

Regular City Commission Meeting

Mayor Winters presiding

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

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

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

**AGENDA APPROVAL:** No changes were proposed by the Deputy City Manager or City Commission. The agenda was approved as submitted.

**\*\* 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.**

**Sandra Guynn**, NC 4, announced that Neighborhood Councils 4 and 5 are sponsoring a joint community forum on Thursday, April 30, 2015 at 7 p.m. at the Lewis and Clark Elementary School to give citizens an opportunity to weigh in on what future establishments they would like to see at the East Great Falls Retail Center property.

#### **CONSENT AGENDA.**

2. Minutes, March 3, 2015, Commission meeting.
3. Total Expenditures of \$2,432,169 for the period of February 18 through March 4, 2015, to include claims over \$5,000, in the amount of \$2,201,625.
4. Contracts list.
5. Approve Professional Services Agreement Amendment #2 for the Water Storage Tank Evaluation, Phase 1 with Advanced Engineering and Environmental Services, Inc. for a fee not to exceed \$467,000. **OF 1625**

**Commissioner Burow moved, seconded by Commissioner Jones, that the City Commission approve the Consent Agenda as presented.**

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.

### **BOARDS & COMMISSIONS**

#### **6. APPOINTMENT, DESIGN REVIEW BOARD.**

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission appoint Tyson Kraft to the Design Review Board for a three-year term beginning April 1, 2015 through March 31, 2018.

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

Commissioner Burow expressed concern that this applicant is not a registered voter in Cascade County.

Mayor Winters noted that this applicant is an architect in training, and his preference was another applicant.

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

Motion carried 3-2 (Mayor Winters and Commissioner Burow dissenting).

#### **7. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

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

### **PUBLIC HEARINGS**

#### **8. EAST GREAT FALLS RETAIL CENTER PROPERTY.**

##### **A. AMENDED PLAT OF SUBJECT PROPERTY, FINDINGS OF FACT AND CONDITIONS STIPULATED BY THE PLANNING ADVISORY BOARD.**

##### **B. RESOLUTION 10108, CONDITIONAL USE PERMIT FOR A LARGE FORMAT RETAIL STORE ON THE SUBJECT PROPERTY AND THE ACCOMPANYING FINDINGS OF FACT, PRELIMINARY PLANS, AND CONDITIONS STIPULATED BY THE ZONING COMMISSION.**

##### **C. DRAFT IMPROVEMENT AGREEMENT.**

Planning and Community Development Director Craig Raymond reported that the applicant is requesting a minor subdivision of the subject property, which comprises a little over 26 acres. The subdivision would create five lots total, including one ±20 acre lot (the remainder of the parent lot) and four outparcels consisting of ±1-1.5 acres each along the periphery of the subject property. The remainder of the parent lot will be the location of a large format retail anchor store and a 16-pump fuel station, with the outparcels available for commercial development in the future. One of the conditions of approval as recommended by the Planning Advisory Board is that the easements, covenants, conditions and restrictions that are recorded against the property

shall address cross access and parking between the remainder of the parent lot and the outparcels in compliance with the Land Development Code.

Because the developer is proposing to construct what is considered a large format retail store, a conditional use permit is required. Section 17.20.5.040 of the Official Code of the City of Great Falls provides the basis for the conditional use permit for these types of developments.

On February 24, 2015, the Planning Advisory Board/Zoning Commission recommended that the City Commission approve the Amended Plat and Conditional Use Permit with certain conditions.

Also before the Commission for consideration is the Improvement Agreement which outlines the parties desire to set forth in detail when, and in accord with what plans, specifications and standards the owner shall construct or install the required improvements for the Development; establish how the owner and the City will guarantee that the promised improvements are made in a timely manner; provide for the Development's continuing participation in the maintenance of certain improvements via annual charges established by this agreement; and provide for the reimbursements to the owner when adjoining properties that benefit from improvements made by the owner are developed. This agreement also sets forth certain requirements related to the adaptive re-use of the property should the building be vacated.

Director Raymond introduced Zell Cantrell of Galloway & Company.

Zell Cantrell, of Galloway & Company, Inc., Greenwood Village, Colorado, introduced Ian Morrison, McCullough Hill Leary, PC, Seattle, Washington, and commented that, on behalf of their client, they are here to present their proposal for the East Great Falls Retail Center. Mr. Cantrell reviewed and discussed PowerPoint slides of the site plan, off-site improvements, site access, pedestrian access, and landscape plan.

Commissioner Bronson inquired if the representatives were at liberty to disclose who was going into the large retail space.

Mr. Morrison responded that they are committed to bringing in high quality tenants, but it would be premature to discuss the nature of those tenants at this time. The project is consistent with City Code to stand on its merits.

Commissioner Bronson commented that, should the CUP be approved tonight, the entity going into the large retail space will sign the Improvement Agreement the Commission is being asked to address tonight.

Mr. Morrison explained that the Improvement Agreement was designed so that this provision could be executed and these provisions binding on any signatory, be it the existing owner, Kyso Corporation, or some other successor assigned. The development will be consistent with the design approvals that were previously issued by the Design Review Board.

Pursuant to Section 17.16.2.110 of the Official Code of the City of Great Falls, Commissioner Bronson disclosed the content of an ex parte communication.

Mayor Winters declared the public hearing open.

Speaking in support were:

**Brett Doney**, Great Falls Development Authority, 300 Central Avenue, noted support for this project for several reasons: it will spruce up the entrance to the east end of the City; lead to more in-fill development; attract more retail to an underserved part of the City; help retain and attract workforce that will grow the economy; and, additional retail stores will help Great Falls compete with other Montana cities to attract shoppers.

Commissioner Bronson noted that Great Falls Development Authority was specifically mentioned in the Improvement Agreement and has committed to assist the City in marketing efforts for this facility should, for some reason down the road, it close. Commissioner Bronson suggested that Great Falls Development Authority be a signatory on the agreement so that it is bound by the provisions in the Improvement Agreement.

Mr. Doney commented that the Great Falls Development Authority is the City's economic development arm and that he didn't see any problem with being a signatory on the agreement.

**Susan Wolff**, Great Falls College-MSU, 2100 16<sup>th</sup> Avenue South, commented that attracting more families to Great Falls will help Great Falls College-MSU with enrollments and programs that it provides. As a citizen, it would be nice to have additional retail opportunities in Great Falls.

**Steve Malicott**, Great Falls Area Chamber of Commerce, 100 1<sup>st</sup> Avenue North, commented that this project has the Chamber's positive endorsement and they look forward to the added diversity it will bring to the economy.

**Dan Payne**, 4606 ½ Diana Drive, commented that it will be an added convenience to shop this side of town, and this project may spur development on the east side of town.

**Brian Patrick**, Great Falls Public Schools, supports this project as it will have a positive impact on the tax base, provide jobs for residents in the community, and will bring families to Great Falls. Additional students will bolster the school system and increase funding from the State of Montana.

**Eric Ray**, NC 5, commented that the portal to the east has been underdeveloped for a long time. What the Commission is about to embark on will be a new front door for the east side of the City.

Speaking in opposition was **Mike Witsoe**, 510 11<sup>th</sup> Street South. Mr. Witsoe opined the large retail store was Walmart. He would rather support local businesses.

There being no one further to address the Commission, Mayor Winters closed the public hearing and asked the will of the Commission.

Commissioner Jones commented that this location is a great fit and the improvements that will result will benefit the motoring public and community as a whole.

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission approve the Amended Plat of the subject property and accept the Findings of Fact and conditions stipulated by the Planning Advisory Board.**

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

Commissioner Burow commented that, although the large retailer wasn't identified, it has met all requirements and regulations of the City.

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

Motion carried 5-0.

**Commissioner Burow moved, seconded by Commissioner Kelly, that the City Commission adopt Resolution 10108, granting a Conditional Use Permit for a large format retail store on the subject property, and the accompanying Findings of Fact, preliminary plans, and conditions stipulated by the Zoning Commission.**

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

Commissioner Bronson commented that the record does reflect as to all of the Findings of Fact required under the ordinances, and the staff report appears to support this Commission issuing a Conditional Use Permit.

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

Motion carried 5-0.

**Commissioner Kelly moved, seconded by Commissioner Jones, that the City Commission approve the draft Improvement Agreement, in its current form, and direct the City Manager to execute said Agreement on behalf of the City no less than 30 days from March 17, 2015, but no later than June 3, 2015.**

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

Commissioner Bronson noted that a subsequent agreement with Great Falls Development Authority will set forth in writing its role in marketing this property. The Improvement Agreement reflects the exacting requirements of the ordinance to make sure the concerns are addressed with a facility of this size, such as transportation, landscaping and related subjects. Based on the design of the building, Commissioner Bronson opined that the large retail store is Walmart. He expressed concern that companies are not as willing to be upfront with communities as to the fact that they are coming in.

Mayor Winters inquired if, on or about June 3, 2015, the large retail store will be disclosed.

Ian Morrison responded that either the developer or someone else associated with the end product will be a signatory at that time.

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

Motion carried 5-0.

9. **RESOLUTION 10096, CONDITIONAL USE PERMIT TO HANDLE HAZARDOUS SUBSTANCES ON PROPERTY ADDRESSED AS 6201 AND 6301 18<sup>TH</sup> AVENUE NORTH (AGRITECH PARK ADDITION).**

Planning and Community Development Director Craig Raymond reported that this agenda item is a request for a conditional use permit (CUP) to operate a business which is intended to serve the agricultural community surrounding Great Falls and North Central Montana.

If approved, the CUP will allow Helena Chemical to construct several rail-served warehouses for the blending, mixing, storage, and distribution of liquid and dry fertilizer, in addition to the warehousing and repackaging of agricultural protection and production products.

The project consists of three phases, and the property will be served by rail and trucks.

A CUP is required due to the nature and quantities of the materials Helena Chemical will be in custody of on its proposed site. These materials and chemicals do, by their nature, present a certain amount of risk if not handled appropriately. Staff is aware of such risks and, in processing this application, has carefully considered those measures which should mitigate such risk and create an environment where Helena Chemical has an opportunity to develop a successful business located in an approved industrial park which is designed to accommodate certain industrial uses such as this.

Director Raymond reviewed the measures and plans which will be required as a condition of approval, including spill prevention and control, industrial wastewater survey, stormwater pollution prevention, emergency management, and fire code.

Mayor Winters declared the public hearing open.

Speaking in support of Resolution 10096 were:

**Brooks Hammel**, 10 5<sup>th</sup> Avenue South, Laurel, MT, Helena Chemical Regional Manager, commented that he has spent four years looking for the right site for this project that not only fit the company's needs but the needs of the agricultural community.

**Brett Doney**, Great Falls Development Authority (GFDA), 300 Central Avenue, noted that GFDA has done its due diligence and is proud of the companies it has reached agreements with to sell lots to in AgriTech Park. GFDA wants the AgriTech Park to create no harm, create economic benefits in terms of jobs, build the tax base and diversify the economy. Mr. Doney reported that Helena Chemical is owned by one of the largest agricultural corporations in the world, and it also owns Columbia Grain. GFDA feels this is an appropriate use for the City in the industrial park to support agriculture throughout the Golden Triangle and beyond.

**Steve Malicott**, Great Falls Area Chamber of Commerce, 100 1<sup>st</sup> Avenue North, noted the Chamber's support of the AgriTech Park, and support of this project moving forward. The

agricultural industry is critically important to Great Falls and the Golden Triangle. Mr. Malicott commended GFDA and the Planning and Community Development Department.

**Susan Wolff**, Great Falls College-MSU, 2100 16<sup>th</sup> Avenue South, concurred with Messrs. Doney and Malicott. Ms. Wolff added that Great Falls College-MSU stands ready to support the existing and new companies in preparing well-trained workers that will improve the economy and wage scale.

**Brian Patrick**, Great Falls Public Schools, appreciates the agricultural impact this project will have on Great Falls. It diversifies the economy and improves the tax base.

**Dillon Lane**, 915 33<sup>rd</sup> Avenue South, representing Pacific Steel & Recycling, supports Helena Chemical and looks forward to being neighbors.

**Gareth Davis**, Helena Chemical Co., Western Business Unit Project Manager, commented that Helena Chemical is looking forward to being a part of the community, being a partner with the City and expanding its roots in providing the local growers and customers the technology to maximize their yields and make their businesses effective and efficient.

Speaking in opposition to Resolution 10096 were:

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that he was opposed to this particular company and the location. He commented that fertilizer is a dangerous commodity and Helena Chemical doesn't appear to be a responsible company. Mr. Gessaman reviewed information from the internet regarding safety issues with Helena Chemical.

**Mike Witsoe**, 510 11<sup>th</sup> Street South, concurred with Mr. Gessaman.

There being no further comments, Mayor Winters closed the public hearing.

**Brooks Hammel**, 10 5<sup>th</sup> Avenue South, Laurel, MT, noted in response to Mr. Gessaman's comments that the information on the internet includes incidents that happened across the country. He concluded that Helena Chemical is the example of stewardship in the agricultural community and especially to Montana.

Commissioner Kelly noted the dangers of ammonium nitrate and anhydrous ammonia.

Mr. Hammel responded that those two particular fertilizers can be considered dangerous. Helena Chemical does not have any plans to carry ammonium nitrate or anhydrous ammonia at this site.

Commissioner Kelly inquired if, in the future Helena Chemical decides that this facility is a good place to put those chemicals, would it require further Commission approval.

Director Raymond responded that the CUP requires Helena Chemical to report any changes in the products it is handling. If the changes are significant, Helena Chemical would go through the conditional use process again.

Public Works Director Jim Rearden added that the environmental division has reviewed the list of chemicals that will be stored on site, as well as spill prevention and mitigation plans.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission adopt Resolution 10096.**

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

Commissioner Bronson commented that fertilizer is a tightly regulated industry, is observed very carefully at all levels, and the CUP drafted by staff is very exacting in terms of requirements for Helena Chemical should they construct a facility in this community. The Missouri River is not endangered by the location of this facility.

Commissioner Burow suggested that it be noted in the CUP that anhydrous ammonia and ammonium nitrate are not allowed in any quantity at this site.

Mr. Hammel responded that it is the current policy of Helena Chemical nationally to cycle out of that product as quickly as possible because of the issues that have come up. That agreement would be acceptable.

**Commissioner Burow moved, seconded by Commissioner Kelly, that the main motion be amended to include wording in Resolution 10096 that would guarantee that ammonium nitrate or anhydrous ammonia would not be handled at this site.**

Commissioner Bronson inquired if the applicant understood the intent of Commissioner Burow's amendment.

Mr. Hammel reiterated that Helena Chemical is agreeable at this time that it would not be storing ammonium nitrate and anhydrous ammonia.

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

Main Motion, as amended, carried 5-0.

### **OLD BUSINESS**

#### **10. CDBG AND HOME PROGRAM PROPOSED USE OF FUNDS.**

Planning and Community Development Director Craig Raymond reported that this item is a request to accept the Community Development Council's recommendations for allocating approximately \$715,840 in federal CDBG funds and approximately \$191,670 in federal HOME funds and to set a public hearing for May 19, 2015, for consideration of the Annual Action Plan and 2016-2020 Consolidated Plan.

The Consolidated Plan is a 5-year plan which considers the needs of the community after reviewing community surveys, meeting with affected community agencies, analyzing demographic information, census statistics and a market analysis. The goal and purpose of the 5-year plan is to establish a framework for how the City should prioritize federal CDBG and



HOME funds. It is also a required element from HUD as a condition of receiving those funds. On January 20, 2015, the City Commission set funding percentage guidelines and adopted policies pertaining to the application and funding process and priorities as follows: Administration - 20%, Public Services - 10%, Economic Development - 10%, Affordable Housing - 30%, and Public Facility Improvements - 30%.

**Commissioner Jones moved, seconded by Commissioner Kelly, that the City Commission accept the proposed use of funds for the 2015/2016 Community Development Block Grant Program (CDBG) and HOME Program for inclusion in the 2015/2016 Annual Action Plan and set the public hearing for May 19, 2015, on the proposed 2016-2020 HUD Consolidated Plan including the Annual Action Plan.**

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

Motion carried 5-0.

### **NEW BUSINESS**

11. **CONTRACT, 30 INCH WATER MAIN REPLACEMENT – ODDFELLOWS PARK TO BROADWATER BAY PARK. OF 1396**

Public Works Director Jim Rearden reported that this item is a request to award a construction contract to United Materials of Great Falls to replace approximately 3,200 lineal feet of 30” diameter water transmission main. There have been nine water main breaks on this section of main since 1999, with five of those breaks occurring since 2010.

This is one of the largest mains in the water system and provides a majority of water to the west and north sides of Great Falls. The last main break in July of 2014 required watering restrictions on that side of the river during the repairs.

The portion of the main to be replaced parallels along the river side of the businesses on River Drive South between Oddfellows Park parking lot and approximately Applebee’s. The main will be replaced further from the businesses to mitigate disruption for them and also so the City can keep the existing main in service for the majority of the project.

Bids were let on March 4<sup>th</sup> with four bidders responding. United Materials was the low bidder and has done previous repair work on this particular water main.

**Commissioner Burow moved, seconded by Commissioner Kelly, that the City Commission award a contract in the amount of \$1,375,325 to United Materials of Great Falls, Inc. for the 30-inch water main replacement – Oddfellows Park to Broadwater Bay Park (OF 1396), and authorize the City Manager to execute the construction contract documents.**

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

Commissioner Burow noted the substantial cost in upgrading and maintenance of infrastructure projects.

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

**Brett Doney**, Great Falls Development Authority, 300 Central Avenue, supports the City's policy of upgrading water and sewer systems. It's expensive but it's a necessity, and it's cheaper in the long run to continue to conform to state and federal regulations than repairing breaks.

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

Motion carried 5-0.

### **ORDINANCES/RESOLUTIONS**

12. **ORDINANCE 3130, PARK LAND DEDICATION AND PAYMENT IN-LIEU OF DEDICATION AMENDMENTS, NEIGHBORHOOD PARK MAINTENANCE FEES.**

Planning and Community Development Director Craig Raymond noted a typographical error in the approved date in Ordinance 3130 that will be corrected. Director Raymond reported that this item is a request to accept Ordinance 3130 on first reading and to set a public hearing for April 21, 2015.

Ordinance 3130 allows for the establishment of annual park maintenance fees that may be assessed on lots created during the subdivision process. These fees may be established and included into Improvement Agreements that coincide with the subdivision process and would necessarily be approved by the City Commission prior to any fee being charged.

The adoption of this ordinance will make one more element of the subdivision process clearer and more predictable which is a benefit to the development community.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission accept Ordinance 3130 on first reading and set public hearing for April 21, 2015.**

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

Motion carried 5-0.

13. **RESOLUTION 10098, INTENT TO EXPAND THE BOUNDARIES OF THE GREAT FALLS BUSINESS IMPROVEMENT DISTRICT WITHIN THE CITY OF GREAT FALLS.**

Fiscal Services Director Melissa Kinzler reported that the Great Falls Business Improvement District was originally created in 1989, and recreated in 1999 and again in 2009. Since the recreation of the District there have been projects and programs implemented by the District to help make downtown clean, safe and vibrant. In addition, downtown has seen the expansion of multiple businesses. These businesses would like to be included in the District. Resolution 10098 is the intent to expand the District and set a public hearing.

**Joan Redeen**, Great Falls Business Improvement District, 13 5<sup>th</sup> Street North, reported that for the past year the District has been in the process of attempting expansion of the Great Falls Business Improvement District. This expansion is in direct response to many property owners requests to be included within the District boundaries. She further noted that the Great Falls Business Improvement District is working on a CTEP project with the Planning and Community Development Department to expand the current streetscape project.

**Commissioner Kelly moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 10098, and set a public hearing on the expansion of the Great Falls Business Improvement District for April 21, 2015.**

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

Commissioner Burow inquired if expanding the District would expand the TIF.

Ms. Redeen responded that is a separate issue, and the TIF is not tied directly to the Business Improvement District.

Commissioner Jones noted that the proposed expansion of the District is inclusive of City property.

Ms. Redeen responded that the City is exempt from BID assessments and the BID does not provide its services to the City properties.

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

**Brett Doney**, Great Falls Development Authority, 300 Central Avenue, supports the expansion noting that the Business Improvement District has been instrumental in making things happen downtown. Expansion of the district will keep the momentum going.

**Neil Fortier**, 909 3<sup>rd</sup> Avenue North, commented that there was a 63% response rate of property owners wanting to be a part of the District.

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

Motion carried 5-0.

### **PETITIONS AND COMMUNICATIONS**

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

- A. Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that Malmstrom Air Force Base has a number of fiber optic trunk lines that are not being utilized any more. It's a resource he feels that can be exploited for business. Mr. Gessaman also discussed public opinion polls regarding trust of big businesses and legislators, and the City's recent negotiated settlement with Barrett Minerals.

- B. **Mike Witsoe**, 510 11<sup>th</sup> Street South, discussed Charlie Russell Week in Great Falls, and FM microphones for the hard of hearing.

**CITY MANAGER**

15. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

There were no miscellaneous reports and announcements from the Deputy City Manager.

**CITY COMMISSION**

16. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

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

17. **COMMISSION INITIATIVES.**

There were no Commission initiatives.

**ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Bronson moved, seconded by Commissioner Burow, to adjourn the regular meeting of March 17, 2015, at 9:12p.m.**

Motion carried 5-0.

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Mayor Michael J. Winters

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City Clerk Lisa Kunz

Minutes Approved: April 7, 2015