

Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

Commission Chambers Room 206

PLEDGE OF ALLEGIANCE – Boy Scout Troop 1

**ROLL CALL/STAFF INTRODUCTIONS:** City Commission members present: Bob Kelly, Bill Bronson, Tracy Houck and Fred Burow. Commissioner Bob Jones was excused. Also present were City Manager Greg Doyon; Deputy City Clerk Darcy Dea; Public Works Director Jim Rearden; Planning and Community Development Director Craig Raymond; Interim Park and Recreation Director Patty Rearden; Library Director Kathy Mora; Fire Chief Steve Hester; Assistant City Attorney Joe Cik; City Attorney Sara Sexe; and, Police Chief Dave Bowen.

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

**PROCLAMATION:** Mayor Kelly read a proclamation for Scouting Anniversary Week.

**FIREFIGHTER OATH:** Mayor Kelly performed the swearing in ceremony for Fire Fighter Josh Mattson.

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

### **PETITIONS AND COMMUNICATIONS**

#### **1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

**Daniel Hartzel**, 514 7<sup>th</sup> Street North, discussed school district regulations. Mr. Hartzel further discussed proper English rather than slang.

**Brett Doney**, Great Falls Development Authority (GFDA), 300 Central Avenue, provided and discussed a 2016 Montana Small Business Development Center (SBDC) Report handout. Mr. Doney provided a flyer for the Great Falls Agri-Tech Park.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, expressed appreciation to farmers and ranchers, and commented that they are the basis of Great Falls' economy.

### **NEIGHBORHOOD COUNCILS**

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

There were no miscellaneous reports or announcements from Neighborhood Council representatives.

### **BOARDS & COMMISSIONS**

**3. APPOINTMENT, BUSINESS IMPROVEMENT DISTRICT BOARD OF TRUSTEES.**

**Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission appoint Alison Fried to the Business Improvement District Board of Trustees to the remainder of a four-year term expiring June 30, 2017.**

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

Motion carried 4-0.

**4. REAPPOINTMENT, CASCADE COUNTY CONSERVATION DISTRICT BOARD OF SUPERVISORS.**

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission reappoint John Chase to a three-year term through December 31, 2019, to the Cascade County Conservation District Board of Supervisors.**

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

Motion carried 4-0.

**5. APPOINTMENTS, GREAT FALLS CITIZEN'S COUNCIL (COUNCIL OF COUNCILS).**

**Mayor Kelly moved, seconded by Commissioners Bronson and Burow, that the City Commission appoint Mayor Bob Kelly and Commissioner Bob Jones to serve on the Great Falls Citizen's Council also known as Council of Councils for one-year terms ending on December 31, 2017.**

Mayor Kelly asked if there was any discussion amongst the Commissioners or comments from the public.

**Ron Gessaman, 1006 36<sup>th</sup> Avenue NE, expressed concern with regard to appointing someone in their absence without their approval.**

Mayor Kelly called for the vote.

Motion carried 4-0.

**6. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM BOARDS AND COMMISSIONS.**

There were no miscellaneous reports and announcements from members of boards and commissions.

**CITY MANAGER**

**7. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon discussed his attendance at the University of Montana's Bureau of Business and Economic Research Economic Outlook Seminar. He also attended a Montana Municipal Interlocal Authority (MMIA) board meeting with regard to health insurance rates for employees.

Manager Doyon and Mayor Kelly participated in a visit from Lockheed Martin with regard to aspects of the program for the next ground base strategic deterrent missile program.

Manager Doyon reported that the Deputy City Manager starts his position on February 13<sup>th</sup>.

Manager Doyon discussed his and Mayor Kelly's participation with the Malmstrom Air Force Base (MAFB) Missile Maintenance Crew with regard to maintaining facilities in the winter.

Mayor Kelly commended MAFB's professionalism with regard to its security breach protocol.

**CONSENT AGENDA.**

8. Minutes, January 17, 2017, Commission meeting.
9. Total Expenditures of \$2,650,451 for the period of December 31, 2016 through January 25, 2017, to include claims over \$5,000, in the amount of \$2,288,436.
10. Contracts list.
11. Grants list.
12. Lien Release list.
13. Approve Municipal Golf Concession Agreement with K&M, Inc. to provide concessions services at Eagle Falls and Anaconda Hills Golf Courses for three golf seasons, and authorize the City Manager to execute the agreement.

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

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

Referring to Items 10 B, C, and D, Commissioner Burow expressed concern with regard to the amount of money spent on engineering and architectural services.

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

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, referred to Agenda Item 9, expressed concern with regard to the amount of money that the City gives the City-County Health Department.

There being no one further to address the Commission, Mayor Kelly called for the vote.

Motion carried 4-0.

### **PUBLIC HEARINGS**

**14. ORDINANCE 3148, AMENDING THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), AMENDING TITLE 1, CHAPTER 4, SECTION 070 PERTAINING TO THE GENERAL PENALTY PROVISION.**

City Attorney Sara Sexe reported that there has been an increase in the number disorderly or abusive conduct at the Great Falls Public Library. It was determined that there were extreme circumstances where the ordinance change would be of benefit to other City properties and public facilities, such as parks or other city-owned buildings.

The Ordinance under consideration was drafted to allow the City to ban individuals from City public property for a period not to exceed one year when those individuals are disorderly or abusive. It was written in this manner, as to allow a case by case analysis of the facts of each instance to determine whether the ban is necessary and whether a period of time less than a year may deter the behavior and protect the public and employees.

City Attorney Sexe reported that evaluating the facts of each case, it is anticipated that reference to the statutory disorderly conduct definition of Montana Code Annotated (MCA) would be used as a guide. In most instances, when City staff believes that a person is engaging in disorderly or abusive behavior, staff would contact the Great Falls Police Department (GFPD) to report that conduct.

Depending upon the GFPD investigation, criminal charges against the offending person may or may not be made. Regardless of the disposition of any criminal charges, without being trespassed from the property, the offending individuals would not be precluded from going to the same location where the disorderly or abusive conduct occurred.

The GFPD does not advise individuals that they are no longer welcome on, or trespassed from, another's property. This would only occur when the property owner provides notice to the person who engaged in the disorderly or offending behavior that he/she is trespassed from the premises.

The City Manager is vested with the authority to administrate and manage the City Government under the City of Great Falls Charter Article II, Section 3. In fulfilling such duties, the City Manager must have the ability to provide trespass notices like private property owners, in appropriate circumstances. These notices should be used judiciously, in extreme cases, and only with documented supporting facts from City personnel upon which the City Manager may base his opinion, along with a review by the City Attorney's office.

Under the terms of the Ordinance, if approved by the City Commission, any person trespassed from public property could appeal to the City Commission according to the Charter. The City Commission may review, inquire, and investigate any operation, management decision,

administrative function or other affairs of the City.

The City Commission may compel the attendance and testimony of witnesses and the production of books and records by issuance of a subpoena. Except for the purpose of inquiry, or investigation, the City Commission shall be involved with administrative and management operations solely through the City Manager.

There have been raised concerns that the passing of Ordinance 3148 would have the effect of suppressing public comment or participation in government. The purpose of this Ordinance is not to squelch the public's ability to fully, substantially and meaningfully participate in government or exercise the public's free speech rights, rights which are clear under the law.

This proposed Ordinance provides a mechanism by which staff can maintain public order and safety, while still providing public accommodations and services like the Great Falls Public Library.

With regard to Exhibit "A" subpart C, the word "is" was removed from the second sentence.

Mayor Kelly declared the public hearing open.

No one spoke in support of Ordinance 3148.

Speaking in opposition to Ordinance 3148 were:

**Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE, expressed opposition with regard to the authority that any future City Manager could have. She received clarification with regard to referencing the MCA and the City Code together in the Ordinance.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, concurred with the previous speaker.

**Jenny Dodd**, 3245 8<sup>th</sup> Avenue North, received clarification with regard to the MCA definition being a part of the changes to Ordinance 3148. She expressed concern with regard to giving one person too much leeway to decide what is disorderly and abusive. She further expressed concern with regard to free speech rights.

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

**Commissioner Bronson moved, seconded by Commissioners Burow and Houck, that the City Commission adopt Ordinance 3148.**

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

Commissioner Bronson commended the legal staff for their analysis presented in the agenda report. He commented that there are constitutional rights that protect citizens from any abuse with regard to enforcing Ordinance 3148.

Commissioner Houck expressed support with regard to the language in Ordinance 3148 being the best way to protect citizens.

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

Motion carried 4-0.

15. **ORDINANCE 3149, AMENDING TITLE 2, CHAPTER 56, SECTION 020 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO THE REMOVAL OF MEMBERS OF BOARDS, COMMISSIONS, AND COUNCILS.**

City Attorney Sara Sexe reported that a member of the Great Falls Transit District Board was removed based on continued absences from regularly scheduled board meetings. No explanation was given for the absence. City staff discussed the need for additional criteria by which members of boards, commissions, and councils may be removed by the City Commission, as the only current stated reason for removal of members is for lack of attendance.

The Official Code of the City of Great Falls (OCCGF) currently states that members of any board or commission or council, who misses more than one-third of the regular meetings in a calendar year without a health or medical excuse, shall lose his/her status as a member of such board, commission or council and shall be replaced by the City Commission. Such removal must be preceded by delivery of a copy of a notice of removal stating the reasons therein to such member at least ten days prior to a hearing thereon before the City Commission, should such member request a hearing on the removal.

City Attorney Sexe commented that the current code does not allow for the Commission to consider other valid reasons that a board, commission or council member should be removed, such as neglect of duties, physical or mental inability to continue to serve, unethical acts, or criminal behavior. By adopting Ordinance 3149, the City Commission will be able to review and consider other reasons for removal in addition to attendance and codify restrictions on such behavior.

After first reading of Ordinance 3149, a question arose as to the City Commission's ability to remove elected officials, such as Neighborhood Council members. Staff researched the removal of board, commission and council members, and found nothing in Montana law providing a process to remove such members, except as provided by local governing bodies such as the City, under self-governing powers granted by the City Charter, Article I, Section 2, Powers of City Government:

(a) The City of Great Falls shall have all the powers of a self-governing charter city not prohibited by the Montana Constitution, this charter, or specific provisions of Montana law.

(b) The powers of the City of Great Falls shall be liberally construed. Every reasonable doubt as to the existence of a power or authority of the City of Great Falls shall be resolved in favor of the existence of that power or authority.

It is Staff's opinion that the City Commission is the appropriate body to hear and decide issues of

forfeiture of, or removal from, office as a board, commission or council member. Under Article IV, Section 2, Vacancy in the Office of City Commission or Mayor, the City Commission is the arbiter of forfeiture of office of the Mayor and/or Commissioners, who are also elected officials:

a) The office of City Commissioner or Mayor shall become vacant upon death, resignation, recall or forfeiture of office. Grounds for forfeiture of office shall be:

- (1) Loss of eligibility for election.
- (2) Violation of any express provision of this charter.
- (3) Conviction of a felony.

b) A majority of the City Commission shall be the judge of the election and qualifications of its members and the grounds for forfeiture of their office. A City Commissioner or Mayor charged with conduct constituting grounds for forfeiture of office shall be entitled to notice in writing of such charges and a public hearing on demand before a majority of the City Commission.

c) When a vacancy occurs, the City Commission, may, by majority vote of its remaining members, appoint a person, eligible to hold such office, to fill the vacancy of City Commissioner or Mayor until the next regular City election. The person elected at the next regular City election shall serve the unexpired term of the office in which the vacancy occurred.

Under its self-governing powers, the City of Great Falls has designated a program of Neighborhood Councils, which act in an advisory capacity to the City Commission. OCCGF 2.50.010 and 040.

The City Charter and OCCGF 2.50.060 give the Neighborhood Council members the ability to appoint an eligible person to hold a vacated Neighborhood Council position. However, there is nothing in the current OCCGF which identifies a process (like that set forth for the Mayor and Commission seats), by which Neighborhood Council members may be removed, or by which Neighborhood Council seats may be filled if a vacancy occurs and the remaining council members cannot agree on a replacement.

In instances where removal is appropriate and the Neighborhood Council may not be able to appoint a new member, it is prudent to have the highest body of local government, the City Commission, prepared to undertake those responsibilities and provide guidance as to the process. Ordinance 3149 identifies the process which is not currently set forth in the OCCGF. Further, this process is clarified in proposed changes incorporated in Ordinance 3153.

Mayor Kelly declared the public hearing open.

Mayor Kelly noted that written correspondence supporting Ordinance 3149 were provided by Brittany Olson, NC 2 and Sandra Guynn, NC 4.

No one spoke in support of Ordinance 3149.

Speaking in opposition to Ordinance 3149 were:

**Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE, representing Neighborhood Council 3, expressed

concern with regard to the removal of board members without a medical excuse. She expressed concern that Exhibit A, section 2.56.020 F leaves it wide open for elected Neighborhood Council members to be subject to removal.

**Jenny Dodd**, 3245 8<sup>th</sup> Avenue North, concurred with the previous speaker with regard to Exhibit A, commenting that section 2.56.020 F gives too much power to the City Commission to remove elected officials.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, concurred with both previous speakers. Mr. Gessaman submitted and discussed the Bylaws of Neighborhood Council 1 with regard to vacancies on that Council.

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

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission adopt Ordinance 3149.**

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

Commissioner Burow received clarification with regard to Neighborhood Council by the Charter has the authority to remove and reappoint a member only in the event of a vacancy.

Referring to the Montana Recall Act, Assistant City Attorney Joe Cik commented that Neighborhood Council members are designated by the Charter and Code of Ordinances.

Commissioner Bronson commented that recall laws are not intended to apply to Advisory Boards or Commissions.

Commissioner Houck reported that Council members support the Ordinance since they have a difficult time having quorums.

Mayor Kelly commented that the Commission is trying to facilitate Neighborhood Councils with the tools in order to help manage their own situations.

Mayor Kelly received clarification that excused absences from Neighborhood Council members would not need to come before the Commission.

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

Motion carried 4-0.

**16. ORDINANCE 3153, AMENDING TITLE 2, CHAPTER 50, SECTIONS 040 AMD 060 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO NEIGHBORHOOD COUNCILS.**

City Attorney Sara Sexe reported in the current Official Code of the City of Great Falls (OCCGF)



regarding Neighborhood Councils, there are two provisions which require amendment. The first involves the dates for Neighborhood Council elections. The second contains a typographical transposition. The filing period for neighborhood council candidates closes 45 days prior to the general election, which is a different time period than that for mayoral and commission candidates.

City Attorney Sexe further reported that these dates have been the subject of past discussion with the Cascade County Elections Office and the County Attorney's Office. The filing dates should coincide with the other elected positions, for consistency and efficiency. Further this is the best use of the limited local government resources and was suggested after coordinated City efforts and County representatives' input.

The second necessary change involves OCCGF 2.50.060, dealing with Neighborhood Council organization. The code indicates that the Councils should meet and organize with officers within 30 days following the election. However, this time period expires before the Council members are even provided their oaths of office or are sworn into office. The code has therefore been amended to allow for the time necessary to have the members properly placed in their positions.

During public comment on first reading of Ordinance 3153, it was suggested to clarify in 2.50.060 (A) that the officers of the Neighborhood Councils be chosen from that Council's members. Exhibit B to Ordinance 3153 has been amended to reflect that suggestion.

During Public Comment on first reading of Ordinance 3149, a question was raised as to whether Neighborhood Councils, or the City Commission, replaces vacant Council seats.

2.50.060 (B) has been amended to clarify that the City Commission would only replace a vacant Neighborhood Council seat, in the event that the remaining Council members cannot agree on a replacement.

Mayor Kelly declared the public hearing open.

No one spoke in support of Ordinance 3153.

Speaking in opposition to Ordinance 3153 were:

**Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE, received clarification that Ordinance 3153 further clarifies language set forth in the City Charter with regard to how officers are selected, from what body, and the timing of the organization.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, concurred with the previous speaker. Mr. Gessaman discussed the Bylaws of Neighborhood Councils. With regard to the 30 day issue, Mr. Gessman commented that it takes a vote from the citizens of Great Falls to change the Charter.

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

**Commissioner Houck moved, seconded by Commissioner Bronson, that the City**

**Commission adopt Ordinance 3153.**

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

Motion carried 4-0.

Mayor Kelly expressed appreciation to Neighborhood Council member Kathy Gessaman with regard to the time and efforts that she has put into her group.

**OLD BUSINESS****17. 2017/2018 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) POLICIES AND FUNDING PRIORITIES.**

Planning and Community Development Director Craig Raymond reported that this item is to consider adopting Community Development Block Grant (CDBG) policies, and setting 2017-2018 funding allocation guidelines that will provide the Community Development Council (CDC) with parameters for funding before they hear requests to fund specific programs during the next CDBG funding cycle.

City Staff provided the City Commission with a status report on CDBG funding and funding recommendations at the January 17 2017, Work Session, and the Needs Hearing was held before the City Commission on January 3, 2017.

It is anticipated that, in the upcoming federal funding cycle, the City will receive roughly equal to last year's allocation. Staff is asking the City Commission to set "funding percentages" so the actual dollar amounts will be adjusted, up or down, when funding levels are announced by HUD.

The funding percentages being recommended is Administration 20%, Public Services 12.5%, Economic Development 7.5%, Affordable Housing 30% and Public Facility Improvements 30%.

**Commissioner Houck moved, seconded by Commissioner Bronson, that the City Commission adopt the 2017/2018 Community Development Block Grant Policies, reaffirm the Citizen Participation Plan, and set the 2017/2018 CDBG Funding Priorities.**

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

**Brett Doney**, Great Falls Development Authority (GFDA), 300 Central Avenue, expressed appreciation to City staff and new CDBG Administrator for its hard work with regard to economic development. Mr. Doney commented that there is a need for more high quality jobs. He further commented that there is a need to build the tax base through economic development. Mr. Doney reported that when GFDA submits the application for loan capital, 100% of that money is put to work in the community. He expressed concern with regard to the City's policy that prohibits GFDA's use of CDBG funds for economic development in order to provide technical assistance for entrepreneurs to create jobs. Mr. Doney concluded that a five year plan

would be more cost effective in order to administer funds.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, referred to the January 3<sup>rd</sup> CDBG hearing and expressed concern with regard to low income citizens advocating for the policies they want. He further commented that organizations should be providing job training for low income citizens.

Mayor Kelly responded that Neighborworks represents low and moderate income housing projects. Mayor Kelly further commented that GFDA has several meetings for the public to attend to discuss how GFDA money is put to work.

There being no one further to address the Commission, Mayor Kelly called for the vote.

Motion carried 4-0.

## **NEW BUSINESS**

### **ORDINANCES/RESOLUTIONS**

18. **ORDINANCE 3152, AN ORDINANCE TO REZONE THE PROPERTIES LEGALLY DESCRIBED AS: MARKS 2,3,5,11, BLOCK 3, COUNTRY CLUB ADDITION AND LOTS 1B, 1, 1A-1, BLOCK 1, TIETJEN TRIANGLE ADDITION AND LOT 1, BLOCK 1, MONTANA ADDITION FROM C-1 NEIGHBORHOOD COMMERCIAL TO C-2 GENERAL COMMERCIAL.**

Planning and Community Development Director Craig Raymond reported that Brett and Sandra Haverlandt, Meadowlark FF&S LLC, Billings Holdings, LLC, and Galloway Investments Inc., owners of the property in question, have filed an application for a zoning map amendment (or rezone) of their respective properties from C-1 Neighborhood Commercial to C-2 General Commercial.

The subject properties are located on the south side of the Country Club Boulevard and Fox Farm Road intersection. In total, the properties consist of approximately 5.949 acres and the properties are generally known as: Beef 'O Brady's, Holiday Gas Station, Lucky Lil's Casino, Dairy Queen, Dahlquist Realtors and a vacant parcel which historically contained a motel until it was ultimately demolished.

The applicants are requesting the subject properties be rezoned to C-2 general commercial district in order to have the ability to allow higher intensity uses with less restrictive development standards. The Official Code of the City of Great Falls 17.20.2.040, establishment and purpose of districts, describes these two districts as:

**C-1 Neighborhood commercial.** This district is found near established and developing residential areas and is intended to accommodate low intensity commercial activities that serve the nearby residential area. Development standards ensure the compatibility of this district to those residential districts that may adjoin.

**C-2 General commercial.** This district is primarily intended to accommodate high-traffic

businesses that focus on vehicle traffic. Where this district abuts a residential district, appropriate screening and landscaping will be provided to lessen associated impacts. Current residential uses are not considered nonconforming. As such, current residential uses existing at the time this Title was adopted are allowed to expand or to be re-established, if damaged.

City Staff has in the past contemplated a rezone of this area as the existing development and businesses in the vicinity most closely resemble the C-2 zoning designation in that they primarily depend on high volume traffic and do not predominantly cater to the nearby residential area. There have also been significant code conflicts primarily pertaining to signage due to the dependence on nearby highway traffic for some of these businesses.

The OCCGF, Chapter 20 – Land Use, outlines development standards for each zoning district in Exhibit 20-4. The primary differences between the C-1 and C-2 districts are the maximum height permitted, maximum lot coverage, and front yard setback. The C-2 district permits:

- an additional 30 feet in building height
- 20% more total lot coverage
- a reduction in the front yard setback to 0 feet
- a 10-foot increase in the maximum height of a free standing sign.

The basis for decision on zoning map amendments or zone changes is listed in OCCGF, 17.16.40.030. The recommendation of the Zoning Commission and the decision of City Commission shall at a minimum consider the criteria which are contained in the Findings of Fact as follows:

1. The amendment is consistent with and furthers the intent of the City's growth policy.
2. The amendment is consistent with and furthers adopted neighborhood plans, if any.
3. The amendment is consistent with other planning documents adopted by the City Commission, including the river corridor plan, transportation plan and sub-area plans.
4. The code with the amendment is internally consistent.
5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare.
6. The City has or will have the financial and staffing capability to administer and enforce the amendment.

At the conclusion of a public hearing held on January 10, 2017, the Zoning Commission recommended the City Commission approve the rezoning request from C-1 Neighborhood commercial district to C-2 General commercial district for the subject properties.

**Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission accept Ordinance 3152 on first reading and set public hearing for March 7, 2017.**

Mayor Kelly reminded the public that the requested action is to accept Ordinance 3152 on first reading and set the public hearing for March 7, 2017.

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

Commissioner Bronson explained that state law requires that there must be two readings when considering an Ordinance. Commissioner Bronson reported that he received a phone call from a member of the community with regard to the merits of Ordinance 3152. He commented that if the public has concerns to send correspondence in care of the City Clerk's office and the information would be forwarded to the Commission.

Commissioner Burow commented that he spoke with a member of the public that had concerns with regard to Ordinance 3152. Commissioner Burow further commented that any concerns could be presented at the first reading or at the Public Hearing on March 7<sup>th</sup>.

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

**Steve Gillespie**, 9 12<sup>th</sup> Street North, expressed concern with regard to accepting Ordinance 3152 on first reading and setting the public hearing for March 7<sup>th</sup>. Mr. Gillespie commented that no opponents were mentioned in the Neighborhood Council 1 minutes. Mr. Gillespie further expressed concern with regard to the impact that Ordinance 3152 would have on the single family residences. He expressed concern with regard to the zoning application having a possibility of spot zoning.

**Brett Doney**, Great Falls Development Authority (GFDA), 300 Central Avenue, commented that the zoning application is not spot zoning, and that multi-family high density comes from the City zoning code.

There being no one further to address the Commission, Mayor Kelly called for the vote.

Motion carried 4-0.

19. **ORDINANCE 3154, AN ORDINANCE AMENDING TITLE 3, CHAPTER 8, SECTION 040 OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO COMPETITIVE SEALED PROPOSALS.**

Assistant City Attorney Joe Cik reported that members of the City Commission and staff have examined numerous sections of the OCCGF and have noticed various types of deficiencies throughout numerous sections of the code. The deficiencies vary from typographical errors, to conflicts with State and Federal law.

Additionally the OCCGF conflicts in various places with itself. In an effort to cure these issues, City staff has assembled input from the different departments to begin a comprehensive revision of the deficiencies mentioned.

The section of the Code to be cured by the ordinance under consideration is OCCGF §3.8.040 pertaining to competitive sealed proposals. The section currently states:

A. When, not required by law, the City Manager or a department head determines in writing that

the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by competitive sealed proposals.

B. Proposals must be solicited through a request for proposals.

C. Adequate public notice of the request for proposals must be given in the same manner as provided in 7-5-4302(2) MCA.

D. Proposals must be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals must be prepared and open for public inspection at the City Clerk's Office after contract award.

E. The request for proposals must state the relative importance of price and other evaluation factors.

F. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit apparently responsive proposals for the purpose of clarification, to assure full understanding of and responsiveness to the solicitation requirements.

Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted, after submissions and prior to award, for the purpose of obtaining best and final offers.

In conducting discussions, there may be no disclosure of any information derived from proposals submitted by competing offerors. The City may require the submission of cost or pricing data in connection with an award under this section.

G. The award must be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price, including the preference in 18-1-102 MCA, and the evaluation factors set forth in the request for proposals. No other factors or criteria may be used in the evaluation. The contract file shall contain the basis on which the award is made.

MCA §7-5-4302 states:

(1) Except as provided in 7-5-4303, 7-5-4310, or Title 18, chapter 2, part 5, a contract for the purchase of any automobile, truck, other vehicle, road machinery, other machinery, apparatus, appliances, equipment, or materials or supplies or for construction, repair, or maintenance in excess of \$ 80,000 must be let go to the lowest responsible bidder after advertisement for bids.

(2) The advertisement must be published as provided in 7-1-4127, and the second publication must be made not less than 5 days or more than 12 days before the consideration of bids. If the advertisement is made by posting, 15 days must elapse, including the day of posting, between the time of the posting of the advertisement and the day set for considering bids.

(3) The council may: (a) postpone awarding a contract until the next regular meeting after bids are received in response to the advertisement; (b) reject any or all bids; and (c) re advertise as provided in this section.

MCA §7-5-4302 only requires the advertisement dictated in (2), if the contract being created involves the criteria listed in (1). Therefore, an otherwise legal contract may be bid for by competitive sealed proposals that need not be advertised in compliance with (2).

The current language of OCCGF §3.8.040 restricts the City Manager and the various department heads from using the competitive sealed proposal process. Unless the contract being created meets the criteria listed in MCA §7-5-4302(1), these restrictions are not necessary, and they should not be applied to every single request for competitive sealed proposals. The ordinance under consideration cures this deficiency.

**Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission accept Ordinance 3154 on first reading and set public hearing for February 21, 2017.**

Mayor Kelly asked if there was any discussion amongst the Commissioners or comments from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, referred to Exhibit A, Section C, and expressed concern with regard to adequate public notice of the request for proposals.

There being no one further to address the Commission, Mayor Kelly called for the vote.

Motion carried 4-0.

## **CITY COMMISSION**

### **20. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Bronson reported that on January 20<sup>th</sup> the Montana Historical Society presented two Historic Preservation Awards. The Arvon Block Great Falls received the Outstanding Historic Preservation Rehabilitation Project. The East Side Neighborhood Historic District was recognized for an entry in the National Register of Historic places.

Commissioner Houck reported that there are Board and Commission openings which can be located on the City's web site.

Mayor Kelly commented that there will be a Mayor's report at the February 21<sup>st</sup> Commission meeting with regard to a recent meeting the Commission had at the Great Falls College MSU.

Mayor Kelly wished good luck to Chamber of Commerce former CEO, Brad Livingston, and to the new CEO, Shane Etzeiler.

### **21. LEGISLATIVE INITIATIVES.**

Mayor Kelly reported that there is a large movement by some members of the Legislature to deconstruct the City's Tax Increment Financing (TIF) capabilities. He suggested that anyone

interested should go to Helena to represent their opinion. Mayor Kelly commented that he and Commissioner Bronson are going to Helena on February 8<sup>th</sup> to work with the League of Cities and Towns and local legislators.

22. **COMMISSION INITIATIVES.**

There were no Commission initiatives.

**ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Houck moved, seconded by Commissioner Burow, to adjourn the regular meeting of February 7, 2017, at 9:00 p.m.**

Motion carried 4-0.

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Mayor Bob Kelly

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Deputy City Clerk Darcy Dea

Minutes Approved: February 21, 2017