

Regular City Commission Meeting

Mayor Winters presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE – Cub Scout Pack 1432, Bear Den 3

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, Park and Recreation, Planning and Community Development, and Public Works; Fire Chief; Police Captain; and the City Clerk.

PROCLAMATIONS: Mayor Winters read proclamations for Bike to Work Week and Peace Officers Memorial Day.

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

NEIGHBORHOOD COUNCILS

1. **COUNCIL 5 DRAWING OF TIE VOTE OF WRITE-IN CANDIDATES.**

Due to tie votes between the write-in candidates for the fifth seat on Neighborhood Council District 5, a drawing was held. Commissioner Jolley drew Marcia Anderson's name.

2. **SWEARING IN CEREMONY.**

Mayor Winters performed the swearing in ceremony for Marcia Anderson, representative of Neighborhood Council 5.

3. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Robin Baker, NC 6, announced that the council has adjourned for the summer months with the exception of a possible special meeting to discuss an SID in the Pearson Addition and the Upper/Lower River Road drainage issues.

BOARDS & COMMISSIONS

4. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Robin Baker, announced that the Advisory Commission on International Relationships will be hosting delegates from Tajikistan. She encouraged attendance at a public reception scheduled for May 24, 2012, at the Chamber of Commerce.

PUBLIC HEARINGS**5. TAX EXEMPTION FOR RENTAL HOUSING PROVIDING AFFORDABLE HOUSING TO LOWER-INCOME TENANTS, RAINBOW HOUSE, 626 13TH AVENUE SOUTH.**

Planning and Community Development Director Mike Haynes reported that this is the public hearing to take public comment on whether the Rainbow House meets a community need. The group homeWORD, Inc. is proposing to acquire and rehab the Rainbow House low-income senior rental housing project. Pursuant to State statutes, public hearing notices were published in the Great Falls *Tribune* on April 22 and May 6, 2012.

Following the hearing staff will forward the public comment to the Department of Commerce, Board of Housing, to help them make their decision on the tax-exempt status of the Rainbow House. No action is required by the City Commission except to conduct the public hearing.

Heather McMilin, Housing Development Director for homeWORD, Inc., 1535 Liberty Lane, Missoula, reported that homeWORD is a non-profit organization that develops affordable housing. Part of that process recently was working in partnership with a private developer, GMD Development, to acquire five affordable housing projects around the state of Montana. The Rainbow House is one of those projects. It is part of a five unit portfolio of older, affordable housing developed by a single property owner years ago. This property owner is selling the properties and they are at risk of going on the market and not remaining affordable. As part of the partnership with GMD Development, they will be doing what is called a 4% bond deal. They will be acquiring this property and the Silver Bow Apartments as one transaction to insure the long term affordability of the project. Part of that acquisition is that the project be restructured to do the appropriate level of rehab, a capital needs assessment, energy upgrades, and things that will benefit the residents. With the new ownership and restructuring, they are taking on a different debt structure. Part of this project and financing package is that they are pursuing the State tax exemption for the property that is allowed under State statute. Part of that process is the public hearing, presenting the project and answering any questions, and that it follow statute that affordable housing, especially senior affordable housing, in Great Falls is part of a community need and meets the community need.

Mayor Winters declared the public hearing open.

Kathy Gessaman, 1006 36th Avenue NE, thanked the previous owners of the Rainbow House for paying property taxes which amounted to \$10,013 per year. She noted of that amount \$2,363 is City assessment, and \$783 in additional assessments for the Library, Soccer Park, swimming pools and street maintenance. She hoped some monies would continue to support and maintain public amenities.

Ms. McMilin clarified that they are seeking State tax exemption; the project will continue to pay City/County assessments.

Ron Gessaman, 1006 36th Avenue NE, commented that “schools” were not mentioned by the speaker regarding taxes. He inquired about the particular time period of 46 years.

Ms. Milin responded that the 46 years is in the IRS rules and regulations of the low income housing tax credit program. They will be using the low income housing tax credits, the 4% bond. It is a tax mechanism to provide equity up front for the capital improvements and acquisition. The program is for a period of 15 years for the equity investor. The State regulates that if they choose to do so, they can extend the period of affordability. As non-profit housing developers, they believe that 15 years is not sufficient if money of this nature is going to be used for long term affordability. Forty-six years is the State's requirement for the extension of the period of affordability. It is a very specific number for a reason.

As far as the tax abatement of State tax, the annotated code is readily available. It is something they access to make the operations of the project more affordable so that they can keep the rents lower and they can insure long term sustainability of the project. Of the current tax assessment of approximately \$9,200, they will be paying \$4,227 and exempting \$4,700. The County and City assessments will be paid. It is only the State exemptions that are being pursued under the code.

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

Mayor Winters asked if there were any comments from the Commissioners. No one responded.

6. **ORDINANCE 3088 TO ADOPT THE DOWNTOWN URBAN RENEWAL DISTRICT PLAN, INCLUDING A TAX INCREMENT FINANCING PROVISION PURSUANT TO SECTIONS 7-15-42 AND 43, MCA.**

Planning and Community Development Director Mike Haynes reported that this is the public hearing to consider Ordinance 3088 that would adopt a Downtown Urban Renewal District, including a provision to establish a Downtown Tax Increment Financing (TIF) District. These actions all emanate from the Downtown Master Plan that called for establishing a TIF District as the primary funding mechanism for targeted public improvements.

At its April 10, 2012, meeting, the Planning Advisory Board unanimously found the Downtown Urban Renewal Plan to be in conformance with the Growth Policy.

On March 6, 2012, the City Commission approved Resolution 9961 that acknowledged the existence of conditions that discourage economic development downtown and established boundaries of an Urban Renewal District.

On May 1, 2012, the City Commission accepted Ordinance 3088 on first reading and set the public hearing for today.

Notice of this public hearing was published in the Great Falls Tribune on May 6, 2012, and notices were mailed to all 382 property owners in the District.

Adopting a Downtown Urban Renewal District is the final action needed in order to request the Department of Revenue certify the Downtown TIF District. Once the TIF District is established, the property tax increment generated from new development within the District, for the life of the TIF starting January 1, 2012, will be directed back to the District to be used specifically for public improvements designed to spur further development and private investment downtown.

Mayor Winters declared the public hearing open.

No one spoke in opposition to Ordinance 3088.

Speaking in favor of Ordinance 3088 were:

Brett Doney, Great Falls Development Authority, 300 Central Avenue, and speaking on behalf of NeighborWorks Great Falls, thanked the City for its long term commitment to the revitalization of downtown. The private sector is taking notice and beginning to make significant investments downtown. Easter Seals announced today that it is buying the 1st Interstate Bank building and will employ over 80 people.

Steve Malicott, Great Falls Area Chamber of Commerce, echoed Mr. Doney's comments. He commended Director Haynes and his staff for an outstanding job of putting forward the Downtown Master Plan in conjunction with multiple volunteers and organizations. Mr. Malicott also reported that he is involved with a downtown group that is working on a 501(c)(3) to help the Commission in terms of planning and recommendations on the tax increment financing and budget.

Commissioner Jolley inquired if the 501(c)(3) organization that Mr. Malicott referred to was the Great Falls Downtown Development Agency. Mr. Malicott answered affirmatively and added that it is his understanding the group will make recommendations and the decision authority is with the City Commission.

It was also clarified that the Great Falls Downtown Development Agency and Downtown Partnership are one in the same.

Alison Fried, owner of Dragon Fly Dry Goods, thanked the City Commission, City staff, business and property owners and public involved in the Downtown Master Plan.

Gary Hackett, 3912 18th Avenue South, reported that the Business Improvement District Board is fully in support of Ordinance 3088. In addition, he recently developed the Hastings Apartments and is currently working on the Margaret Building. He wished the benefits from his development could be used for this as well.

Martin Fleck, Community Relations Director for the Downtown Great Falls Association, 13 5th Street North, reported that the organization is composed of about 120 businesses located downtown. The organization has been working with City staff for over a year on the Downtown Master Plan. They look forward to making the Master Plan a reality.

Richard Dorman, owner of property at 925 1st Avenue North, compared downtown Great Falls to downtown Missoula. He hopes this is a step forward as he has watched downtown deteriorate over the years. He would love to see downtown as it was in the 50's.

Ira "Ike" M. Kaufman, Jr., Kaufmans Menswear Centre, 411 Central Avenue, submitted written comments in support of Ordinance 3088.

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

Commissioner Jones moved, seconded by Commissioner Bronson, that the City Commission adopt Ordinance 3088.

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

Motion carried 5-0.

OLD BUSINESS

7. AMEND THE REVOLVING LOAN FUND AGREEMENT BETWEEN THE CITY AND GREAT FALLS DEVELOPMENT AUTHORITY TO INCREASE THE ALLOWABLE LOAN PERCENTAGE.

Planning and Community Development Director Mike Haynes reported this is a request to amend a December, 2009, agreement with Great Falls Development Authority (GFDA). With the expiration of the old Downtown Tax Increment Financing (TIF) District, \$300,000 of excess TIF funds were allocated to a Revolving Loan Fund to be administered by GFDA to encourage beneficial commercial and residential redevelopment within the District. The agreement currently limits GFDA to loan the lesser of \$150,000 or 25% of the project cost. The request is to amend the agreement to limit loans to the lesser of \$150,000 or 30% of the project cost. This change is specifically needed to accommodate a loan for redevelopment of the Subway Building, but will provide additional flexibility for future loans that is consistent with strategies in the Downtown Master Plan to encourage private investment in housing and commercial and retail businesses.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission approve the Revolving Loan Fund Agreement, as amended, between the City of Great Falls and Great Falls Development Authority, and authorize the City Manager to execute the Agreement.

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

Brett Doney, Great Falls Development Authority, 300 Central Avenue, expressed appreciation to City staff. He explained the U.S. Treasury rules that changed during the Subway building loan process.

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

Motion carried 5-0.

NEW BUSINESS

ORDINANCES/RESOLUTIONS

8. ORDINANCE 3085 AMENDING TITLE 5, ORDINANCE 3086 AMENDING TITLE 12, AND ORDINANCE 3087 AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS.

Planning and Community Development Director Mike Haynes reported that this is a request to set a public hearing for June 5, 2012, to consider amendments to Titles 5, 12 and 17 of City Code.

The proposed changes to Title 5: Business License and Safety Inspection Certificate – is to amend requirements pertaining to Home Occupations to be consistent with those in Title 17.

The proposed changes to Title 12: Streets and Sidewalks - are proposed by Public Works to update the code to reflect ADA requirements, update the list of snow routes, and make minor corrections.

The proposed changes to Title 17: Land Development Code - were recommended for adoption by the Planning Advisory Board at its meeting on April 10, 2012:

1. Changes related to bonus living spaces. There is trend towards homeowners wanting living spaces in detached accessory structures. Current code assumes that accessory structures are limited to garages or workshops. The amendments clarify that bonus living spaces in accessory structures are permitted subject to conditions that keep them clearly subordinate to the principal structure and make it infeasible to convert them to separate dwelling units where that violates the zoning code. These changes allow homeowners reasonable enjoyment of their property while providing reasonable protections for neighbors.
2. Changes related to the C-5 zoning district. After thorough research and analysis it is proposed to add some uses to those already permitted in the C-5 zoning district and to create a Southside Business Overlay District in an area that has not thrived to allow additional uses under certain conditions, including warehouse and light industrial. It is also proposed to allow community gardens in C-5 through the administrative process established last year for other zoning districts. These changes encourage re-use of vacant or under-utilized properties and spur redevelopment.
3. Changes related to downtown parking. Currently the Director of Planning and Community Development has the discretion to waive minimum off-street parking requirements in the C-4 zoning district (Downtown Core) given historic development patterns downtown and access to off-street public and private parking garages/surface lots, and on-street parking. For every space waived, City code currently requires payment in lieu by the downtown business or property owner of \$1,000/space. The payment in lieu provision does not appear to have been exercised in quite some time. It is proposed to expand the Director's authority to waive minimum parking requirements to include the C-4 and C-5 zoning districts and that payment in lieu not be required in either the C-4 or C-5 zoning districts. These changes are another effort to encourage development in the C-5 zoning district. They also serve to unify code and common practice.
4. Changes related to driveways. Public Works is proposing some changes to curb-cut and driveway standards and some other minor clean up items.

Commissioner Jolley moved, seconded by Commissioner Jones, that the City Commission accept Ordinance 3085 on first reading and set a public hearing for June 5, 2012.

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

With regard to Ordinance 3085, Commissioner Jolley suggested changing Title 17, to bring it in conformance with Title 5, keeping (2) non-resident employees, rather than changing the language to (1) non-resident employee in Title 5. Mr. Haynes responded it could be changed as she suggested if that was the preference of the Commission.

Commissioner Jolley also expressed concern about businesses being affected by Ordinance 3085 language under part "L. Retail Sales." Mr. Haynes responded that language also brings Title 5 into compliance with Title 17.

Commissioner Bronson commented that he has a home occupation permit and, although these changes don't have any impact on his business, he would abstain from voting on Ordinance 3085.

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

Kathy Gessaman, 1006 36th Avenue NE, agreed with Commissioner Jolley's comments regarding Ordinance 3085. She also expressed concern with the language under part "E. Area." Mr. Haynes summarized that citizens can use the space for a business but in a way that doesn't have a negative impact on their neighbors or neighborhoods. Ms. Gessaman noted that no one in the Riverview area has complained about home businesses at Neighborhood Council 3 meetings. She also suggested that this be discussed with Neighborhood Councils or Council of Councils for their input.

Ron Gessaman, 1006 36th Avenue NE, referred to an article regarding Great Falls being the small business community of Montana, and commented that what is being proposed by Ordinance 3085 seems to him to be small business unfriendly.

Commissioner Burow commented that he would abstain from voting on Ordinance 3085 also because he has a home business.

Mayor Winters commented that there may be an issue because he makes baby furniture at his home.

After further procedural discussion about Ordinance 3085, **Commissioner Jolley moved, seconded by Commissioner Jones, that the main motion be withdrawn.**

Commissioner Bronson requested clarification due to this issue never being dealt with before that, even if three Commissioners abstain, can two Commissioners vote on any matter that is brought up.

City Attorney Santoro discussed the motions. Commissioner Jolley noted she wants her motion to withdraw to stand. Commissioner Bronson commented that Commissioner Jolley's motion is valid under the rules of parliamentary procedure.

Mayor Winters called for the vote.

Motion to Withdraw Main Motion carried 2-0-3 (Mayor Winters and Commissioners Bronson and Burow abstained).

Manager Doyon requested direction from the Commission with regard to staff reworking the wording of Ordinance 3085 or debate it further at a Work Session.

Commissioner Bronson suggested an appropriate motion would be to refer it to a Work Session.

Director Haynes clarified that the Planning Advisory Board didn't consider the amendments to Title 5, only to Title 17. He suggested the Commission take action on the other two ordinances which relate to different titles. The inconsistency in the City Code will still need to be addressed.

Commissioner Jones moved, seconded by Commissioners Bronson and Jolley, that the City Commission accept Ordinance 3086 on first reading and set a public hearing for June 5, 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 regarding Ordinance 3086.

Ron Gessaman, 1006 36th Avenue NE, inquired about the retroactive language in Section 12.36.070. City Engineer Dave Dobbs noted the only change made to this section was its number. He explained that in the early 1990's there were a number of programs to remove curb fillets that took care of about ninety percent. Since that time a few curb fillets per year are removed.

Brett Doney, Great Falls Development Authority, 300 Central Avenue, believes entrepreneurship is a driving force in Great Falls. He discussed issues with Ordinance 3087 with regard to accessory living structures and home occupations. Mr. Doney commented that zoning has had a hard time catching up with the past. To support entrepreneurship he suggested that everything that refers to home occupation needs to be looked into and GFDA would be happy to work with the City.

Mike Witsoe, 510 11th Street South, inquired about curb cuts for boats and motor homes. City Engineer Dobbs noted that the sections of the code about where vehicles can be parked are not being changed by the modifications being proposed. Mr. Witsoe suggested postponing action on this ordinance.

There being no one else to address the Commission, Mayor Winters called for the vote with regard to Ordinance 3086.

Motion carried 4-0-1 (Mayor Winters abstained).

Commissioner Jones pointed out that the action requested of the Commission tonight is to set the public hearing for June 5, 2012.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission accept Ordinance 3087 on first reading and set a public hearing for June 5, 2012.

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

Commissioner Jolley inquired if the department head had the ability to waive all parking requirements because of the mixed uses in the district. Director Haynes explained the code now reads that the director has the authority to waive the off-street parking requirements in the C-4 zoning district. Most of the C-5 district has the same characteristics as the C-4 district. The director

should be able to waive the requirements in the right circumstances.
Mayor Winters asked if there were any inquiries from the public regarding Ordinance 3087. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

CONSENT AGENDA

9. Minutes, May 1, 2012, Commission meeting.
10. Total expenditures of \$1,602,401 for the period of April 26 through May 9, 2012, to include claims over \$5,000, in the amount of \$1,298,791.
11. Contracts list.
12. Award annual contract in the amount of \$714,250 to Great Falls Sand and Gravel Inc. to supply asphaltic concrete materials.
13. Award bid for two new 2012 Volvo G930B motor graders to Tri-State Equipment of Great Falls in the amount of \$248,322, with trade-ins.
14. Award contract in the amount of \$1,282,565 to Phillips Construction, LLC for the 9th Street South Utilities Installation/Replacement and Street Reconstruction. **OF 1319**
15. Approve final payment in the amount of \$12,586.36 to Phillips Construction, LLC and the State Miscellaneous Tax Division for the Northwest Storm Drain Improvements Phase 1 – Intersection 34th and 35th Avenue NE & 11th Street NE. **OF 1617.1**

With the exception of Item 10, Commissioner Jolley moved, seconded by Commissioner Jones, that the City Commission approve the Consent Agenda as submitted.

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

With regard to Item 10, Commissioner Jolley inquired and was informed the Spay of the Falls Clinic donation was paid from Thorndike Trust funds.

In response to Commissioner Burow's inquiry about Item 11G, Director Rearden explained that the Montana Department of Transportation purchased 614 feet of right-of-way for the Smelter Avenue project.

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

Ron Gessaman, 1006 36th Avenue NE, asked if Item 11D went out for bid. City Attorney Santoro responded that due to the amount of this professional service window washing contract it was not required to go through the formal bid process.

With regard to Item 11F, Mr. Gessaman inquired if the amount for the Flow Rider repair work would be paid by insurance or be reimbursed from the group that installed it. City Attorney Santoro responded that the Flow Rider needed to be patched for the season and that the warranty work of the

initial installation is under review for potential litigation.

Mike Witsoe, 510 11th Street South, inquired what the AA Sports payment listed on Item 10 was for, the total cost of the Ice Breaker, and if the City made money on the Ice Breaker event this year. Mayor Winters responded that Director Basta would get the figures to provide to him at the next meeting.

Commissioner Jolley moved to amend her motion, seconded by Commissioner Jones, that the City Commission approve the Consent Agenda in whole.

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

Amended Motion carried 5-0.

PETITIONS AND COMMUNICATIONS

16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Winters emphasized that this portion of the meeting is for public comment on matters that are not on the agenda and that are within the jurisdiction of the City Commission. He asked that remarks be kept civil. Mayor Winters opened the meeting to Petitions and Communications.

- A. John Hubbard**, 615 7th Avenue South, discussed fines and fining politicians. He also discussed his experience with the State Attorney General's Office.
- B. Judy Tankink**, 3620 9th Avenue North, commented that information provided about the Complete Streets program at the Work Session was vague. She spoke in opposition to Complete Streets, and she encouraged citizens to attend and ask important questions at the public meeting scheduled for May 23rd at Benefis.
- C. Ron Gessaman**, 1006 36th Avenue NE, provided a State Farm newsletter about distractions while driving. He also discussed the judge's ruling issued today regarding the Southern bankruptcy case.

CITY MANAGER

17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mr. Doyon reported that he met the accelerant detection dog named Yancy today who is the newest member of Great Falls Fire Rescue.

CITY COMMISSION

18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Winters reported that, for the past two and one-half years, certain individuals provide nicknames when at the podium. He announced that, when addressing the Commission at the podium, state your name and address for the record.

19. COMMISSION INITIATIVES.

There were no Commission initiatives.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Jolley moved, seconded by Commissioner Jones, to adjourn the regular meeting of May 15, 2012, at 8:46 p.m.**

Motion carried 5-0.

Mayor Winters

City Clerk

Minutes Approved: June 5, 2012