

Regular City Commission Meeting

Mayor Winters presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE – Boy Scout Troop 4

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, Directors of Fiscal Services, Library, and Planning and Community Development, the City Engineer, Chief Prosecutor, Police Chief, and the City Clerk.

PROCLAMATION: Mayor Winters read a proclamation for Brain Injury Awareness 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.

- A. Judy Tankink**, NC 4, reviewed the council's agenda scheduled for Thursday, March 22, 2012 at 6:30 pm at Heritage Baptist Church.
- B. Eric Ray**, NC 5, provided an update of the council's March 7th meeting to re-establish a neighborhood watch program. He also reported that the dust issues with the Benefis construction projects continue to fester. The Health Officer for the Cascade City-County Health Department is checking into possible violations of the Clean Air Act. Mr. Ray encouraged the City to take action in favor of the neighborhoods.

Commissioner Bronson is the Commission's representative on the Board of Health. If Health Officer Alicia Thompson is investigating, he reported that he would make sure this issue is discussed during the April 1st board meeting, and will contact Mr. Ray regarding any findings.

BOARDS & COMMISSIONS

2. REPEAL AIRPORT AUTHORITY APPOINTMENT PROCEDURE.

Deputy City Manager Jennifer Reichelt reported that the Commission adopted the Airport Authority Appointment Procedure in 2007. On March 6, 2012, this Commission adopted Resolution 9962 that addressed recommendations for appointments to vacant positions, and the Commission's right to interview applicants. Therefore, the previously adopted Airport Authority Appointment Procedure is redundant.

Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission repeal the Airport Authority Appointment Procedure.

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

Commissioner Bronson commented that he was informed by Board Chairman Jim Morin that the members he talked to were in favor of this action.

Mayor Winters asked if there were any inquiries from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

3. APPOINTMENTS, HISTORIC PRESERVATION ADVISORY COMMISSION.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission appoint Sandra French and Carole Ann Clark to three-year terms beginning May 1, 2012, through April 30, 2015, to the Historic Preservation Advisory Commission.

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

Commissioner Bronson commented that a member of this Board indicated to him that this was a difficult decision. It is the Board's intent to ask the two unsuccessful applicants to become involved in the Board's activities in an ex-officio capacity.

Commissioner Jones commented that he was sure it was a difficult choice to make as all the applicants had a great deal of expertise in this related field.

Mayor Winters asked if there were any inquiries from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

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

Mayor Winters conveyed a message from "Carol the Trolley Lady" that she had many trolley riders during Art Week. They were impressed with the community, and appreciated the residents' friendliness to visitors.

PUBLIC HEARINGS

OLD BUSINESS

5. CDBG AND HOME PROGRAM PROPOSED USE OF FUNDS AND PUBLIC HEARING DATE FOR HUD REQUIRED 2012/2013 ANNUAL ACTION PLAN.

Planning and Community Development Director Mike Haynes reported that this item relates to the recommendations from the Community Development Council (CDC) on the proposed use of funds

for the 2012/2013 CDBG and HOME programs. The federal government is shrinking these grant programs while at the same time community needs are growing. Competition for these grant awards is as strong as ever. As the Commission heard during the work session presentations, the CDC made its recommendations after hearing requests for funds from all eligible applicants and then meeting to prioritize funding allocations.

The CDC did follow the City Commission's general funding priorities established at the January 3, 2012, meeting except that they are recommending that the \$25,000 that would have been devoted to economic development instead be allocated to funding public facilities for which there was overwhelming demand this funding cycle. If the City Commission follows the CDC's recommendation the amount of \$34,499 will be allocated to purchase and install play equipment at Pinski Park. If the City Commission does not follow that funding recommendation, then the CDC's alternative recommendation is to allocate \$25,000 to the Great Falls Development Authority (GFDA) for a Technical Assistance Program for small businesses with the remaining \$9,499 applied to the boiler project at the Natatorium.

The requested action is to accept the proposed use of 2012/2013 CDBG and HOME funds and set the public hearing for April 17, 2012.

Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission accept the proposed use of funds for the 2012/2013 Community Development Block Grant (CDBG) Program and HOME Program for inclusion in the Annual Action Plan, and set the public hearing for April 17, 2012.

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

Judy Tankink, 3620 9th Avenue North, doesn't believe the City should be enforcing international codes as it relates to maintenance of property and buildings as set forth in the proposed use of funds for code enforcement.

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

Motion carried 5-0.

NEW BUSINESS

6. PROFESSIONAL SERVICES CONTRACT AMENDMENT WITH HDR ENGINEERING FOR ENGINEERING SERVICES FOR THE WASTEWATER TREATMENT PLANT PERMIT REQUIRED UPGRADES FOR A FEE NOT TO EXCEED \$3,491,864 (OF 1633).

City Engineer Dave Dobbs reported that this item for consideration is an amendment to the Professional Services Agreement between the City and HDR Engineering, Inc. for engineering services for the Wastewater Treatment Plant (WWTP) permit required upgrades. He explained that, on five year cycles, the Montana Department of Environmental Quality (DEQ) issues new discharge permits for wastewater facilities. The new permit issued for the WWTP on December 1, 2010, includes stricter limits on the treated water that the plant can discharge back to the Missouri River. The existing plant is unable to meet the stricter limits, and must reduce the amounts of ammonia, chlorine, coliform bacteria, and some metals that can be discharged. Major upgrades and

modifications will be needed at the WWTP to meet those stricter limits. The new permit gave the City between three and four years to comply with the stricter limits.

Approval of the contract amendment will allow for the detailed design and construction phases of the project. The three main elements are (1) the existing gaseous chlorine disinfection system will be replaced with an ultraviolet disinfection system. The existing system is near the end of its useful life and would need to be replaced in the next few years regardless of the new permit requirements. The ultraviolet system will also ensure compliance with stricter chlorine and coliform limits set in the new permit; (2) a new aeration system will replace the system installed in 1976 that is also approaching the end of its service life. A new fine bubble diffuser aeration system, along with reconfiguration of the four existing aeration basins into two bioreactors, plus construction of one new bioreactor will allow for the biological removal of ammonia during the treatment process; and, (3) meters will be installed at key points in the system as required by the DEQ.

The construction cost is estimated to be \$16 million, and the project work must be done while keeping the existing plant up and running. The project is complex and will require the services of geotechnical, structural, electrical, mechanical, hydraulic, civil, and survey professionals, as well as construction inspectors and project managers.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission approve the Professional Services Contract Amendment between the City of Great Falls and HDR Engineering, Inc. (HDR) for engineering services for the Wastewater Treatment Plant permit required upgrades for a fee not to exceed \$3,491,864, and authorize the City Manager to execute the agreements.

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

Kathy Gessaman, 1006 36th Avenue NE, inquired if the non-dissolving fibrous solids or particulates that were not settling out of the wastewater stream as previously discussed at a work session would be addressed by this project. Engineer Dobbs reported that will be addressed in the new design of the bioreactors.

Ms. Gessaman commented that it was her understanding a good deal of the particulate matter was coming from the Malt Plant. She inquired the status of the rates for the Malt Plant to cover some of these costs. Engineer Dobbs commented that negotiations are almost complete with the Malt Plant. He believes the agreement will be coming before the Commission in the near future.

Ron Gessaman, 1006 36th Avenue NE, inquired if storm water was bypassing into the sewer system. Engineer Dobbs explained that inflows of storm water into the sewerage system may occur during very heavy rain events. That issue will be addressed by the metering system of this project.

Mr. Gessaman discussed items that were set forth in the contract but not in the agenda report. Commissioner Jolley and Engineer Dobbs clarified that, as part of the mixing zone study, samples have to be taken over a one year period. When complete, the report goes to DEQ for approval. Commissioner Jolley also commented that she believes agreements should be posted online in the future.

Mr. Gessaman further pointed out that he has been bringing up the lack of a contract with the Malt Plant and now it turns out the Malt Plant has created a problem at the WWTP. It doesn't appear to him that the City is going to make the Malt Plant pay its fair share. Engineer Dobbs clarified that the Malt Plant has continued to pay at the old rate since the agreement expired. Per the interim agreement, when the new rate is instituted, the Malt Plant will pay the differential between the old and new rates.

Mr. Gessaman concluded that the \$1.53 rate suggested by the consultant is not adequate, especially in light of the solids problem.

Paul Stephens, 820 3rd Avenue North, commented that he couldn't imagine it would take 26,000 hours, and inquired if another consultant could perform the work for half the money. Engineer Dobbs reiterated the services the consultants would be performing. Mr. Stephens discussed the state of the economy, his personal financial situation, and concluded that the City needs to hire an economist.

Mike Witsoe, 510 11th Street South, discussed water meter reading records, and suggested the rates the Malt Plant pays versus residents needs to be investigated. The discharge from the Malt Plant has caused the need for some of these repairs, and overflows have caused EPA permit violations.

Engineer Dobbs noted that a lot of the equipment is near the end of its service life, and the upgrades would need to be done anyway. The City does not get to pick and choose the upgrades it needs to make. The consequences of not following the DEQ/EPA mandates are, in the worst case scenario, a \$25,000 per day fine.

Craig Caprara, HDR's Design Manager, noted that HDR is evaluating alternatives that will be in reports produced to the City for public review. The issues they are dealing with are extremely complicated. HDR is choosing the best alternatives for the City of Great Falls to deal with the issues at hand, and to provide good options for future EPA requirements. Mr. Caprara commented that he was not aware of any toxic discharge from the Malt Plant or Refinery that have affected the biological processes of the WWTP. What HDR has tested and evaluated at the WWTP are treatable. Industrial discharge is being evaluated and investigated and the appropriate rate structure will be set in place.

Cyndi Baker, 500 Montana Avenue NW, inquired how the \$16 million dollar cost for the upgrades was going to be paid. Engineer Dobbs discussed the proposed rate increase and that the consultant services will be paid for from the Wastewater Fund, and the project will probably be financed through SRF funding similar to bonds.

John Hubbard, 615 7th Avenue South, doesn't respect the DEQ/EPA because it didn't investigate his complaints.

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

Motion carried 5-0.

ORDINANCES/RESOLUTIONS**7. RESOLUTION 9953, REMODEL TAX BENEFIT, 1011 BROADWATER DRIVE.**

Planning and Community Development Director Mike Haynes reported that Double Bogey, LLC has submitted an application affirming and providing documentation that it qualifies for the tax benefit, and is requesting that the City Commission approve the tax benefit for their estimated \$2.1 million dollar office expansion of the Eagle Beverage distribution warehouse at 1101 Broadwater Drive. The remodel tax benefit would provide Double Bogey, LLC, property tax abatement for a portion of the additional City property taxes generated by the redevelopment. The City Commission established a policy to approve tax abatements for qualifying remodels at the rates and according to the schedule established by the State of Montana in Resolution 9004 adopted in January 1999.

Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission adopt Resolution 9953.

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 36th Avenue NE, reviewed §§ 15-24-1501 and 15-24-1502, MCA, referenced in the agenda report and Resolution 9953, and questioned the statute applicable to this application. He feels approval of these applications by either City or County governing bodies steals money from the local school district.

Director Haynes explained the Department of Revenue's process.

Mr. Gessaman commented that approval of these applications is optional by the City Commission. He feels approval of a tax benefit is unfair as the applicant was already given a great deal when it purchased the property from the City.

Director Haynes noted that this is at the option of the City Commission. However, the City Commission adopted Resolution 9004 in 1999 establishing that they would support these tax abatements. It was previously presented at a work session that the City Commission could repeal Resolution 9004 and disallow these applications.

Commissioner Jolley asked if the matter should be tabled until the laws referenced in the agenda report could be clarified.

Commissioner Bronson doesn't think tabling is necessary because of the nature of the request the DOR will treat it as an application under section 1502.

Mike Witsoe, 510 11th Street South, discussed the sale of the commercial property to Double Bogey in 2009 for \$1.00 per square foot. Director Haynes responded to several of Mr. Witsoe's inquiries that were set forth in the agenda report.

A point of order was raised by Commissioner Jolley indicating that, although the history was

interesting, the issue before the Commission was Resolution 9953.

Mr. Witsoe continued that when the sewer line was installed, it cost the City more than Double Bogey paid for the land.

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

Motion carried 5-0.

8. RESOLUTION 9963, TO LEVY AND ASSESS THE COST OF REMOVAL AND DISPOSAL OF NUISANCE WEEDS ON PROPERTY LOCATED AT 1418 3RD AVENUE SOUTHWEST.

Fiscal Services Director Melissa Kinzler reported that Resolution 9963 is to levy and assess the costs of nuisance weed removal and disposal at 1418 3rd Avenue Southwest. On June 16 and September 8, 2011, the City was notified of nuisance weeds. An initial inspection determined violation of the ordinance and notification was sent to the property owner. Upon re-inspection, the property was still in violation, and the weeds were cut by City staff on July 13 and September 21, 2011. The charges total \$1,800, and the property owner has been billed monthly for these charges beginning August 1, 2011 through present.

Fiscal Services has been notified of a pending Trustee's Sale on this property. Staff recommends adoption of Resolution 9963.

Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9963.

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

9. Minutes, March 6, 2012, Commission meeting.
10. Total expenditures of \$1,805,452 for the period of March 1-14, 2012, to include claims over \$5,000, in the amount of \$1,579,629.
11. Contracts list.
12. Lien release list.
13. Approve Utilities Agreement with the Montana Department of Transportation to include utility work during the reconstruction of Smelter Avenue from 3rd Street Northwest to Division Road.
OF 1337
14. City Commission confirm that it wishes to accept the Montana Department of Environmental Quality contract for American Recovery and Reinvestment Act funding of the Wastewater

Treatment Plant Return Activated Sludge Pump Upgrades. **OF 1457.7**

15. Award construction contract to Ironhide, LLC for the 20th Street Sidewalks in the amount of \$59,737.12. **OF 1619**
16. Award construction contract to United Materials of Great Falls, Inc. for the 2012 Mill and Overlays in the amount of \$520,716. **OF 1611.3**

With the exception of Item 9 to pull for consideration of a proposed amendment to the minutes, Commissioner Bronson moved, seconded by Commissioner Jolley, that the City Commission approve the balance of the Consent Agenda as submitted.

Commissioner Bronson reviewed his comments and response on page 2012.32 of the minutes regarding Resolution 9962, and proposed that the minutes be amended to reflect that Deputy Manager Reichelt and City Attorney James Santoro clarified that the resolution pertains specifically to Commission appointments to City boards and commissions.

Commissioner Burow asked for an explanation of Items 11A and 11B, agreements with NorthWestern Energy and United Electric, for work at the Animal Shelter. Deputy Manager Reichelt explained that the agreements are to perform work on the HVAC system at the Animal Shelter as discussed during the budget cycle. The current 100 amp electrical system does not meet the needs of the Animal Shelter. Inspectors recommended a 300 amp electrical system to also meet future needs of the facility. This upgrade is very important for ongoing services at the Animal Shelter.

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

Ron Gessaman, 1006 36th Avenue NE, inquired where the money was coming from to pay for Items 11A and 11B. Deputy Manager Reichelt reported that some of the funds are from the existing budget and some are from the Thorndike Trust.

Mr. Gessaman agreed with staff's recommendation for Item 14.

With regard to Item 15, Mr. Gessaman commented that this is a great opportunity to move forward with what is current thinking and control of storm waters to slope the sidewalks towards lawns.

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

Motion carried 5-0.

With respect to Item 9 on the Consent Agenda, Commissioner Bronson moved, seconded by Commissioner Burow, that the minutes be approved with an amendment on page 2012.32 with the addition of "and City Attorney James Santoro."

Mayor Winters asked if there was any discussion amongst the Commissioners. Hearing none, 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. Frank Soltys**, 2709 Ivy Drive, Chief Administrative Officer for Benefis Senior Services, expressed that they are taking Neighborhood Council 5's concerns seriously, they are continuing to look at solutions to the dust problem, and will respond quickly to the council.

Commissioner Burow inquired when he gets calls from people in that area what number should he tell them to call.

Mr. Soltys reported that Sletten Construction is the general contractor working on both projects. He also provided his contact number.

- B. Dawn Willey**, 3321 Wild Rose Lane, also provided her contact number if people had concerns about the construction projects.
- C. Ron Gessaman**, 1006 36th Avenue NE, discussed information contained in the last weekly review. Regarding a letter and report about the Fire Department's public protection classification, Mr. Gessaman encouraged the City to do whatever was necessary to make sure the ranking classification does not drop from 3 to 4 that would have an effect on fire rates for house insurance. He also reviewed a letter and estimated usage chart sent to Bankruptcy Trustee Freeman. Mr. Gessaman also read Article II, Section 3 of the City Charter, and suggested that the Commission investigate issues surrounding ECP.
- D. Kathy Gessaman**, 1006 36th Avenue NE, reminded everyone that Tax Help Montana is still operating.
- E. John Hubbard**, 615 7th Avenue South, inquired and was informed parking ticket fines go to the Parking Fund.
- F. Mike Witsoe**, 510 11th Street South, requested tours of the WWTP, Co-Gen unit, and basement of the Natatorium. He also requested a public hearing regarding closing the Convenience Center.

CITY MANAGER**18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon reported that, with regard to the ISO report, the Fire Chief is conducting a review of the data that organization used to make the classification. He believes there are potential errors. If that can be demonstrated, there will be a reconsideration of that rating. There is a financial impact to residents and businesses if that rating is lowered. The goal is to preserve the current rating. With regard to the Convenience Center, Manager Doyon noted that recycling has been discussed during the last several budget cycles. The Convenience Center is currently not operating efficiently. There will be discussion before a proposal is advanced to the Commission.

He also announced that a positive program for the community entitled “My Neighbor In Need” was unveiled today. He encouraged everyone to view the website myneighborinneed.org.

CITY COMMISSION

19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

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

20. 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 March 20, 2012, be adjourned at 9:06 p.m.**

Motion carried 5-0.

Mayor Winters

City Clerk

Minutes Approved: April 3, 2012