNICATIONS**

#### **13. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters opened the meeting to Petitions and Communications.

- A. Julie Parker**, 1720 11<sup>th</sup> Avenue South, commented that the neighborhood has been plagued with serious noise issues from the 8 Ball Casino. The bass from the music shakes her bed four to five evenings per week. She researched meters for low frequency bass and learned they are different than what the police use. Ms. Parker also discussed medical issues caused by exposure to mild levels of low frequency sound. She would like to see a resolution to this problem. She suggested that the proper meters be provided to the police, and also an ordinance change. She inquired the status of the owners' trial that she believed was scheduled for sometime in February.

City Manager Doyon responded that current meter systems would be looked into, and the matter will be researched.

Chief Bowen reported that in the month of February the police have been to the 8 Ball five times, decibel readings were below the limit and no citations were issued. He doesn't believe there is anything wrong with the meter equipment the police are using, but understands what is being requested is an ordinance change to lower the decibel limit in that area. The Police Department has taken a proactive approach and will monitor the situation.

City Attorney Santoro noted that he would follow up on the status of the trial. He also commented

that a challenge is the zoning issue with the establishment being next to homes. The decibel limits and the ordinance change process, as well as enforcement, will be looked into.

- B. Laurie Miller**, 2029 1<sup>st</sup> Avenue SW, discussed her family's reasons for choosing the location of their home. She expressed concerns about the potential change in zoning requirements in her neighborhood. Ms. Miller noted the abuse and disregard of zoning regulations by some neighbors, as well as the perceived tolerance of these practices by the City. She inquired how the City could assure the responsible residents that their safety and wellbeing is going to be maintained if structures are allowed without permits and inspections. She inquired why the City would consider changing the rules and grandfathering in properties of owners that have a blatant disregard for regulations. She feels her rights as a responsible homeowner and taxpayer are being jeopardized because others try to circumvent the system.

Mr. Doyon commented that there has been some discussion about accessory dwelling uses. Staff has not been given direction by the Commission to make any changes of that nature at this point. Staff is aware of the properties Ms. Miller mentioned. He further noted that this is a good illustration that expanded uses may not be the desire of the community.

- C. John Hubbard**, 615 7<sup>th</sup> Avenue South, read a letter he wrote to the Supreme Court following receipt of a recent Order not in his favor.
- D. Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that the City needs to be cognizant of selective enforcement based on earlier comments. Mr. Gessaman reviewed Southern's proposed budget for the next four weeks. He expressed concern about the lack of information from the bankruptcy trustee, and concluded that it is time to stop waiting to see what happens and to be more proactive.
- E. Mike Witsoe**, 510 11<sup>th</sup> Street South, discussed the neighbors' issues with the construction dust around Benefis and noise issues around the 8 Ball. Mr. Witsoe also reminded everyone that next month is CM Russell month.

### **CITY MANAGER**

#### **14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon reported that a recent article recognized the Great Falls Police Department Honor Guard.

Police Chief Bowen announced that the Great Falls Police Department Honor Guard was featured in a national circulated magazine entitled "Made to Measure." He also thanked the Police Foundation for its continued support and partnership.

### **CITY COMMISSION**

#### **15. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Bronson commented that he appreciated that BNSF representatives were at the Neighborhood Council 7 meeting to explain the process of creating a quiet zone. There are members of the neighborhood and legislative delegation looking into the matter. It may require Commission action at some point.

Commissioner Burow recognized the Great Falls Development Authority for receiving certification. He also expressed appreciation to the four neighborhood council representatives for addressing the Commission this evening. He also inquired about pursuing the cell phone ordinance.

City Attorney Santoro responded that a cell phone ordinance update and new DUI laws will be discussed at an upcoming Work Session.

Commissioner Jolley suggested staff research other communities that have dealt with subwoofer or related noise problems.

Commissioner Jones noted that the meters the police are using are identified in State law and City ordinance and are recognized by most Class 1 and 2 cities around Montana.

16. **APPOINTMENTS, GREAT FALLS DEVELOPMENT AUTHORITY BOARD OF DIRECTORS.**

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission nominate Commissioner Bill Bronson and Mayor Michael Winters to the Great Falls Development Authority Board of Directors as City Commission representatives.**

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

Motion carried 5-0.

17. **COMMISSION INITIATIVES.**

There were no Commission initiatives.

**ADJOURNMENT**

There being no further business to come before the regular Commission meeting, **Commissioner Bronson moved, seconded by Commissioner Jolley, that the regular meeting of February 21, 2012, be adjourned at 8:50 p.m.**

Motion carried 5-0.

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Mayor Winters

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City Clerk

Minutes Approved: March 6, 2012