

Regular City Commission Meeting

Mayor Winters presiding

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

**PLEDGE OF ALLEGIANCE – Knights of Columbus**

**MOMENT OF SILENCE**

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

**AWARDS PRESENTATION TO THE CITY OF GREAT FALLS:** Michael Flaherty and General Livingston presented Police Chief David Bowen with the Patriot Award for employer support of the Montana Guard and Reserve members.

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

### **NEIGHBORHOOD COUNCILS**

1. **SWEARING IN CEREMONY, NEIGHBORHOOD COUNCIL 1.**

Mayor Winters performed the swearing in ceremony for Michael J. Flaherty, representative of Neighborhood Council 1.

2. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

**Judy Tankink**, NC 4, extended an invitation to attend the council's open house scheduled for January 24, 2013, at 6 p.m., at Lewis and Clark Elementary School.

### **BOARDS & COMMISSIONS**

3. **APPOINTMENTS, MANSFIELD CENTER FOR THE PERFORMING ARTS ADVISORY BOARD.**

**Commissioner Jones** moved, seconded by **Commissioner Bronson**, that the City Commission appoint **Carl Donovan** and **Keern Haslem** for three-year terms through **December 31, 2015**, to the **Mansfield Center for the Performing Arts Advisory Board**.

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.

4. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

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

### **PUBLIC HEARINGS**

5. **RESOLUTION 9976, REMODELING, RECONSTRUCTION OR EXPANSION OF BUILDINGS OR STRUCTURES TAX BENEFIT FOR 609 AND 611 CENTRAL AVENUE.**

Planning and Community Development Director Mike Haynes reported that Resolution 9976 relates to an application for a remodel tax benefit for the building at 609-611 Central Avenue. The property owner, Garry Hackett, remodeled the building after it was smoke and water damaged during the fire in the adjacent Rocky Mountain Building in 2010. Improvements made were to the commercial space on the ground floor and residential apartments on the second and third stories.

The remodel tax benefit would provide the applicant with property tax abatement on a portion of the additional City property taxes generated by the redevelopment.

The City Commission adopted Resolution 9004 in 1999 establishing a policy to approve tax abatements for qualifying remodels at the rates and according to the schedule established by the State of Montana.

Mayor Winters declared the public hearing open.

Speaking in support of Resolution 9976 was **Brett Doney**, Great Falls Development Authority. Mr. Doney commented that approval of the tax abatement is something that can help revitalize downtown.

No one spoke in opposition to Resolution 9976.

Mayor Winters declared the public hearing closed.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission adopt Resolution 9976.**

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

Motion carried 5-0.

6. **PROPERTY ADDRESSED AS 2121 13<sup>th</sup> AVENUE SOUTH, PRAISE TABERNACLE CHURCH.**

A. **RESOLUTION 10003, ANNEXES SAID PROPERTY.**

B. **ORDINANCE 3099, ASSIGNS A ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY RESIDENTIAL DISTRICT WITH A CONDITIONAL USE PERMIT FOR A WORSHIP FACILITY.**

Planning and Community Development Director Mike Haynes reported that this is the public

hearing to consider Resolution 10003 for Annexation, the Annexation Agreement, Amended Plat and Ordinance 3099 that would assign zoning of R-3 (Single-Family High Density), with conditional use approval to allow a worship facility in the R-3 zoning district, all pertaining to the Praise Tabernacle Church property and adjacent rights-of-way that total ±1.31 acres.

Praise Tabernacle Church is located at the NW corner of 13<sup>th</sup> Street South and 21<sup>st</sup> Avenue South, in unincorporated Cascade County, but adjacent to City limits. The church property is ±0.66 acres in size and the adjacent rights-of-way to the south and east is ±0.65 acres for a total of ±1.31 acres.

The City-County Health Department has identified issues with the existing drain field on the site. The applicant wants to annex into the City to obtain City water and sewer services.

At a public hearing held on May 8, 2012, the Planning Advisory Board/Zoning Commission recommended that the City Commission annex the subject property into the City, assigning zoning of R-3, and a Conditional Use Permit allowing a Worship Facility to continue on the site.

Mayor Winters declared the public hearing open.

No one spoke in favor of or in opposition to Resolution 10003 and Ordinance 3099.

Mayor Winters declared the public hearing closed.

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission adopt Resolution 10003 and approve the Amended Plat and Annexation Agreement pertaining to Praise Tabernacle Church.**

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 Burow, that the City Commission adopt Ordinance 3099.**

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

Motion carried 5-0.

- 7. **AGRITECH PARK ADDITION.**
- A. **FINAL PLAT AND ANNEXATION AND DEVELOPMENT AGREEMENT.**
- B. **ORDINANCE 3097, ASSIGNS A ZONING CLASSIFICATION OF PUD-PLANNED UNIT DEVELOPMENT TO THE 10 LOTS IN THE SUBDIVISION.**

Planning and Community Development Director Mike Haynes reported that this is the public hearing to consider Ordinance 3097 that would assign zoning of PUD (Planned Unit Development), the Final Plat and Annexation and Development Agreement all pertaining to the ±196.549 acre

AgriTech property, annexed into the City on November 7, 2012, through adoption of Resolution 9993. The subject property is located 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. While the applicant's initial request was for I-2 (Heavy Industrial) zoning on the property they have agreed to revise that request to PUD (Planned Unit Development). The zoning in Cascade County is I-2 (Heavy Industrial) west of 67<sup>th</sup> Street North and AG (Agricultural) east of 67<sup>th</sup> Street North. PUD zoning has the benefit of making conditions of approval memorialized in the Ordinance and the Annexation and Development Agreement, and enforceable by the City in the same way as are Land Development Code regulations.

At a public hearing held on December 11, 2012, the Planning Advisory Board/Zoning Commission recommended that the City Commission assign zoning of PUD (Planned Unit Development) to the subject property, and approve the final plat.

Director Haynes noted that a letter from Montana State Parks was received this afternoon and copies provided to the City Commission just prior to the meeting.

Mayor Winters declared the public hearing open.

Speaking in favor of approval of the Final Plat, Annexation and Development Agreement, and Ordinance 3097 were:

**Brett Doney**, Great Falls Development Authority, commented that PUD zoning is a good compromise. GFDA always wanted to build a first class park. A lot of work remains as each business goes into the park. He concluded that GFDA is appreciative of the support of this project.

**Susan Wolff**, 2226 2<sup>nd</sup> Avenue North, CEO-Dean of Great Falls College-MSU, spoke in support of the project and the aspect of agriculture and value-added agriculture.

**Steve Malicott**, Great Falls Area Chamber of Commerce, noted that the Great Falls Area Chamber has strongly supported the AgriTech Park from its inception. He urged the Commission's approval on behalf of the Great Falls Area Chamber and Sweetgrass Development.

**Olaf Stimac**, 57 Country Lane, spoke in support of zoning decisions that support business expansion and jobs on behalf of the North Central Montana Building Trades Council and the Central Montana Central Labor Council.

**Gene Thayer**, 220 40<sup>th</sup> Avenue South, Chair of Great Falls Development Authority, commented that this is a step forward in advancing development in the City.

Speaking in opposition to approval of the Final Plat, Annexation and Development Agreement, and Ordinance 3097 were:

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that the project is poorly situated, and expressed concerns that this project will not be successful. Mr. Gessaman reviewed portions of the

Agenda Report and Annexation and Development Agreement. He expressed concerns regarding “owner” not being clearly defined, the proposed rail spur, and other clerical issues in the documents.

**Jason Haentges**, 2907 Central Avenue West, recommended postponing this item to gather all the facts, and to find another location.

**Matthew Marcinek**, Region 4 State Parks Manager, read a letter he authored to Director Haynes expressing that the proposed PUD district and associated zoning ordinance for AgriTech Industrial Park enforceable by the City of Great Falls will help protect the qualities of Giant Springs State Park and river corridor that area residents and visitors hold in high regard, while contributing to the area economies.

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

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission approve the Final Plat and the Annexation and Development Agreement all pertaining to AgriTech Park Addition.**

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

Commissioner Kelly asked Interim City Attorney David Nielsen if he is confident of the ability to pursue enforcement with the owners as stated in the Annexation and Development Agreement. Attorney Nielsen responded affirmatively adding that the City’s ability to enforce is based more upon the PUD zoning than the Annexation and Development Agreement.

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

Motion carried 5-0.

**Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission adopt Ordinance 3097.**

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

Motion carried 5-0.

8. **PROPERTY OWNED BY CALUMET MONTANA REFINING, LLC AND GENERAL DISTRIBUTING COMPANY GENERALLY LOCATED SOUTH OF 3<sup>RD</sup> STREET NW AND NORTH AND SOUTH OF 17<sup>TH</sup> AVENUE NE.**
  - A. **AMENDED PLAT PERTAINING TO PROPERTY OWNED BY CALUMET MONTANA REFINING.**
  - B. **ORDINANCE 3100, REZONES A PORTION OF SUBJECT PROPERTY FROM C-2 GENERAL COMMERCIAL AND I-1 LIGHT INDUSTRIAL TO I-2 HEAVY INDUSTRIAL.**

Planning and Community Development Director Mike Haynes reported that this is the public hearing to consider Ordinance 3100 that would rezone property owned by Calumet Montana Refining Company (formerly MRC) from C-2 (General Commercial) and I-1 (Light Industrial) to I-2 (Heavy Industrial) and rezone property owned by General Distributing Company (Gendco) from I-1 (Light Industrial) to I-2 (Heavy Industrial). Calumet is also requesting approval of an amended plat that would reconfigure nine existing lots into seven lots.

The catalyst for these actions was MRC's acquisition of the adjacent former Westgate Shopping Center property in 2011. The refinery, now owned by Calumet, is a heavy industrial use that has been in operation in its current location for over 90 years. Calumet is requesting to rezone a portion of the Westgate property, including the existing former mall building on the site, in order to use the building for storage of bulk materials as part of its heavy industrial refining operation.

Addressing the Calumet application first, their application to rezone a portion of the former Westgate property to I-2 (Heavy Industrial) would allow Calumet to use the former mall building for storage as part of its larger refinery operation while retaining the first 300 to 500 feet of the Westgate property adjacent to 3<sup>rd</sup> Street NW as General Commercial.

This would have the benefit to the City of allowing commercial development to "fill in the gaps" along 3<sup>rd</sup> Street NW on either side of the existing Pizza Hut Restaurant and Dimitri's Restaurant. The proposed amended plat would create six lots along 3<sup>rd</sup> Street NW between 17<sup>th</sup> Avenue NE and the strip center containing the Emerald City Casino and State Liquor Store with the proposed 15-acre I-2-zoned Lot 5 located to the south.

Calumet has also committed, when development occurs within the Amended Plat area, to construct a minimum eight foot high wall with a landscape buffer in front, separating and screening the industrial zoned area from the commercial area and to construct a 10-foot wide section of paved trail on the property generally adjacent to 17<sup>th</sup> Avenue NE, providing a bike and pedestrian connection between Smelter Avenue and the River's Edge Trail. Finally, the property owner will provide easements in favor of the City for public stormwater improvements in the general vicinity of the site.

Rezoning to I-2 would allow Calumet to redevelop the 15-acre, Lot 5 for heavy industrial uses in the future if they so choose. Any redevelopment of the site or expansion of the refinery use would be subject to federal and state regulation, permitting and oversight. The City would only permit and inspect public buildings on the site so an expansion would be mostly or entirely exempt from City review.

Calumet is requesting simultaneous rezoning of two other properties in its ownership from C-2 and I-1 to I-2. This will unify zoning of its property and bring into conformance City zoning with the heavy industrial use of the property.

With regard to the Gendco application, they are requesting rezoning of their property from I-1 to I-2. Prior to 2005 the Gendco property was zoned "2<sup>nd</sup> Industrial" which was a heavy industrial classification, but in the City-wide rezoning it was assigned I-1 zoning. The requested I-2 zoning would again reflect the heavy industrial use of the property since Gendco started operation in the location in the 1980's. Given the intensity of development on the site, the rezoning is unlikely to spur expansion or redevelopment.

At a public hearing held on November 13, 2012, the Planning Advisory Board/Zoning Commission recommended that the City Commission approve the amended plat and rezone the subject properties to I-2.

The City Commission accepted Ordinance 3100 on first reading and set this public hearing on December 18, 2012.

The requested action is that City Commission approve the amended plat for Calumet and adopt Ordinance 3100 rezoning the Calumet and Gendco properties to I-2 (Heavy Industrial).

Director Haynes noted that Minutes from last night's Neighborhood Council 7 meeting were provided to the City Commission just prior to the meeting.

Mayor Winters declared the public hearing open.

Speaking in support of approval of the amended plat and adoption of Ordinance 3100 were:

**Dexter Busby**, Director of Government and Regulatory Affairs, Calumet Montana Refining, LLC, 1900 10<sup>th</sup> Street NE, commented that the rezoning is very important to Calumet Montana Refining as all costs and restrictions associated with property have to be accounted for as they economically evaluate projects and compete with 10 other facilities owned by Calumet for budget dollars. Calumet Montana hopes for the maximum flexibility in utilizing the Westgate property. Mr. Busby added that, while there are no current projects slated, they will continue to use Westgate property for warehousing needs. They will also continue efforts of making the refinery as aesthetically pleasing as possible. Due to the highly competitive nature of its business means Calumet must have flexibility and the rezoning of the Westgate property is a significant step in allowing Calumet that flexibility in order to potentially grow in the future so that it can continue to be a stable employer and a valued member of the community for many years.

**Hadley Bedbury**, Health and Environmental Manager, Calumet Montana Refining, LLC, 1900 10<sup>th</sup> Street NE, presented PowerPoint slides addressing public concerns and the refinery's environmental record.

Commissioner Bronson commented it was his understanding that, should the Westgate property be zoned I-2 and depending upon Calumet's plans, bulk storage facilities and operations similar to Calumet's current operations could be located there. Mr. Busby agreed. Commissioner Bronson inquired what process Calumet would have to go through to construct a bulk storage facility. Mr. Busby responded it depends on the type of bulk storage, and the state and/or federal requirements and regulations to be followed for emission control standards. He added that the likely scenario of refining activities would be that any processing units would be built adjacent to existing processing units. It's more efficient to have bulk storage remotely located. Mr. Busby explained that should the company expand operations on the Westgate property location as allowed under the I-2 zoning designation, the company would first have to go through the DEQ permitting process, and it would have to meet all of today's environmental and safety standards before a permit is issued to build. Commissioner Bronson asked Mr. Busby his position with regard to the property being zoned I-1 for the present time rather than I-2 as requested. Mr. Busby responded that the company could not use that property for virtually any refining activity including any bulk storage of fuels.

Mayor Winters suggested if there were no immediate plans for refining, production or storage tanks at the Westgate property location, the property be used for corporate headquarters, and I-2 zoning be revisited when the company wants to expand refining operations. Mr. Busby noted that they are asking for the I-2 flexibility because the new company is a specialty chemical manufacturer. They are in six different states with 10 other facilities that Calumet Montana will have to compete with for resources.

Commissioner Kelly commented that, if the function or direction of the refinery were changed in the future to more of the specialty chemical product line, the environmental situations could be quite different than what the refinery has experienced since 1920. Mr. Busby did not want to speculate on what the company may want to do in the future. As far as environmental, the base of the specialty chemicals is crude oil. As such, the environmental aspect would be very similar to what it is now, and the process would be very similar.

In response to Mayor Winters' inquiries where the razor wire statement came from, **Richard Ecke**, *Great Falls Tribune* reporter, commented that he attends meetings and writes down quotes. The *Tribune* stands by what it published.

Commissioner Bronson asked Mr. Busby if they were unable to achieve the goal they have tonight, would they chain off the property with a chain link fence and razor wire. Mr. Busby commented that he doesn't think razor wire would be used, but they might have to secure the property.

Commissioner Burow commented if the company wants to grow it needs some certainty before time and money is spent and that the zoning is in place for the company to proceed. Mr. Busby noted that in the refining business it is not unusual to send \$10 million for a feasibility study. The company needs some level of certainty before committing that kind of money. It's a big factor in planning.

Director Haynes noted that a regular warehouse is permitted in I-1. Flammable materials were not anticipated under that designation.

Commissioner Burow noted that he received a phone call from Sue Dickinson, former state legislator, expressing support of working with the refinery.

**Glenn Bliss**, President of General Distributing Company, residing at 1128 Valley View Drive, reported that he is owner of one of the two properties requesting zoning reclassification to I-2, Heavy Industrial. His family purchased the property in 1982 when it was zoned heavy industrial. As part of a 2005 City-wide rezoning, the property was reclassified as light industrial. He read the heavy industrial definition in City code. General Distributing is involved in the industrial and medical gas business. By performing those two practices, they are, by definition, heavy industrial. He also stands in support of the refinery and its rezoning request. Responsible growth is good for the community.

**Brett Doney**, Great Falls Development Authority, 300 Central Avenue, discussed the benefit of redevelopment and revitalization of the West side. Companies are interested in locating in the area. With an improved area, he envisions a connection from the courthouse to the refinery.



**Steve Malicott**, Great Falls Area Chamber of Commerce, recommended approval of the amended plat and rezoning requests to I-2, noting the refinery being an integral part of the community. He also echoed those sentiments on behalf of the Sweetgrass Development Authority.

**Olaf Stimac**, 57 Country Lane, spoke in support of the rezoning requests of Calumet and General Distributing on behalf of the North Central Montana Building Trades Council and the Central Montana Central Labor Council.

Mayor Winters called for a recess at 8:57 pm; he called the meeting back to order at 9:08 pm.

**Susan Wolff**, 2226 2<sup>nd</sup> Avenue North, CEO-Dean of Great Falls College-MSU, spoke in support of the rezoning requests to diversify the economy. Strong industrial drives expanded retail and services and other factors that will support this community.

**Gene Thayer**, 220 40<sup>th</sup> Avenue South, commented that he was impressed with what Calumet has done to protect the environment. He acknowledged the Bliss family and General Distributing as good corporate citizens of this City.

**Mitch Opheim**, employee of Calumet Montana Refinery, commented that the refinery is a great company to work for. It has spent millions of dollars on environmental regulations. He requested approval of the I-2 zoning request for the refinery to make money.

**Fred Janicke**, president of Local 491 United Steelworkers, reported that the refinery has spent a lot of money training him to do the right things as a first responder. As president of the union, he urged the Commission's support of this item.

Speaking in opposition to the amended plat and Ordinance 3100 were:

**Larry Rezendes**, CPA, 2208 1<sup>st</sup> Avenue North, commented that when this business was acquired by the Canadian company it was done under the understanding of the current zoning. Mr. Rezendes commented that the standard for a refinery is not very high in terms of what it represents for the quality of life in the community. The refinery is the source of pollution in the City. He expressed concerns with regard to affording latitude with I-2 designation, the potential expansion and volume of production and increased odor and pollution. Mr. Rezendes doesn't believe refineries belong within the central location of a community. He doesn't understand the logic of expanding the facility within the City. He urged the Commission to consider the negatives.

**Neil Taylor**, 3417 4<sup>th</sup> Avenue South, commented that he hasn't heard anything about the refinery's plans that showed him it needs anything other than I-1 zoning at this time. When a plan is submitted, he suggested the refinery come back to request I-2 zoning.

**Roxene Cook**, 525 18<sup>th</sup> Avenue NE, commented that she is the owner of a business that borders three sides of properties owned by the refinery. She expressed concerns regarding property values should the refinery add bulk storage tanks at the Westgate location. She noted that she was one of the property owners that signed a protest.

**Jason Haentges**, 2907 Central Avenue West, spoke in opposition to refinery expansion which he believes will make it harder for the company to move operations. He commented that giant tanks

are an eyesore next to the river. He further expressed that the entire City should be able to protest not just properties within 150 feet of the rezone area.

**Jason Lehmann**, NC 9, received confirmation that the Commission received his email regarding Ordinance 3100. Mr. Lehmann read section 17.16.40.030(3)(5) of the OCCGF. He further noted safety concerns discussed at the Neighborhood Council meeting and as set forth in exhibits attached to the agenda report, as well as water contamination. Mr. Lehmann stated that the submitted protests pertain to Calumet and not General Distributing. He proposed the Commission segregate General Distributing from Ordinance 3100 as it is already an existing facility. Should the Ordinance be denied and Calumet resubmits an application, 610 Smelter Avenue is not under protest as it does not impact the commercial or residentially developed area.

**Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE, Secretary NC 3, noted that she lives one mile north of the refinery. She pointed out that 17 tons of sulfur is emitted from the plant each year. She reported that Neighborhood Council 3 voted to deny the rezoning request as there are no definite answers, no plan, and no track record with Calumet. As a resident living in the Riverview area, she is unhappy to see an expansion of the refinery in the Westgate property area. A point to consider is that as long as the refinery keeps its growth under 20% per year, it is grandfathered under the 1972 EPA regulations.

**Phyllis Hemstad**, 931 1<sup>st</sup> Avenue NW, Chairwoman NC 2, expressed concerns about the effects expansion of the refinery will have on West Bank Park, the river, and the health, safety and welfare of the citizens. She also expressed concerns about the uncertainty of Calumet's future plans. Ms. Hemstad suggested more thought be put into this before a decision is made.

**Matt Haentges**, 1513 2<sup>nd</sup> Avenue NW, discussed traffic impact concerns should the refinery expand.

**Carol Haentges**, 1513 2<sup>nd</sup> Avenue NW, inquired if I-2 zoning would permit Calumet to store hazardous materials from its other facilities at the Westgate location.

**Alma Winberry**, 423 15<sup>th</sup> Street South, discussed the prior refinery owner's contract with Electric City Power. She suggested the City not reward bad behavior by rezoning the property.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, requested that the Commission keep in mind that the board members of the Great Falls Development Authority speak in support of what a business organization wants in this town, and are not representative of what the citizens want. He believes the refinery is overstaffed for its size and expansion will not create additional jobs. Mr. Gessaman suggested that there was more to the EPA fines than was presented. He also discussed the ECP and refinery contract provisions. He pointed out that the contract carries over to the new owners, and losses to the City amount to \$2.249 million dollars. He urged the Commission to not approve rezoning that would allow refinery expansion.

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

**Commissioner Burow moved, seconded by Commissioner Jones, that the City Commission adopt the Amended Plat pertaining to property owned by Calumet Montana Refining.**

The Commission discussed and considered suggestions regarding zoning of Calumet's property, as well as the history and that portion of the application dealing with General Distributing Company.

With regard to comments concerning Montana Refining Company's contract with Electric City Power, Commissioner Bronson clarified that the Commission cannot base a zoning decision on criteria that neither state law nor local ordinance allows them to consider. Consideration of a rezoning request does not include whether or not there is a disagreement with an applicant on an unrelated matter.

Director Haynes noted that approval of the amended plat does not have any impact on land use decisions involving the applicants. The legal effect is the property would be reconfigured from nine lots into seven lots.

Interim City Attorney Nielsen explained that the motion is to approve an amended plat, which will convert nine lots into seven lots. As part of that process, it requires adoption of the Findings of Fact. Likewise, that would approve conditions contained within the Development Agreement as it deals with the amended plat. But that does not make any commitments as to what the underlying zoning will be, which will be made in a separate motion.

There being no further discussion amongst the commission, Mayor Winters called for the vote.

Motion carried 5-0.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission rezone Lot 3, Block 2, Third Supplement to Riverview Tracts, a Subdivision located in Section 1, T20N, R3E, P.M.M., Cascade County, Montana, commonly referred to as 430 17<sup>th</sup> Avenue NE, owned by General Distributing Company, from I-1, Light Industrial, to I-2, Heavy Industrial.**

Mayor Winters asked if there was any further discussion amongst the Commission with regard to the Gendco property. Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

**Ron Gessaman** commented from the back of the chambers that the action the Commission just took was spot zoning.

Interim Attorney Nielsen suggested that, because the ordinance for this action was drafted as one ordinance covering both parcels, it might be more prudent if the Commission could give direction to staff on how it wants to split out the properties so staff can draft appropriate ordinances that reflect that; and then table any final action until after staff drafts those ordinances.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission table consideration of the balance of the rezoning request until the next regular meeting, during which time staff shall review comments made tonight and come forward with appropriate alternatives or recommendations for further action.**

Mayor Winters asked if there was any further discussion amongst the Commission with regard to

the Calumet property.

Commissioner Burow commented it is hard to promote business when citizens are saying we want the money here but we want you to do it somewhere else.

Mayor Winters noted that the Commission should be able to accommodate Gendco's request, and come to a compromise with Calumet Montana Refining.

Commissioner Kelly commented that there was a full spectrum of ideas presented tonight. The Commissioners weigh very much what the public has told them. As Commissioners, they consider the statements that have merit. The goal is to weigh the intelligent conversation that comes forward to make the best decisions.

Hearing no further comment, Mayor Winters called for the vote.

Motion carried 5-0.

### **OLD BUSINESS**

### **NEW BUSINESS**

### **ORDINANCES/RESOLUTIONS**

9. **RESOLUTION 10007, AUTHORIZING PARTICIPATION IN THE MONTANA DEPARTMENT OF COMMERCE HOME INVESTMENT PARTNERSHIP (HOME) PROGRAM.**

Planning and Community Development Director Mike Haynes reported that this is a request to adopt Resolution 10007 that would authorize the City Manager to submit an application to the Montana Department of Commerce for State HOME funds to assist in the development of the Accessible Spaces, Inc. (ASI) project proposed to be developed east of the Meadowlark Assisted Living Apartments on Division Road just south of Smelter Avenue. The proposed project is a 38-unit accessible, affordable, senior independent living facility. This is the same project discussed on November 7, 2012, when the City Commission vacated a public hearing on annexation and initial zoning to give ASI time to get their project financed.

Projects for low-income residents can only be funded through a complex package of grants, loans and tax breaks. While the City's share of federal HOME funds is declining the state currently has excess HOME funds that the three entitlement communities may apply for on a competitive basis. Staff intends on apply for \$750,000 in HOME funds that, if awarded, would help ASI finance its project that meets the needs identified in the Community Needs Assessment.

**Commissioner Burow moved, seconded by Commissioner Jones, that the City Commission adopt Resolution 10007, Authorizing Participation in the Montana Department of Commerce HOME Investment Partnership (HOME) Program.**

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

Commissioner Burow commented if more low income housing is built, the City is encouraging more low income people to live here. It's counterproductive as there aren't enough jobs.

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

**Eileen Piekarz**, Rural Community Assistance Corporation, Reno, Nevada, reported that Accessible Space, Inc. is a nationwide non-profit organization that has been around for more than 30 years. They specialize in affordable housing for low income folks, specifically adults with disabilities and senior citizens. A recent independent market study indicated there is a need for another 261 affordable apartments for seniors at these income levels. Ms. Piekarz urged the Commission's approval and participation for the HOME funds.

**Brett Doney**, 3048 Delmar Drive, speaking on behalf of NeighborWorks Great Falls, thanked the City for supporting affordable housing. He also expressed the need for housing to take care of the seniors in the community.

**Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that Neighborhood Council 3 approved ASI's project.

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

Motion carried 4-1 (Commissioner Burow dissenting).

10. **ORDINANCE 3101, ASSIGNS CITY ZONING TO LOT 1A, BLOCK 1, OF THE INTERNATIONAL MALTING COMPANY, LLC ADDITION, FOR ADF GROUP, INC. FOR DEVELOPMENT.**

Planning and Community Development Director Mike Haynes reported that this is a request to set a public hearing for February 5, 2013, to consider Ordinance 3101 that would assign zoning of I-2 (Heavy Industrial) to ±100 acres of property to be annexed into the City. The ±100 acre subject property has already been created through a boundary line adjustment in Cascade County and is located east of US Highway 87, generally west and southwest of the MaltEurop plant.

The applicant is ADF International, Inc., a Canadian-based corporation, that plans to construct a steel fabrication plant on the subject property. The plant would supply structural steel and steel components to major construction projects throughout the western United States. The proposed location is appropriate for, and has the infrastructure to support, heavy industrial development.

At a public hearing held on December 11, 2012, the Planning Advisory Board/Zoning Commission recommended that the City Commission annex the subject property into the City, and assign I-2 zoning.

**Commissioner Jones moved, seconded by Commissioner Bronson, that the City Commission accept Ordinance 3101 on first reading and set a public hearing for February 5, 2013.**

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

Commissioner Burow facetiously commented that this company would bring in high paying jobs raising the median income in the City so the City may not need additional low income housing.

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

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that ADF representatives talked with Neighborhood Council 3 and were very forthcoming. He would be pleased if the same amount of information came from Calumet.

**Jason Haentges**, 2907 Central Avenue West, commented in support of this type of expansion.

There being no further comments, Mayor Winters called for the vote.

Motion carried 5-0.

### **CONSENT AGENDA**

11. Minutes, January 2, 2013, Commission meeting.
12. Total expenditures of \$5,020,311 for the period of December 22, 2012, through January 9, 2013, to include claims over \$5,000, in the amount of \$4,846,924.
13. Contracts list.
14. Lien release list.
15. Award bid for four new 2013 Ford F150 pickups to Bison Ford of Great Falls in the amount of \$83,484, including trade-ins.
16. Approve final payment to Planned and Engineering Construction, Inc. in the amount of \$43,951.78 and the State Miscellaneous Tax Division in the amount of \$443.96 for the West Interceptor Trenchless Rehabilitation, Phase III. **OF 1639**

**Commissioner Bronson 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. Hearing none, Mayor Winters asked if there were any comments from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented on the length of time the City has been without a permanent City Attorney. He referred to Item 13D and inquired what took so long for the City to engage a recruiter. Mayor Winters noted that the information is available in the City Clerk's Office.

Motion carried 5-0.

### **PETITIONS AND COMMUNICATIONS**

#### **17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters opened the meeting to Petitions and Communications.

- A. **Jason Haentges**, 2907 Central Avenue West, commented he found it interesting that the ECP debt could not be considered because the contract was with the previous owners. Commissioner Bronson explained again the standards set forth in state law that the Commission can and cannot consider with regard to a zoning request.

- B. **Jason Lehmann**, NC 9, requested and received clarification with regard to Ordinance 3100 being set for February 5, 2013, and that the public will again have a chance to comment before the vote is taken.
- C. **Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that a Petitioner was able to present a PowerPoint tonight. Deputy City Manager Reichelt responded that Applicants/Petitioners have presented PowerPoints; citizens are permitted to submit their views in person or in writing.
- D. **John Hubbard**, 615 7<sup>th</sup> Avenue South, reported he has been in contact with the County Attorney and Attorney General to report misappropriation of funds.

**CITY MANAGER**

**18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Deputy City Manager Jennifer Reichelt announced that a “Meet and Greet” open house for City and Neighborhood Council elected officials is scheduled for February 5<sup>th</sup> in place of the work session. Deputy Manager Reichelt also congratulated Captain Brian Lockerby on his new position with the state as Director of Montana Department of Criminal Investigations.

**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 Jones, to adjourn the regular meeting of January 15, 2013, at 11:19 p.m.**

Motion carried 5-0.

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Mayor Michael J. Winters

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City Clerk Lisa Kunz

Minutes Approved: February 5, 2013