



City Commission Agenda

for

August 5, 2008

Please Note: The City Commission agenda format allows citizens to speak on each issue prior to Commission action. We encourage your participation. Please keep your remarks concise and to the topic under consideration.

****REVISED****

CALL TO ORDER: 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

NEIGHBORHOOD COUNCILS

1. Miscellaneous reports and announcements.

PUBLIC HEARINGS

2. Business Improvement District 2008/2009 Budget and Work Plan. Action: Conduct public hearing and approve or deny Budget and Work Plan. **(Presented by: Tonya Jorgensen)**
3. Res. 9746, Levy and Assess Street Maintenance District. Action: Conduct public hearing and adopt or deny Res. 9746. **(Presented by: Martha Capps)**
4. Res. 9747, Levy and Assess Special Improvement Boulevard Maintenance District No. 3570. Action: Conduct public hearing and adopt or deny Res. 9747. **(Presented by: Martha Capps)**
5. Res. 9759, Levy and Assess Special Improvement Portage Meadows Maintenance District No. 1195. Action: Conduct public hearing and adopt or deny Res. 9759. **(Presented by: Martha Capps)**
6. Res. 9758, Cost Recovery, 706 19th Street SW. Cost recovery for expenses incurred in razing temporary structure and cleanup of property. Action: Conduct public hearing and adopt or deny Res. 9758. **(Presented by: Mike Rattray)**
7. Unincorporated Portion of Two Utility Corridors in the vicinity of Henderson Heights and North Riverview Terrace. **(Presented by: Ben Rangel)**
 - A. Res. 9763, Annex 92 separate parcels of land comprising the unincorporated portion of two utility corridors. Action: Conduct public hearing and adopt or deny Res. 9763.
 - B. Res. 9764, Annex contiguous governmental land. Action: Conduct public hearing and adopt or deny Res. 9764.
 - C. Ord. 3010, Assign City Zoning classification of R-2 Single-family medium density district. Action: Conduct public hearing and adopt or deny Ord. 3010.
8. Ord. 3011, Rezone Lot 1, Block 1, Benefis West Minor Subdivision. Rezones property from PLI Public lands and institutional district to R-

5 Multi-family residential medium density district. Action: Conduct public hearing and adopt or deny Ord. 3011. **(Presented by: Ben Rangel)**

OLD BUSINESS

9. Fire Protection and Emergency Services Fee Schedule for the Highwood Generating Station with Southern Montana Electric G & T. Action: Approve or disapprove agreement. **(Presented by: Randy McCamley)**

NEW BUSINESS

ORDINANCES/RESOLUTIONS

10. Res. 9762, Levy and Assess the Cost of Removal and Disposal of Nuisance Weeds in the City of Great Falls from July 1, 2007, to June 30, 2008. Action: Adopt or deny Res. 9762 **(Presented by: Martha Cappis)**
11. Parcel Mark No's 6 & 8 International Airport. **(Presented by: Ben Rangel)**
 - A. Res. 9771, Intent to Annex said property. Action: Adopt or deny Res. 9771.
 - B. Ord. 3013, Assigns City zoning classification of GFIA Great Falls International Airport district to said property. Action: Accept Ord. 3013 on first reading and set public hearing for September 2, 2008.
12. Ord. 3014, Change the title of the Airport zoning classification from GFIA Great Falls International Airport to AI Airport Industrial District. Action: Accept Ord. 3014 on first reading and set public hearing for September 2, 2008. **(Presented by: Ben Rangel)**
13. Ord. 3015, Rezone Parcel Mark No. P1, Section 5, T20N, R4E (City-owned parcel previously used as compost site.) Action: Accept Ord. 3015 on first reading and set public hearing for September 2, 2008. **(Presented by: Ben Rangel)**

CONSENT AGENDA *The Consent Agenda is made up of routine day-to-day items that require Commission action. Items may be pulled from the Consent Agenda for separate discussion/vote by any Commissioner.*

14. Minutes, July 15, 23, 2008, Commission meeting.
15. Total Expenditures of \$4,740,173 for the period of July 14-30, 2008, to include claims over \$5000, in the amount of \$4,276,652.
16. **Amended Contracts list .**
17. Declare property as surplus with an anticipated value of \$1,000 or more.
18. Approve Change Order SI-3 and Change Order SII-4, Mitchell, Jaycee and Water Tower Pools Rehabilitation to Talcott Construction.
19. Approve Memorandum of Understanding with Great Falls Development Authority regarding use of Ag-Tech Industrial Tax

- Increment District funds for the purpose of preliminary road design work through the District connecting to Great Bear Innovation Park.
20. Award construction contract for Wastewater Treatment Re-Roof Projects to Treasure State Roofing in the amount of \$218,095.
 21. Approve Release Agreement – Marathon Oil, et al vs. City, et. al.

Action: Approve Consent Agenda or remove items for further discussion and approve remaining items.

BOARDS & COMMISSIONS

22. Preliminary Plat, Tyndall Addition Phase 1, located along 37th Avenue Northeast and consisting of ten single-family lots. Action: Approve or deny Preliminary Plat and accompanying Findings of Fact.
23. Appointment, Historic Preservation Advisory Commission. Appoint one member to a three-year term through April 30, 2011.
24. Miscellaneous reports and announcements.

CITY MANAGER

25. Miscellaneous reports and announcements.

PETITIONS AND COMMUNICATIONS *(Please keep your remarks to a maximum of 5 minutes)*

26. Miscellaneous reports and announcements.

CITY COMMISSION

27. Miscellaneous reports and announcements.

MOTION TO ADJOURN



Agenda # 2
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: B.I.D. 2008/2009 Budget and Work Plan

From: Lisa Kunz, City Clerk

Initiated By: Business Improvement District

Presented By: Tonya Jorgensen

Action Requested: Conduct Public Hearing and approve or deny Budget and Work Plan

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/deny) the 2008/2009 Business Improvement District Budget and Work Plan.

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Recommendation: The B.I.D recommends that the City Commission approve the 2008/2009 B.I.D. budget and work plan.

Background:

The Business Improvement District was established in Great Falls in 1970. Its overall purpose is to utilize tax dollars through the B.I.D. tax assessment and direct those monies back into the district to improve and revitalize the downtown. The current district has not changed in the areas of district boundaries or tax assessment formula since its origination date. Several attempts have been made for expansion to the west and support of this action has not been successful.

2009 will mark the third re-creation or renewal for the Business Improvement District in Great Falls. Efforts for expansion will follow once the district is renewed. A process for renewal is in full swing at this time and the current Board of Directors will be personally visiting with property owners in the next eight months as concurrence of more than 60% of the property owners is needed to renew. A timeline has been set with both the B.I.D. Board and the City of Great Falls Fiscal Services Department for the necessary public hearings and resolutions within the next eight months for the process.

According to State statute, the City Commission must hold a public hearing to hear any objections to the budget and work plan. Following the public hearing, the City Commission may approve the plan or request that amendments be made to it prior to levying an assessment on all

properties within the district to defray the costs. The assessment will be according to the formula approved with the creation of the district.

Concurrences:

The B.I.D. partners with several organizations to provide results and follow the overall purpose of the B.I.D.

Fiscal Impact:

The B.I.D. receives approximately \$156,000 per year in tax assessment dollars. The funds are directed to operating the B.I.D. office, grant programs, tree maintenance, beautification efforts and additional projects for streetscapes and economic growth.

2007-2008 marks the first year that the B.I.D. received excessive grant requests and awards. That resulted in a limited budget for approving additional awards. The B.I.D. currently has \$140,000 that has been committed to projects that are still in progress and have not yet been paid out. The B.I.D. holds a minimum operating balance in the checking account and all other revenue received in excess to that is invested into short and long term certificates for access of funds according to completion of projects for payout.

A cleaning program for sidewalks and alleys is currently being developed for the district. This program is not available for funding within the operating budget; therefore, the B.I.D will look for a sponsor organization to assist in its operation.

Alternatives:

The City Commission could request the B.I.D. Board for changes to either the Work Plan or the Budget.

Attachments/Exhibits:

B.I.D. Renewal Report

2008/2009 Work Plan

Revised Budget

Façade Grant Status Report

By-Laws of the Great Falls B.I.D.

(Attachments not available online; on file in City Clerk's Office.)



Agenda # 3
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Resolution 9746 to Levy and Assess Street Maintenance District

From: Judy Burg, Account Technician

Initiated By: Annual Assessment Process

Presented By: Martha Capps, Operations Supervisor

Action Requested: City Commission Conduct Public Hearing and Adopt Resolution 9746

Public Hearing:

1. Mayor conducts public hearing, calling three times each for opponents and proponents.
2. Mayor closes public hearing and asks the will of the Commission.

Suggested Motion:

1. Commissioner moves:

 “I move the City Commission adopt or deny Resolution 9746.”
 2. Mayor calls for a second, discussion, and calls for the vote.
-

Staff Recommendation: Staff recommends following the public hearing and barring sufficient protest, that the City Commission adopt Resolution 9746 to Levy and Assess Street Maintenance District.

Background: The Street Department maintains over 366 miles of streets and alleys within the city limits. Maintenance consists of pavement rehabilitation and restoration, street cleaning, snow and ice removal, alley maintenance, nuisance weed program and the Traffic Division which is responsible for the maintenance of all roadway signs and signals. The budget development process begins in January of each year when the Street Department receives their midyear financial reports. The midyear report is used to determine the current financial position of the Street Fund, which is the basis for projecting future earnings and expenditures. Information is gathered regarding the actual and anticipated expenses, future projects, goals and objectives of the department. Street Maintenance contracts with other local governmental agencies are reviewed and/or updated. After determining financial factors pertinent to the operation of the Street Department, an assessment amount for the next fiscal year is calculated, proposed and presented to the City Commissioners for approval.

The annual assessment resolution provides for the authorization of assessments, authorization to contract for maintenance of sections of City streets adjacent to land owned by other governments or their agencies, assessment option specification, total assessment amount and listing of assessed property.

As part of the annual budget development and adoption procedures the Street Maintenance Assessment Resolution must be submitted for City Commission action. A public notice and hearing is required prior to final passage of the assessment resolution.

Concurrences: Public Works staff is responsible for the operation expenses of the Street Department. Fiscal Services staff is responsible for assessing and collecting the Revenues necessary to carry out the operations. The City Commissioners have received information regarding the condition of the streets and the Street Fund operations during the annual budget process.

Fiscal Impact: Adoption of Resolution 9746 will allow the City to fund the costs of work, improvements, and maintenance required to be made each year in the street maintenance district. The current proposed budget will allow the City to continue its current maintenance and replacement activities, which are lower than the recommended level in terms of years between major updates. If more money were available, additional street work could be accomplished that would be more in line with recommended maintenance and replacement.

ASSESSMENT ANTICIPATED

The anticipated assessment amount for Street Maintenance funds for the next fiscal year is the amount projected through the Budget Development Process. For Fiscal Year 08/09 the assessment will increase by 10%, which is being recommended to finance increased costs related to street maintenance activities; anticipated collections will total \$2,888,858. This will result in an assessment of \$81.18 for an average size lot of 7,500 square feet, an increase of \$7.38 from Fiscal Year 07/08. (7,500 sq ft x 0.010824 factor = \$81.18.)

ASSESSMENT OPTION

Section 7-12-4425, MCA states: "...The council shall pass and finally adopt a resolution specifying the district assessment option and levying and assessing all the property within the several districts..." Section 7-12-4422, MCA provides for "assessable area" to be one of the options.

The Assessable Area method, defining assessable area by square footage caps, has proven to be the most equitable method of assessment. Assessment parameters are:

- a. Square footage caps per parcel of 12,000 square feet for residential property and properties categorized as non-profit/cemetery organizations 501(c)(13) as defined by the Internal Revenue Code.
- b. A 'mixed use' category which consists of property equal to or greater than 112,000 square feet but less than 50% commercially developed. For the 'mixed use' category, the Planning Department shall annually identify all property equal to or greater than 112,000 square feet which are 50% or less commercially

developed. Those properties shall be assessed 50% commercial and 50% at capped residential.

- c. 1 million square foot cap for all other property. The 1 million square foot cap for all other property encourages large green areas on some private properties within the City.
- d. An 'interlocal contracted maintenance' category that designates properties owned by other governments or their agencies adjacent to City streets that are maintained by the other government or their agencies. This category's assessments include a 7.5% administrative fee as well as the annual contracted cost of maintenance. The maintenance cost portion is to be agreed upon by the City and the contracting entity.

Alternatives: The City Commission could choose to deny the adoption of Resolution 9746 to Levy and Assess Street Maintenance; however, the reduction in services to the community could be hazardous to the safety and welfare of the general public.

Attachments/Exhibits: Resolution 9746
Notice of Public Hearing
Proposed Street Maintenance Increase

Cc: Jim Turnbow, Street Supervisor

PROPOSED STREET MAINTENANCE INCREASE

- \$ 262,623

CORRESPONDING EXPENSE INCREASES

- | | | |
|---|------------|---------------------|
| • | \$ 45,000 | Personnel Services |
| • | \$ 70,000 | Fuel |
| • | \$ 22,500 | Asphalt/Materials |
| • | \$ 100,000 | ST/SN Building Imp. |
| • | \$ 36,500 | Signal upgrades |

TOTAL \$ 274,000

LEVELS OF STREET MAINTENANCE

IDEAL SCHEDULE

Chipseal - 23.66 miles per year
Overlays - 11.83 miles per year
Reconstruct - 5.68 miles per year

CURRENT SCHEDULE

Chipseal - 7.5 miles per year
Overlays - 5 miles per year
Reconstruct - 0 miles per year

RESOLUTION 9746

A RESOLUTION LEVYING AND ASSESSING THE COST OF STREET MAINTENANCE FOR STREETS AND ALLEYS IN THE CITY OF GREAT FALLS, MONTANA FOR THE FISCAL YEAR BEGINNING JULY 1, 2008 AND ENDING JUNE 30, 2009

WHEREAS, the Commission of the City of Great Falls did provide for street maintenance by Ordinance 1687 (12.16.010, et seq., OCCGF) on September 7, 1971 in accordance with Sections 11-2263 through 11-2268, RCM, 1947 (now Section 7-12-4401 through 7-12-4427, MCA, 1989); and,

WHEREAS, the Commission of the City of Great Falls did amend and expand the scope of Street Maintenance services authorized by final passage and adoption of Ordinance 2584 on February 5, 1991, in accordance with Sections 7-12-4401 through 7-12-4427, MCA, 1989; and,

WHEREAS, the Commission of the City of Great Falls hereby finds, fixes and determines that each and every lot or parcel within said district has been or will be specially benefited by said maintenance; and,

WHEREAS, on July 15, 2008, the Commission of the City of Great Falls adopted its annual budget resolution in which the estimated costs of maintenance not offset by other revenues, in the Street Maintenance District at a total of TWO MILLION EIGHT HUNDRED EIGHTY-EIGHT THOUSAND EIGHT HUNDRED FIFTY-EIGHT DOLLARS (\$2,888,858).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

Section 1 – Continuance

The City of Great Falls continues to maintain streets in the Street Maintenance Districts.

Section 2 – Assessment Authorization

Section 7-12-4428, M.C.A., authorizes the City Commission to assess the cost of the work, improvements, and maintenance authorized by 7-12-4405 against the property in maintenance districts in the manner and as provided in 7-12-4421 and 7-12-4422 to meet the payments required to be made each year.

Section 7-12-4404, M.C.A., authorizes the City Commission to provide maintenance by contract in such manner as the commission may elect. Accordingly, the City may opt to enter into an interlocal agreement for maintenance of sections of City streets adjacent to land owned by other governments or their agencies. Assessments in such areas include a 7.5% administrative fee as well as the annual contracted cost of maintenance. The maintenance cost portion is to be agreed upon by the City and the contracting entity.

Section 3 – Assessment Option

In accordance with Sections 7-12-4422 and 7-12-4425, M.C.A., each lot or parcel of land within the Street Maintenance District shall be assessed according to its Assessable Area. Assessable area shall

be set with a square footage cap of 12,000 square feet for residential property and properties categorized as non-profit/cemetery organizations 501(c)(13) as defined by the Internal Revenue Code, and a 1 million square feet cap for all other property. The Planning Department shall annually identify all mixed-use property equal to or greater than 112,000 square feet which are 50% or less commercially developed. Those mixed-use properties shall be assessed 50% commercial and 50% at capped residential.

Section 4 – Costs Assessed

The costs of said maintenance, not offset by other revenues, in the street maintenance district, totaling TWO MILLION EIGHT HUNDRED EIGHTY-EIGHT THOUSAND EIGHT HUNDRED FIFTY-EIGHT DOLLARS (\$2,888,858), are hereby levied and assessed upon the property in said district for the fiscal year ending June 30, 2009. The description of each lot or parcel of land within the street maintenance district and the respective assessments are set forth in the records of the Fiscal Services Department of the City of Great Falls, Montana and by this reference incorporated herein as if set forth in full.

Section 5 – Assessment Method

The Street Maintenance District shall be assessed according to factors based on the property classification and square footage with caps.

No proration of the street maintenance assessment shall be made for any reason, including the fact that a particular property did not have paved streets for the entire taxable year.

Section 6 – Assessments Due Date

These assessments are payable in two payments and will become delinquent at 5:00 o'clock p.m. on November 30, 2008 and May 31, 2009.

Section 7 – Assessment Hearing

On August 5, 2008 at 7:00 p.m., in the Commission Chambers of the Civic Center Building, Great Falls, Montana, the Commission shall meet and hear all objections to the final adoption of this resolution.

Section 8 – Notice of Hearing

In accordance with Section 7-1-4127, the City Clerk is hereby authorized and directed to provide for two publications of the Notice of Resolution for Assessment with at least six days separating each publication. This publication of the Notice of Resolution for Assessment also complies with Section 7-12-4426, MCA, which requires publication of notice within 5 days preceding the assessment hearing.

PASSED by the Commission of the City of Great Falls, Montana, on this 5th day of August 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

Approved for Legal Content: City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9746 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 5th day of August 2008, and approved by the Mayor of said City on the 5th day of August 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 5th day of August 2008.

(SEAL OF CITY)

Lisa Kunz, City Clerk

NOTICE

NOTICE IS HEREBY GIVEN that the Great Falls City Commission in regular session on July 15, 2008, in the Commission Chambers, set a public hearing date for the regular Commission meeting on August 5, 2008, prior to acting upon Resolution 9746 entitled:

A RESOLUTION LEVYING AND ASSESSING THE COST OF STREET
MAINTENANCE FOR STREETS AND ALLEYS IN THE CITY OF GREAT
FALLS, MONTANA FOR THE FISCAL YEAR BEGINNING JULY 1, 2008
AND ENDING JUNE 30, 2009

The above-designated Resolution 9746 and the assessment list therein mentioned are on file in the office of the City Clerk, Lisa Kunz, and can be obtained by calling 406-455-8451, by picking it up in the Civic Center Building, 2 Park Drive, Great Falls, MT or from the City's website at www.ci.great-falls.mt.us and are subject to inspection for a period of ten (10) days. The City Commission will hear objections to the final adoption of said Resolution 9746 or any part thereof and the assessments therein provided for when convened in regular session in the Commission Chambers on August 5, 2008, at 7:00 o'clock p.m. at which time and place the City Commission will consider Resolution 9746 for final adoption.

/s/ Lisa Kunz, City Clerk

Publication Date: July 18, 2008 & July 25, 2008



Agenda # 4
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Resolution 9747 to Levy and Assess Special Improvement Boulevard Maintenance District No. 3570

From: Judy Burg, Account Technician

Initiated By: Annual Assessment Process

Presented By: Martha Cappis, Operations Supervisor

Action Requested: City Commission Conduct Public Hearing and Adopt Resolution 9747

Public Hearing:

1. Mayor conducts public hearing, calling three times each for opponents and proponents.
2. Mayor closes public hearing and asks the will of the Commission.

Suggested Motion:

1. Commissioner moves:

“I move the City Commission adopt or deny Resolution 9747.”

2. Mayor calls for a second, discussion, and calls for the vote.
-

Staff Recommendation: Staff recommends following the public hearing and barring sufficient protests, that the City Commission adopt Resolution 9747 to Levy and Assess Special Improvement Boulevard Maintenance District No. 3570.

Background: The Park and Recreation Department, Natural Resources – Boulevard Division is responsible for the care and maintenance of over 15,000 street trees located within the General Boulevard District. Services provided within the District are pruning, removal, planting, leaf pickup and streetscape design. The budget development process begins in January of each year when the Natural Resources – Boulevard Division receives its midyear financial reports. The midyear reports are used to determine the current financial position of the department and as the basis for projecting future earnings and expenditures. Information is gathered regarding the actual and anticipated expenses, future projects, goals and objectives of the department. After calculating all factors pertinent to the operation of the Natural Resources – Boulevard Division,

an assessment amount for the next fiscal year is calculated, proposed and presented to the City Commissioners for approval.

In order to legally provide for the necessary assessment support, State laws require City Commission hearings and passage of authorizing resolutions. Sections 7-12-4102, 7-12-4176 and 7-12-4179 MCA authorize the City Commission to create and assess the costs of work, improvements, and maintenance to the owners of property within the boundaries of such district.

As part of the annual budget development and adoption procedures the Special Improvement General Boulevard Maintenance District Assessment Resolution must be submitted for City Commission action. A public notice and hearing is required prior to final passage of the assessment resolution.

Concurrences: Park and Recreation staff is responsible for the operation expenses of the Boulevard District Fund. Fiscal Services staff is responsible for assessing and collecting the Revenues necessary to carry out the operations. The City Commissioners have received information regarding the condition of the District and the Boulevard District Fund operations during the annual budget process.

Fiscal Impact: Adoption of Resolution 9747 will allow the City to finance the cost of work, improvements, and maintenance conducted each year in the special improvement boulevard maintenance district.

The anticipated assessment amount used to assess General Boulevard Maintenance for the next fiscal year is the amount projected through the Budget Development Process. For Fiscal Year 08/09 the General Boulevard Area assessment will remain at \$289,725, the same amount assessed in Fiscal Year 07/08. This will result in an approximate assessment of \$61.23 for an average lot of 7,500 square feet ($7,500 \text{ sq ft} \times 0.008163 \text{ factor} = \61.23 .)

Alternatives: The City Commission could choose to deny the adoption of Resolution 9746 to Levy and Assess General Boulevard Maintenance; however, the reduction in services to trim, prune, spray, and maintain the trees within the district would be harmful and devastating to the overall shelter and beauty provided by the street trees to the community.

Attachments/Exhibits: Resolution 9747
Notice of Public Hearing
Maintenance Costs from July 1, 2007 – June 30, 2008

Cc: Jon Thompson, City Forrester

BOULEVARD DISTRICT
FISCAL YEAR 2007-2008

Maintenance costs for July 1, 2007 - June 30, 2008 on activities
conducted within the Boulevard District. Percentage states the
percent of the total Boulevard Budget

<i>Description</i>	<i>Amount</i>	<i>Percentage</i>
Administration	9,647.84	3.33%
Irrigation Repair	289.73	0.10%
Leaf Pickup	49,832.70	17.20%
Meetings/Training	289.73	0.10%
Pesticide Application	86.92	0.03%
Tree Cable bracing	985.07	0.34%
Tree Mulching	2,607.53	0.90%
Dutch Elm Disease Inspection	12,313.31	4.25%
Tree Inventory	376.64	0.13%
Tree Planting	20,280.75	7.00%
Tree Protectors	260.75	0.09%
Tree Removal	37,519.39	12.95%
Tree Storm Clearance	36,041.79	12.44%
Tree Stump Removal	20,773.28	7.17%
Tree Trimming	96,681.23	33.37%
Tree Watering	1,738.35	0.60%
TOTAL PERCENTAGE	289,725.00	100.00%

RESOLUTION 9747

A RESOLUTION LEVYING AND ASSESSING THE COST OF MAINTAINING BOULEVARDS IN THE GENERAL BOULEVARD DISTRICT NO. 3570 OF THE CITY OF GREAT FALLS, MONTANA FOR THE FISCAL YEAR BEGINNING JULY 1, 2008 AND ENDING JUNE 30, 2009.

WHEREAS the City Commission did create a General Boulevard Maintenance District No. 3570 by Resolution 3570 on January 2, 1946; and,

WHEREAS, the City Commission did amend and excluded Lots 8-14, Block 34 of Boston and Great Falls Addition from the boundaries of the General Boulevard District by Resolution 8132 on September 1, 1987 in accordance with MCA 7-12-4335; and,

WHEREAS, the City Commission intends to continue trimming, pruning, spraying, and otherwise maintaining the trees within said district; and,

WHEREAS, on July 15, 2008, the Commission of the City of Great Falls adopted its annual budget resolution in which the estimated costs of such maintenance within the General Boulevard Maintenance District No. 3570 at a total of TWO HUNDRED EIGHTY NINE THOUSAND SEVEN HUNDRED TWENTY-FIVE DOLLARS (\$289,725).

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

Section 1 – Continuance

The City of Great Falls continues to trim, prune, spray and otherwise care for and maintains the trees in the General Boulevard Maintenance District.

Section 2 – Costs Assessed

The costs of said care and maintenance in the Boulevard Maintenance District No. 3570, totaling \$289,725 are hereby assessed upon the properties in said district. Each lot and parcel within the district is hereby assessed in proportion to its square footage and that the procedure for determining the square footage to be assessed is the total square footage as set forth in Exhibit “A” of Resolution 6202 passed by the Great Falls City Commission on July 22, 1968, and presently on file in the office of the City Clerk.

Section 3 – Assessments Due Date

These assessments are payable in two payments and will become delinquent at 5:00 o'clock p.m. on November 30, 2008 and May 31, 2009.

Section 4 – Assessment Hearing

The City Commission will hear objections to the final adoption of this resolution at 7:00 p.m., August 5, 2008 in the Commission Chambers of the Civic Center Building, Great Falls, Montana.

Section 5 – Notice of Hearing

The City Clerk is hereby authorized and directed to provide for two publications of the Notice of Resolution for Assessment in accordance with Section 7-1-4127, MCA, preceding the assessment hearing.

PASSED by the Commission of the City of Great Falls, Montana, on this 5th day of August, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

Approved for Legal Content: City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9747 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 5th day of August, 2008, and approved by the Mayor of said City on the 5th day of August, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 5th day of August, 2008.

Lisa Kunz, City Clerk

(SEAL OF CITY)

NOTICE

NOTICE IS HEREBY GIVEN that the Great Falls City Commission in regular session on July 15, 2008, in the Commission Chambers, set a public hearing date for the regular Commission meeting on August 5, 2008, prior to acting upon Resolution 9747 entitled:

A RESOLUTION LEVYING AND ASSESSING THE COST OF MAINTAINING BOULEVARDS IN THE GENERAL BOULEVARD DISTRICT NO. 3570 OF THE CITY OF GREAT FALLS, MONTANA FOR THE FISCAL YEAR BEGINNING JULY 1, 2008 AND ENDING JUNE 30, 2009.

Copies of the above-designated Resolution 9747, and the assessment list therein mentioned are available in the office of the City Clerk, Lisa Kunz, City Clerk, and can be obtained by calling 406-455-8451, by picking it up in the Civic Center Building, 2 Park Drive, Room 202, Great Falls, MT or from the City's website at www.ci.great-falls.mt.us and are subject to inspection for a period of ten (10) days. The City Commission will hear objections to the final adoption of said Resolution 9747 or any part thereof and the assessments therein provided for when convened in regular session in the Commission Chambers on August 5, 2008, at 7:00 o'clock p.m., at which time and place the City Commission will consider Resolution 9747 for final adoption.

/s/ Lisa Kunz, City Clerk

Publication Date: July 18, 2008 & July 25, 2008.



Agenda # 5
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Resolution 9759 to Levy and Assess Special Improvement Portage Meadows Maintenance District No. 1195

From: Judy Burg, Account Technician

Initiated By: Annual Assessment Process

Presented By: Martha Capps, Operations Supervisor

Action Requested: City Commission Conduct Public Hearing and Adopt Resolution 9759

Public Hearing:

1. Mayor conducts public hearing, calling three times each for opponents and proponents.
2. Mayor closes public hearing and asks the will of the Commission.

Suggested Motion:

1. Commissioner moves:

“I move the City Commission adopt or deny Resolution 9759.”
 2. Mayor calls for a second, discussion, and calls for the vote.
-

Staff Recommendation: Staff recommends following the public hearing and barring sufficient protests, that the City Commission adopt Resolution 9759 to Levy and Assess Special Improvement Portage Meadows Maintenance District No. 1195.

Background: The Portage Meadows Fund is administered by the Park and Recreation Department. The purpose of the fund is to maintain the turf, trees, irrigation system and provide snow removal in the green belt park of the Portage Meadows Addition. The budget development process begins in January of each year when the Park and Recreation Department receives its midyear financial reports. The midyear reports are used to determine the current financial position of the Portage Meadows Fund and as a basis for projecting future earnings and expenditures. Information is gathered regarding the actual and anticipated expenses, future projects, goals and objectives of the Fund. After calculating all factors pertinent to the operation of maintaining the green belt park area, an assessment amount for the next fiscal year is calculated, proposed and presented to the City Commissioners for approval.

In order to legally provide for the necessary assessment support, State laws require City Commission hearings and passage of authorizing resolutions. Sections 7-12-4102, 7-12-4176 and 7-12-4179 MCA authorize the City Commission to create and assess the costs of work, improvements, and maintenance to the owners of property within the boundaries of such district.

As part of the annual budget development and adoption procedures the Special Improvement Portage Meadows Maintenance Assessment Resolution must be submitted for City Commission action. A public notice and hearing is required prior to final passage of the assessment resolution.

Concurrences: Park and Recreation staff is responsible for the operation expenses for the Portage Meadows District Fund. Fiscal Services staff is responsible for assessing and collecting the Revenues necessary to carry out the operations. The City Commissioners have received information regarding the condition of the District and the Portage Meadows District Fund operations during the annual budget process. .

Fiscal Impact: Adoption of Resolution 9759 will allow the City to finance the costs of work, improvements, and maintenance required to be made each year in the special improvement Portage Meadows Boulevard Maintenance District.

The anticipated assessment amount for Portage Meadows for the next fiscal year is the amount projected through the Budget Development Process. The Portage Meadows Area assessment for Fiscal Year 08/09 will remain at \$19,786, the same amount assessed in Fiscal Year 07/08. This will result in an approximate assessment of \$105.85 for an average lot of 7,500 square feet (7,500 sq ft x 0.023506 factor = \$105.85.)

Alternatives: The City Commission could choose to deny the adoption of Resolution 9746 to Levy and Assess Portage Meadows Boulevard Maintenance; however, the services provided are the services the City agreed to provide when the land area was donated to the City.

Attachments/Exhibits: Resolution 9759
Notice of Public Hearing

Cc: Giles Salyer, Park Maintenance Supervisor

RESOLUTION 9759

A RESOLUTION LEVYING AND ASSESSING THE COST OF MAINTAINING THE GREEN BELT PARK OF PORTAGE MEADOWS ADDITION IN THE CITY OF GREAT FALLS ON ALL REAL ESTATE IN SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 1195 FOR THE FISCAL YEAR BEGINNING JULY 1, 2008 AND ENDING JUNE 30, 2009.

WHEREAS the City Commission did create and amend Special Improvement Maintenance District No. 1195 by Resolutions 6913, 6980, and 8426 on February 15 and July 17, 1977, and July 16, 1991 respectively; and,

WHEREAS the City Commission intends to continue maintaining the Green Belt Park of Portage Meadows addition within said district; and,

WHEREAS on July 15, 2008, the Commission of the City of Great Falls adopted its annual budget resolution in which the estimated cost of such maintenance within said district at a total of NINETEEN THOUSAND SEVEN HUNDRED EIGHTY-SIX DOLLARS (\$19,786).

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

Section 1 – Continuance

The City of Great Falls continues to care for and maintain the Green Belt Park in Special Improvement Maintenance District No. 1195.

Section 2 – Costs Assessed

The costs of said care and maintenance in the district, totaling \$19,786 are hereby assessed upon the properties in said district.

The costs per property and the property list for Special Improvement District No. 1195 are set forth in the records of the City Clerk of the City of Great Falls. Said property is generally identified as each lot or parcel of land within Portage Meadows Additions #1, #2, and #3, excluding Blocks 4, 5, and 6 of Portage Meadows #1 Addition.

Assessments for each year may be reviewed on an annual basis and may be revised in amount according to the following formula: cost plus ten percent (10%) divided by the total square feet of all of the lots within said district times the square feet of each lot. Costs shall be for expendable material costs, snow removal labor, water, mowing labor, fertilizer costs and labor, aerification labor, and tree pruning costs.

Section 3 – Assessments Due Date

These assessments are payable in two payments and will become delinquent at 5:00 o'clock p.m. on November 30, 2008 and May 31, 2009.

Section 4 – Assessment Hearing

The City Commission will hear objections to the final adoption of this resolution at 7:00 p.m., August 5, 2008, in the Commission Chambers of the Civic Center Building, Great Falls, Montana.

Section 5 – Notice of Hearing

The City Clerk is hereby authorized and directed to provide for two publications of the Notice of Resolution for Assessment in accordance with Section 7-1-4127, MCA, preceding the assessment hearing.

PASSED by the Commission of the City of Great Falls, Montana, on this 5th day of August, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

Approved for Legal Content: City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9759 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 5th day of August, 2008, and approved by the Mayor of said City on the 5th day of August, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 5th day of August, 2008.

Lisa Kunz, City Clerk

(SEAL OF CITY)

NOTICE

NOTICE IS HEREBY GIVEN that the Great Falls City Commission in regular session on July 15, 2008, in the Commission Chambers, set a public hearing date for the regular Commission meeting on August 5, 2008, prior to acting upon Resolution 9759 entitled:

A RESOLUTION LEVYING AND ASSESSING THE COST OF MAINTAINING THE GREEN BELT PARK OF PORTAGE MEADOWS ADDITION IN THE CITY OF GREAT FALLS ON ALL REAL ESTATE IN SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 1195 FOR THE FISCAL YEAR BEGINNING JULY 1, 2008 AND ENDING JUNE 30, 2009.

Copies of the above-designated Resolution 9759 and the assessment list therein mentioned are available in the office of the City Clerk, Lisa Kunz, City Clerk, and can be obtained by calling 406-455-8451, by picking it up in the Civic Center Building, 2 Park Drive, Room 202, Great Falls, MT or from the City's website at www.ci.great-falls.mt.us and are subject to inspection for a period of ten (10) days. The City Commission will hear objections to the final adoption of said Resolution 9759 or any part thereof and the assessments therein provided for when convened in regular session in the Commission Chambers on August 5, 2008, at 7:00 o'clock p.m., at which time and place the City Commission will consider Resolution 9759 for final adoption.

/s/ Lisa Kunz, City Clerk

Publication Date: July 18, 2008 & July 25, 2008.



Agenda # 6
Commission Meeting Date: August 5, 2008

CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Res. # 9758, Cost Recovery, NW1/4SW1/4 of Section 10, Township 20N, Range 3E MPM, 706 19th Street Southwest, Great Falls, Cascade County, Montana.

From: Jay Parrott, Building Inspector

Initiated By: Community Development Department

Presented By: Mike Rattray, Community Development Department Director

Action Requested: Conduct Public Hearing and Adopt Resolution # 9758 for recovering costs incurred in razing the temporary structure and clean-up of the property located at 706 19th Street Southwest.

Suggested Motion:

1. Commissioner moves: "I move that the City Commission adopt/deny Resolution # 9758."
 2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.
-

Staff Recommendation: Staff recommends adoption of Resolution # 9758.

Background: The building official received a complaint on the temporary structure located at 706 19th Street Southwest. After confirming the structure was not on a permanent foundation and in the flood plain area, the property was condemned on August 21, 2007. A building permit was issued on December 12, 2007. A footing was poured and left with no further action taken by the property owner; therefore, the building official proceeded with the condemnation. Demolition started on June 2, 2008 and was completed on June 4, 2008.

Concurrences: N/A

Fiscal Impact: Adoption of Resolution # 9758 will allow the City to reimburse the demolition fund \$ 3,060.00

Alternatives: The City Commission may or may not adopt Resolution # 9758.

Attachments/Exhibits: Resolution # 9758
Actions taken by staff
Notice of Public Hearing
Itemized account for recovery of razing costs

RESOLUTION 9758

A RESOLUTION ASSESSING THE COSTS INCURRED IN RAZING THE TEMPORARY STRUCTURE AND CLEANING OF THE PROPERTY LOCATED IN THE NW1/4SW1/4 OF SECTION 10, TOWNSHIP 20N, RANGE 3E MPM, GREAT FALLS, CASCADE COUNTY, MONTANA, ADDRESSED AS 706 19th STREET SOUTHWEST AGAINST SAID PROPERTY.

WHEREAS, Debra Schultz and Richard Joseph Fertterer, owners of the property located on the NW1/4SW1/4 of Section 10, Township 20N, Range 3E MPM, Great Falls, Montana, 706 19th Street Southwest was issued a notice to raze the structure.

WHEREAS, after due notice the property owner did not raze the structure.

WHEREAS, staff hired a contractor to raze the structure and clean the property.

WHEREAS, the contractor completed razing and clean-up of the structure.

WHEREAS, the City Commission set August 5, 2008, at 7:00 p.m. for this hearing, to show cause why the property owners should not be held liable for the costs incurred in razing and cleanup of said property.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, THAT:

The amount of \$ 3,060.00 for razing and cleanup costs incurred in the razing of the temporary structure and clean-up of the nuisance located on the NW1/4SW1/4 of Section 10, Township 20N, Range 3E MPM, Great Falls, Cascade County, Montana, described as 706 19th Street Southwest, be assessed against the property itself, with interest and penalties on the unpaid balance.

PASSED by the Commission of the City of Great Falls, Montana, on this 5th day of August, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

State of Montana)
County of Cascade: ss.
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify the foregoing Resolution # 9758 was placed on its final passage and adoption, and was passed and adopted by the City Commission of said City at a Regular Meeting thereof held on the 5th day of August, 2008, and approved by the Mayor of said City, on the 5th day of August, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City, this 5th day of August, 2008.

Lisa Kunz, City Clerk

ACTION TAKEN BY CITY STAFF

<u>Action</u>	<u>Date</u>
“Notice and Order” of Condemnation letter mailed	08-21-07
20 day appeal time limit expired (no appeal filed)	09-11-07
60 day time period expired	10-22-07
Building permit issued to home owner (30 days to complete work)	12-11-07
Advised home owner a “Notice to Proceed” was issued to razing contractor	04-21-08
Razing permit issued to <i>Wayne Riley Construction</i>	05-07-08
Conversation with property owner	05-29-08
Razing started	06-02-08
Razing completed	06-04-08

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Commission will hold a public hearing on August 5, 2008, at 7:00 p.m., in the Commission Chamber of the Civic Center for assessing razing and cleanup costs on the following property in the amount set forth:

706 19th Street Southwest \$ 3,060.00

Any person interested or affected by the proposed charge may file written protests or objections, containing the description of the property and the grounds for such protest or objections, with the Clerk's office prior to the time set for the hearing.

BY ORDER OF THE CITY COMMISSION

Lisa Kunz, City Clerk

OFFICE USE ONLY

Publication Date: July 26, 2008

cc: Account # 451-7121-572-3599

Lisa Kunz, City Clerk

Itemized Account

Owners: Richard Joseph Fertterer

1801 6th Street Northwest

Great Falls, Montana 59404

Debby A Schultz

706 19th Street Southwest

Great Falls, Montana 59404

Post on Property

Property File

ITEMIZED ACCOUNT FOR RECOVERY OF ABATEMENT COSTS

The following expenses were incurred during the razing of the temporary structure and cleanup of the property located on the NW1/4SW1/4 of Section 10, Township 20N, Range 3E MPM, Great Falls, Cascade County, Montana, more commonly known as 706 19th Street Southwest.

Administrative Fee	\$ 260.00
Ownership and encumbrance report by <i>Stewart Title</i>	\$ 330.00
Recording Fee	\$ 35.00
Publishing Legal Ad (Tribune)	\$ 35.00
Razing by <i>Wayne Riley Construction</i>	<u>\$ 2,400.00</u>
TOTAL EXPENSES INCURRED	<u>\$ 3,060.00</u>



Agenda # 7
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Public Hearing - Resolution 9763 to Annex wholly surrounded enclaves; Resolution 9764 to Annex contiguous governmental land; and Ordinance 3010 to Assign City Zoning to the Unincorporated Portion of Two Utility Corridors in the vicinity of Henderson Heights and North Riverview Terrace

From: Charles Sheets, Planner 1

Initiated By: City Commission

Presented By: Benjamin Rangel, Planning Director

Action Requested: City Commission adopt Resolution 9763, Resolution 9764 and Ordinance 3010.

Suggested Motions: (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9763 to annex 92 separate parcels of land comprising the unincorporated portion of two utility corridors.”

and;

“I move that the City Commission (adopt/deny) Resolution 9764 to annex a parcel of governmental land within the unincorporated utility corridor adjacent to Sacajawea School and Sacajawea Park.”

and;

“I move that the City Commission (adopt/deny) Ordinance 3010.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Planning Board and Zoning Commission Recommendations: The Planning Board has recommended the City Commission approve the annexation of the unincorporated portion of two utility corridors in the vicinity of Henderson Heights and North Riverview Terrace. The Zoning Commission has recommended the City Commission assign a zoning classification of R-2 Single-family medium density district upon all the parcels comprising the utility corridors being annexed, except for the two parcels abutting Sacajawea School and North Middle School which will be zoned PLI Public lands and institutional district, upon annexation to the City.

Background: It is the City's intention to annex unincorporated enclaves. This intention recognizes that each parcel has separate and unique characteristics and issues to be addressed. As such, the City Commission directed staff to research and when appropriate annex unincorporated enclaves.

There are 93 separate parcels of land comprising two utility corridors in the vicinity of Henderson Heights and North Riverview Terrace, which are presently unincorporated. One of these parcels is owned by the City of Great Falls.

Please refer to the attached Vicinity/Zoning Map.

These utility corridors are entirely surrounded by properties already incorporated into the City of Great Falls. As allowed by Section 7-2-4501 Montana Code Annotated, a city may unilaterally annex properties that are wholly surrounded by the city, upon passing a resolution of intent, giving notice, and passing a resolution of annexation. Upon conducting these actions, wholly surrounded lands are annexed whether or not a majority of the property owners of the areas to be annexed object. The City will then have jurisdiction and City Codes will be applied and enforced. The one parcel owned by the City of Great Falls requires a different State statute be used. Section 7-2-4402 Montana Code Annotated, "Annexation of Contiguous Government Land," will be cited in the annexation resolution.

The corridors are utility easements that were established when the North Riverview Terrace and Henderson Heights areas were still farm land. The corridors were never incorporated when the abutting land was subdivided and annexed into the City. The utility corridors were later divided and offered for sale to the abutting property owners. The smaller size and isolation of these separate parcels limit their use to yard space and accessory structures, such as sheds or garages. Over the past several years, some of these parcels have been a source of complaints involving weeds and the collection of debris. This has led to confusion and frustration by the public regarding which entity, the City or the County, has the authority or responsibility to address the complaints. Upon annexation, the parcels will be subject to City taxes and assessments.

The incorporated properties surrounding the 93 parcels are predominately residential. It is therefore proposed the parcels be zoned R-2 Single-family medium density district, except for two segments which should appropriately be zoned PLI Public lands and institutional as they abut North Middle School, Sacajawea School and Sacajawea Park.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines, which must be considered in conjunction with establishing municipal zoning on land:

- a) is designed in accordance with the growth policy (comprehensive plan);
- b) is designed to lessen congestion in the streets;
- c) will secure safety from fire, panic or other dangers;
- d) will promote health and the general welfare;
- e) will provide adequate light and air;
- f) will prevent overcrowding of land;
- g) will avoid undue concentration of population;
- h) will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- i) gives reasonable consideration to the character of the district;
- j) gives reasonable consideration to the peculiar suitability of the property for particular uses;

- k) will conserve the value of buildings; and
- l) will encourage the most appropriate use of land throughout the municipality.

Zoning the subject parcels for residential and public uses is consistent with other incorporated properties abutting the involved parcels. Therefore, staff concludes all of the above stated criteria are substantially met.

Prior to the Planning Board/Zoning Commission public hearing, which was held May 27, 2008, staff received a letter from one owner of a parcel included in the corridors. Staff responded in writing before the public hearing and provided copies of both letters to the Planning Board. Attached to this Agenda Report is a copy of the letter and Staff's response.

During the above referenced public hearing, eight area property owners spoke. The major questions and concerns by the public were: who is responsible for maintenance of the access road in the corridor; can owners close off the access road; and, will taxes and assessments increase after annexation? A copy of the minutes of the Planning Board/Zoning Commission public hearing is attached to this Agenda Report.

At the conclusion of the public hearing, the Planning Board passed a motion recommending the City Commission annex the unincorporated portion of two utility corridors in the vicinity of Henderson Heights and North Riverview Terrace. In addition, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of R-2 Single-family medium density district upon all the parcels comprising the utility corridors being annexed, except for the two parcels abutting Sacajawea School and North Middle School which will be zoned PLI Public lands and institutional district, upon annexation to the City.

Concurrences: Representatives from the City's Public Works, Community Development, Park and Recreation and Fire Departments have been involved throughout the review and approval process for this project.

Fiscal Impact: Providing services to the 93 unincorporated parcels is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenues from properties being annexed.

Alternates: The City Commission could deny Resolution 9763, Resolution 9764 and Ordinance 3010. However, such action would terminate consideration of the 93 parcels currently surrounded by incorporated property, meaning the purpose and intent of Ordinance 2930 would not be met.

Attachments/Exhibits:

1. Resolutions 9763 and 9764
2. Ordinance 3010
3. Vicinity/Zoning Map
4. Letter from Daniel F. Carson, dated May 15, 2008
5. Planning Staff letter of response to Mr. Carson, dated May 23, 2008
6. Minutes from the May 27, 2008 Planning Board/ Zoning Commission Public Hearing

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Mike Rattray, Community Development Director

RESOLUTION 9763

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE NINETY-TWO (92) SEPARATE PARCELS OF LAND COMPRISING THE UNINCORPORATED PORTION OF TWO UTILITY CORRIDORS IN THE VICINITY OF HENDERSON HEIGHTS AND NORTH RIVERVIEW TERRACE IN SECTIONS 35 AND 36, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA, AND TO DIRECT NOTICE TO BE GIVEN BY THE CITY CLERK AS PROVIDED BY LAW.

* * * * *

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is wholly surrounded by said City, certain tracts or parcels of land situated in the County of Cascade, State of Montana, and described as follows:

Ninety-two (92) separate parcels of land comprising the unincorporated portion of two utility corridors in the vicinity of Henderson Heights and North Riverview Terrace in Sections 35 and 36, Township 21 North, Range 3 East, P.M.M., Cascade County, Montana, and containing 12.76 acres, more or less,

all as shown on the map attached hereto marked Exhibit "A" and by this reference made a part hereof; and,

WHEREAS, Section 7-2-4501 Montana Code Annotated, a city may unilaterally annex properties that are wholly surrounded by the city, upon passing a resolution of intent, giving notice, and passing a resolution of annexation. Upon conducting these actions, wholly surrounded lands are annexed whether or not a majority of the property owners of the areas to be annexed object, such land may be incorporated and included in the municipality to which it is contiguous.

WHEREAS, in the judgment of the City Commission of said City, expressed by Resolution 9756 entitled:

A RESOLUTION OF INTENTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS TO EXTEND THE BOUNDARIES OF

SAID CITY TO INCLUDE NINETY-TWO (92) SEPARATE PARCELS OF LAND COMPRISING THE UNINCORPORATED PORTION OF TWO UTILITY CORRIDORS IN THE VICINITY OF HENDERSON HEIGHTS AND NORTH RIVERVIEW TERRACE IN SECTIONS 35 AND 36, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA, AND TO DIRECT NOTICE TO BE GIVEN BY THE CITY CLERK AS PROVIDED BY LAW.

duly and regularly passed and adopted on the 1st day of July, 2008, stating that it will be in the best interest of said city and the inhabitants thereof, that the boundaries of said City of Great Falls shall be extended so as to include "THE 92 SEPARATE PARCELS OF LAND COMPRISING THE UNINCORPORATED PORTION OF TWO UTILITY CORRIDORS IN THE VICINITY OF HENDERSON HEIGHTS AND NORTH RIVERVIEW TERRACE IN SECTIONS 35 AND 36, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA."

WHEREAS, the City Clerk of said City, pursuant to said Resolution and the statute in such case made and provided, forthwith caused to be published in the Great Falls Tribune, the newspaper published nearest said tract of land, at least once a week for two (2) successive weeks, a notice to the effect that said Resolution had been duly and regularly passed, and that for a period of twenty (20) days after the first publication of said notice, said City Clerk would receive expressions of approval or disapproval, in writing, of the said proposed extension of the boundaries of said City, and also stating therein the time and place set for the public hearing provided by said Resolution; and,

WHEREAS, the first publication of said notice hereinbefore referred to was the 13th day of July, 2008; and,

WHEREAS, a public hearing was held by the City Commission of the City of Great Falls on August 5, 2008, at 7:00 P.M., in the Commission Chambers of the Great Falls Civic Center, where said Commission heard all persons and all things relative to the proposed annexation of said property;

NOW, THEREFORE, the City Commission now finds that it is to the best interest of the City of Great Falls and its inhabitants to proceed with the incorporation of said parcels into the City of Great Falls; and,

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the law and constitution of the State of Montana, and all conditions, acts, and things required to be done precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA;

That the boundaries of the City of Great Falls, Montana, be and the same are hereby extended so as to embrace and include within the corporate limits of said city all of the land hereinabove described, included as: "THE 92 SEPARATE PARCELS OF LAND COMPRISING THE UNINCORPORATED PORTION OF TWO UTILITY CORRIDORS IN THE VICINITY OF HENDERSON HEIGHTS AND NORTH RIVERVIEW TERRACE IN SECTIONS 35 AND 36, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA."

BE IT FURTHER RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate district boundaries of the City of Great Falls, Montana, to include said parcels; and,

That this Resolution shall become effective thirty (30) days after its passage and approval.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 5th day of August, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

State of Montana)
County of Cascade :ss
City of Great Falls)

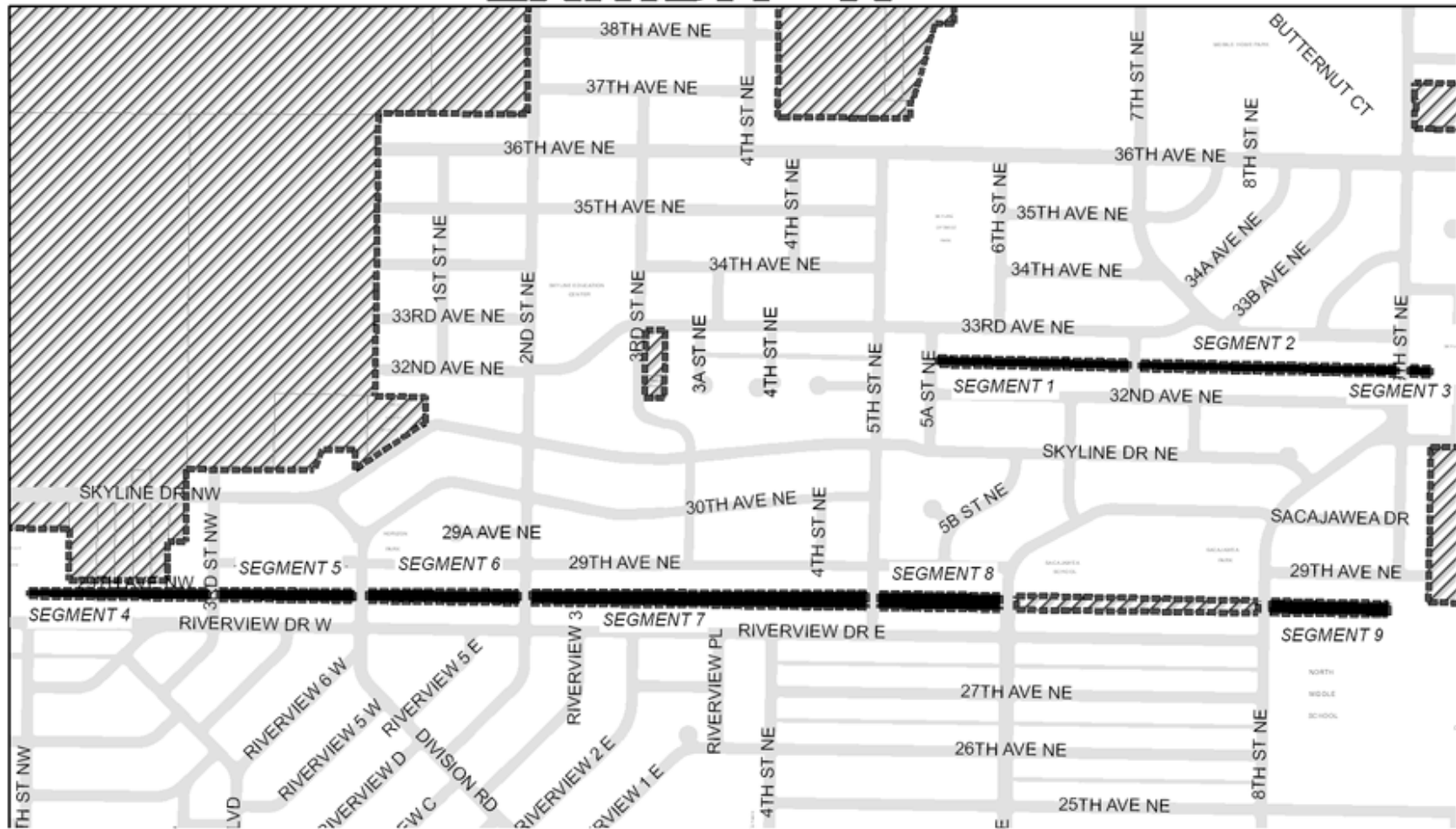
I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9763 was placed on its final passage by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 5th day of August, 2008, wherein it was approved by said Commission.




IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 5th day of August, 2008.

Lisa Kunz, City Clerk

(CITY SEAL)

EXHIBIT "A"



-  NINE SEGMENTS OF TWO UTILITY CORRIDORS PROPOSED TO BE ANNEXED INTO THE CITY OF GREAT FALLS AND ASSIGNED A CITY ZONING CLASSIFICATION COMPARABLE TO ABUTTING INCORPORATED PROPERTIES
-  TRACTS OF LAND OUTSIDE CITY
-  CITY LIMITS



ORDINANCE 3010

AN ORDINANCE ASSIGNING CITY ZONING TO NINETY-THREE (93) SEPARATE PARCELS OF LAND COMPRISING THE UNINCORPORATED PORTION OF TWO UTILITY CORRIDORS WITHIN HENDERSON HEIGHTS AND NORTH RIVERVIEW TERRACE IN SECTIONS 35 AND 36, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA.

* * * * *

WHEREAS, ninety-three (93) separate parcels of land comprising the unincorporated portion of two utility corridors within Henderson Heights and North Riverview Terrace and containing 15.39 acres, more or less, are contiguous to and are enclaves entirely surrounded by the incorporated area of the City of Great Falls; and,

WHEREAS, in accordance with Section 7-2-4501 MCA, a city may include as part of the city any platted or unplatted tracts or parcels of land that are wholly surrounded by the city; and,

WHEREAS, one of the above stated parcels is governmental land and in accordance with Section 7-2-4402, Montana Code Annotated, whenever any land contiguous to a municipality is owned by the State of Montana or by any agency, instrumentality, or political subdivision or whenever any of the foregoing have a beneficial interest in any land contiguous to a municipality, such land may be incorporated and included in the municipality to which it is contiguous and may be annexed thereto and made a part thereof; and,

WHEREAS, notice of assigning a zoning classification of R-2 Single-family medium density district upon all the parcels comprising the utility corridors being annexed, except for the two parcels abutting Sacajawea School and North Middle School which will be zoned PLI Public lands and institutional district, was published in the Great Falls Tribune advising that a public hearing on these zoning designations would be held on the 5th day of August, 2008, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and recommended that the said zoning designations be made, NOW THEREFORE,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. It is determined assignment of a zoning classification of R-2 Single-family medium density district upon all the parcels comprising the utility corridors being annexed, except for the two parcels abutting Sacajawea School and North Middle School which will be zoned PLI Public lands and institutional district, will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. That the zoning of the ninety-three (93) separate parcels of land be designated as R-2 Single-family medium density district, except for the two parcels abutting Sacajawea School and North Middle School which will be zoned PLI Public lands and institutional district.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County Clerk and Recorder the resolutions annexing the hereinabove described ninety-three (93) separate parcels of land into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 5th day of August, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 3010 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 5th day of August, 2008 and approved by the Mayor of said City on the 5th day of August, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 5th day of August, 2008.

Lisa Kunz, City Clerk

(CITY SEAL)

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, being first duly sworn, deposes and says: That on the 5th day of August, 2008 and prior thereto, I was the City Clerk of the City of Great Falls, Montana; that as said City Clerk, I did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 3010 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk

(CITY SEAL)

City Limits

 R-3 Single-family high density

 R-10 Mobile home park

 POS Parks and Open Space

☐ II. Unincorporated enclaves

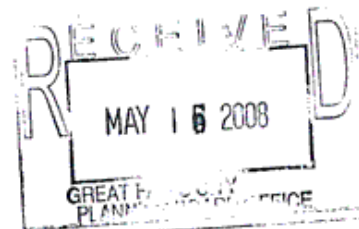
☐ Tracts of land outside City

May 15, 2008

City of Great Falls
Planning Board/Zoning Commission
P.O. Box 5021
Great Falls, Montana 59403-5021

RE: Annexation of Utility Corridors

Dear Sirs,



I am in receipt of your letter dated April 16, 2008 concerning the subject above.

Regarding your thoughts and plans to annex certain corridors of county land that now lay within the city limits which you claim are remnants of abutting properties that were platted, subdivided and annexed to the City several years ago, I take exception to your explanation, intent, and purpose.

When I purchased my portion of the land, I paid for survey work, grading, and surfacing. The neighbors and I who acquired the land have kept the access open for the utility companies and maintained a passageway for each of us to use for the benefit of all including those neighbors who live north of the property line who enjoy access but do not support the access financially or laboriously. Some have encroached on this semi-private passageway over the years in many different ways and at no expense to themselves but by the good nature of all the owners have not been taken to task. I include in this all the vehicles big and small that enjoy tearing up the surface immediately after a heavy rain and leaving huge ruts.

The benefits of this land to the owner and the City as it now stands is for the storage of recreational vehicles etc. enabling the owners to keep them off the City streets and out of their front yards while not in use, a place for gardens, extra play areas for children, dog runs, and in some cases an extra garage. In this respect it is a big plus for both.

I realize the City, County, and State in the past have been confused at times with the problem of who's jurisdiction was involved but will the acquisition by the City really solve all the problems for both the City and the landowners? Definitely not from the tax payers view point because we will pay a much bigger tax and probably get about the same response and help from the City.

Because of these situations, we who own the property are deeply concerned about the City's desire for more tax dollars (the only real reason for wanting it annexed). I consider their desire an affront after the many years by the owners keeping the property in good condition at no expense to the City, a very low expense to the County, and none to the State. Even though this strip is somewhat "rural by nature", in the many years of my personal ownership I have never seen but one attempt by any government except the County to help in its maintenance and that was last summer when a tractor/mower came along to cut the grass which really wasn't necessary in our area. To my knowledge, this is the only time we have had help other than phone calls by employees concerning weed control.

Because of the forgoing concerns, I have several questions that deserve a answer.

Question: Will City annexation provide a passageway that is of an all weather type kept up by the City through a reasonable taxation? Annexation is nothing more than another way of claiming ownership.

Question: Will the City provide water to these lots at a decent pressure by way of a water main? I have a fully grassed area that is kept up by watering and mowing and at best (when the neighbors all have their sprinklers on) I sometimes can't get twenty pounds of pressure. Have you ever tried to water on that pressure? I don't know about all the neighbors but those around me have pressure problems also. We should be able to maintain at least forty pounds for adequate use.

Question: How does the City intend to handle the drainage, especially during flash flooding which has been a problem in the past?

Question: What will the City really gain by annexation? Up to now they have done nothing but word of mouth exercises regarding this land. Owners will demand more services from the City than now provided. Will that outweigh the amount you can legally tax? It might best be left alone because taxes and services never equal out.

Question: Is this really an honest effort by the City to help the owners improve their property or just another way to get more dollars? Will the owners have less control and more problems?

Question: What is your estimate of the future yearly taxes that would be imposed on Lot 5A, Segment 7?

I would appreciate your honest interests for these concerns.

Sincerely,



Daniel F. Carson
209 Riverview Drive East
Great Falls, Montana 59404
(406) 761-6877

Lot 5A, Segment 7



P. O. Box 5021, 59403-5021

Planning Department

May 23, 2008

Daniel F. Carson
209 Riverview Drive East
Great Falls, MT 59404

RE: Annexation of Utility Corridors

Dear Mr. Carson:

This communication is prepared in response to your letter dated May 15, 2008, wherein you posed several questions regarding the City's plans to annex multiple segments of two utility corridors through the Henderson Heights and North Riverview Terrace areas that are wholly surrounded by property located within the City limits.

You stated in your letter the only the reason the City desires to annex the involved utility corridors is for the additional tax dollars. If this was indeed true the City would have pursued the annexation many years ago. Based upon information obtained from the County Real Estate files, you currently pay less than \$11.00 annually in taxes on the 9879 sq ft parcel you own that the City proposes to annex. Although the taxes on these utility corridors will be adjusted upon annexation, it is doubtful the additional revenue will offset the liabilities associated with providing municipal services. In part, the City is pursuing this annexation at the bequest of representatives of Cascade County which correctly views these utility corridors as being used by and solely benefiting property owners inside the City.

The following are responses to each of the questions presented in your letter.

Will City annexation provide a passageway that is of an all weather type kept up by the City through a reasonable taxation? Annexation is nothing more than another way of claiming ownership.

Response: The City currently has no plans to construct an alleyway or roadway through any of the utility corridors. First, there is no dedicated right-of-way or public access easement to accommodate such a facility. Second, the owners of the parcels in the corridors would have the obligation to finance such an improvement. Third, it would take the cooperation and consent of 100% of the owners of a segment of a utility corridor to accomplish the improvement.

Response: Annexation has nothing to do with claiming or changing ownership of the corridor.

Will the City provide water to these lots at a decent pressure by way of a water main?

Response: Typically, the cost of installing water mains to serve new development would be borne by those parties benefiting from the improvement. But, it is anticipated the current use of the property within the utility corridors primarily as yard space and sites for accessory structures will continue wherein water can be provided from abutting lots occupied by residential units. Annexation in itself will not change the water pressure in a particular area. Water pressure problems currently being experienced by a homeowner or a neighborhood should be addressed through the City Public Works Department.

How does the City intend to handle the drainage, especially during flash flooding which has been a problem in the past?

Response: Surface runoff from the utility corridors is not affected by or dependent upon whether or not the corridors are inside or outside the City limits. The City Public Works Department has the responsibility of monitoring and addressing storm water runoff associated with public right-of-way, which again these corridors are not. That will not change with annexation of the utility corridors as any runoff currently resulting from the corridors is already taken into consideration with any storm water planning.

What will the City really gain by annexation?

Response: For the past few years, the City Commission has expressed an interest in annexing unincorporated enclaves to the City. For some governmental entities and neighbors these types of unincorporated enclaves have been a source of confusion and inconsistent code application. Equity issues also arise where property in the midst of an urban setting is not subject to the same code requirements or standards as surrounding properties when it comes to community decay, weed control, building requirements, etc.

Is this really an honest effort by the City to help the owners improve their property or just another way to get more dollars? Will the owners have less control and more problems?

Response: As stated earlier, if the City viewed this annexation as a revenue windfall, it would have pursued it long before this. Land use regulations within the City are much more comprehensive than those implemented by the County. Higher density development dictates more intense regulations to try and achieve a more harmonious living environment.

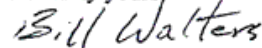
What is your estimate of the future yearly taxes that would be imposed on Lot 5A, Segment 7?

Response: The Planning Office has had some recent discussions with the State Department of Revenue and regardless of whether or not the utility corridors are annexed, they are currently being reappraised, which will result in an increase in property taxes.

Upon annexation, the Revenue Department will also combine, for taxation purposes, the area you own in the utility corridor with the lot occupied by your residence. As a result of the reappraisal and annexation, taxes attributable to just the area you own in the utility corridor may increase in the range of \$100 to \$200 annually, depending upon what reappraisal method is used. More detailed information can be obtained from either Bill Minnerly or Joan Vining at the Revenue Department (454-7460).

I hope the above responses address your concerns at least to some extent. Simply bringing the involved utility corridors into the City will not result in significant physical changes.

Sincerely yours,



Bill Walters,
Senior Planner

GREAT FALLS PLANNING BOARD & ZONING COMMISSION

MINUTES OF THE COMBINED PUBLIC HEARING ANNEXATION AND ESTABLISHMENT OF CITY ZONING FOR THE UNINCORPORATED PORTION OF TWO UTILITY CORRIDORS WITHIN HENDERSON HEIGHTS AND NORTH RIVERVIEW TERRACE May 27, 2008

CALL TO ORDER

The public hearing was called to order at 3:31 p.m. in the Commission Chambers of the Civic Center by Chairman John Harding.

ROLL CALL & ATTENDANCE

Planning Board/Zoning Commission Members present:

Ms. Danna Duffy
Mr. John Harding
Mr. Terry Hilgendorf
Mr. Ron Kinder
Mr. Bill Roberts

Planning Board/Zoning Commission Members absent:

Mr. Art Bundtrock
Dr. Greg Madson
Mr. Joe Schaffer
Mr. Wyman Taylor

Planning Staff Members present:

Ms. Deb McNeese, Administrative Assistant
Mr. Ben Rangel, Planning Director
Mr. Charlie Sheets, Planner I
Mr. Bill Walters, Senior Planner

A copy of the attendance list, as signed by those present, is attached and incorporated by reference.

EXPLANATION OF HEARING PROCEDURES

Mr. Harding advised that agendas are available on the table at the back of the room and the agenda will be followed. He requested that everyone present sign the attendance list, which was also on the table. There will be an opportunity for proponents and opponents to speak. Mr. Harding asked those intending to speak to come to the rostrum, state their name, address and whom they represent. He requested remarks be on the subject before the Board at this hearing and be limited to a reasonable length of time to allow everyone equal opportunity to speak. The Chairman reserves the right to determine reasonable time. The hearing is recorded on tape as an aid in preparing minutes. He asked that cell phones and electronic devices be turned off.

READING OF PUBLIC NOTICE

As there was no response to Mr. Harding's question on whether anyone present wished to have the public notice read, the public notice was not read.

PLANNING STAFF REPORT & RECOMMENDATION

Copies of correspondence regarding this annexation, which are attached and incorporated by reference, were distributed to the Planning Board/Zoning Commission. After reviewing the staff report and recommendation, Mr. Sheets said he would be glad to respond to any questions from the Board.

Mr. Harding asked who owned the properties shown on the vicinity/zoning map below Sacajawea School and above North Middle School. Mr. Sheets replied that the City of Great Falls owns the parcel south of Sacajawea School, and the parcel north of the running track at North Middle School is owned by Montana Refining Company.

Mr. Roberts asked if all lots have been sold to abutting property owners. Mr. Sheets confirmed that all lots are privately owned, with some property owners purchasing oversized lots which created "L" shaped lots. The average size of the parcels along 32nd Avenue NE are approximately 3,700 square feet, and the lots along 29th Avenue NE range from less than 2,000 square feet to almost 9,000 square feet.

Mr. Hilgendorf asked if there was private vehicle access noted in the easements. Mr. Sheets said none of the deeds he reviewed at the County Clerk and Recorder's Office noted any additional access for surrounding property owners.

PROPOSERS OPPORTUNITY TO SPEAK

Mr. Willis Heupel, 217 Riverview Drive E, has owned his property in segment #7 since 1961. He was unsure of being an opponent or proponent, but stated his deed requires a

fifteen-foot access easement be left open. He did not think it would make a difference if the City or County received property complaints, but would be in favor of annexation if the City would agree to grade and gravel the easement once, since public traffic during muddy conditions is ruining the access route.

Ms. Judy Hiatt, 612 33rd Avenue NE, stated she had no idea the utility corridor behind her house had never been annexed, and echoed Mr. Heupel's thoughts that the City provide some improvement to the access area. She concluded that if residents were allowed to continue to access their property from the alley; the City maintained the alley; and no additional water or sewer mains were dug up, she would be in favor of annexation.

Mr. Gary Stewart, 413 Riverview Drive E, a resident since 1963 complained about the condition of the alley. He asked what services property owners could expect in lieu of the increased City taxes, and if a dollar amount of the increase was known. Mr. Harding read aloud a section of a letter addressed to Mr. Carson, which foretold the plans for reappraisal of these particular parcels of land by the State Department of Revenue.

Mr. Don Kennedy, 529 32nd Avenue NE, was unsure if he was for or against annexation, but speculated there might be better services under City jurisdiction. He understood the easement was for utility and landowner use, and was not public access. Mr. Kennedy suggested that the increased tax money go to maintaining the access with gravel.

There was a short discussion regarding answering questions being presented by the public. Mr. Rangel suggested that Staff would answer questions after all proponents and opponents had an opportunity to speak, Mr. Harding concurred.

OPPONENTS OPPORTUNITY TO SPEAK

Mr. Chuck Andrews, 425 Riverview Drive E, spoke against the annexation based upon senior residents on fixed incomes dealing with the failing economy and the expected increase in property taxes. He stated his property has a ten-foot easement, and questioned if he would be able to build an additional home on his property if annexed.

Mr. Bill Steele, #1 Skyline Drive, said his property abuts the City limits and wanted to know if he would be forced to annex. Mr. Harding said today's proceedings should have no affect on his property. However, should Mr. Steele's property become completely surrounded by the City or if he is a City services user he might be faced with annexation.

Mr. Chris Olszewski, 421 Riverview Drive E, has only lived in the neighborhood one year. He voiced concerns that the increased property taxes might create a hardship for senior property owners. Mr. Olszewski thanked the Board for the opportunity to voice his opinions.

OTHER PUBLIC COMMENT

Ms. Sheila Hilpert, 145 Riverview Drive E, asked if she could erect a fence in the alleyway, and who would be liable if the public is allowed to use the easement.

PLANNING BOARD DISCUSSION & ACTION

Mr. Harding asked Staff to respond to the questions presented.

Mr. Rangel stated that each one of these 93 parcels is privately owned. Alleyways are provided to the public on a dedicated right-of-way, which is not the case with these 93 parcels. The language contained in individual deeds will dictate if or where a fence may be erected. The Department of Revenue is currently going through a reappraisal process, wherein the value of each parcel will be re-evaluated, and adjoining parcels will be combined. It is expected that a larger parcel will most likely have a different value than that of a smaller independent parcel. The City will assess standard hydrant and street maintenance fees to the properties, and these fees will go toward maintaining dedicated right-of-ways, not access roads for utility corridors. Most of the subject area is zoned R-2 single-family, and would not allow two homes on one lot. Mr. Rangel concluded that as for Mr. Steele's property, this annexation would have no impact.

Mr. Sheets reported that a 3,700 square foot lot would currently be assessed \$1.47 per month for storm drainage; \$36.41 per year for the street assessment; and street lighting along 29th Avenue NE would run approximately \$23.68 per year.

Mr. Walters addressed Mr. Steel's concerns of annexation. He noted that aside from wholly surrounded parcels, the City has another program in which properties receiving City services are also being annexed as time and resources permit.

Mr. Andrews noted roadways in this area are in need of repair and some are without sidewalks. Mr. Rangel said curb and sidewalk are considered to be the responsibility of the adjoining property owners, so it is conceivable that those property owners, if annexed into the City, would be asked to install curb and gutter.

Mr. Hilgendorf thanked the audience for their participation and encouraged all to attend the City Commission public hearing. He concluded that it is in the best interest of the City to have control over these properties in regards to code enforcement for weeds, building requirements, community decay, etc.

Mr. Harding echoed Mr. Hilgendorf's comments, and stated any action taken today by the Planning Board/Zoning Commission does not change the previous use of these properties.

MOTION: That the Planning Board recommend the City Commission approve the annexation of the 93 separate parcels of land comprising the unincorporated

Minutes of the May 27, 2008

Public Hearing

Annexation & Establishment of City Zoning for the Unincorporated Portion of Two Utility
Corridors within Henderson Heights & North Riverview Terrace

Page 5

portion of two utility corridors within Henderson Heights and North Riverview
Terrace, subject to the Zoning Commission adopting Recommendation II
(below).

Made by: Mr. Roberts
Second: Mr. Hilgendorf

Vote: The motion carried unanimously.

ZONING COMMISSION DISCUSSION & ACTION

MOTION: That the Zoning Commission recommend the City Commission approve
establishing a City zoning classification of R-2 Single-family medium density
district upon all the parcels comprising the utility corridors being annexed
except for the two parcels abutting Sacajawea School and North Middle
School which will be zoned PLI Public land and institutional district.

Made by: Mr. Hilgendorf
Second: Mr. Roberts

Vote: The motion carried unanimously.

Mr. Sheets said today's public comments will be noted in the minutes of this public hearing
which will be forwarded along with a Staff report to the City Commission. A resolution of
intent to annex will be considered first, followed by a notice in the newspaper for a public
hearing in front of the City Commission. Mr. Harding thanked the audience for their
participation and reminded them that the Planning Board/Zoning Commission is an advisory
board to the City Commission.

ADJOURNMENT

The hearing adjourned at 4:37 p.m.

CHAIRMAN

SECRETARY



Agenda # 8
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Public Hearing - Ordinance 3011 to rezone Lot 1, Block 1, Benefis West Minor Subdivision

From: Bill Walters, Senior Planner

Initiated By: TARA, LLC, and Benefis Healthcare System

Presented By: Benjamin Rangel, Planning Director

Action Requested: City Commission adopt Ordinance 3011

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Ordinance 3011.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

City Zoning Commission Recommendation: The City Zoning Commission, at the conclusion of a public hearing held June 24, 2008, unanimously passed a motion recommending the City Commission rezone Lot 1, Block 1, Benefis West Minor Subdivision, from PLI Public lands and institutional district to R-5 Multi-family residential medium density district.

Background: TARA, LLC, is in the process of purchasing subject Lot 1 from Benefis Healthcare System and intends to construct twelve residential condominium units on the site. TARA, LLC, has prepared the attached preliminary site plan generally showing how the site is proposed to be developed. Access to the development will be provided through a private driveway at the rear of the site which will run between 4th Street South and Benefis Court. No direct access to 17th Avenue South is proposed. City water mains are located in the abutting portions of 17th Avenue South, 4th Street South and Benefis Court. A City sanitary sewer main is located in the abutting portion of 17th Avenue South.

The Land Development Code allows a maximum density of one dwelling unit per 1875 sq ft of lot area in a R-5 zoning district. Dividing the area of Lot 1 (56,323 sq ft) by 1875 sq ft yields a maximum of 30 allowed dwelling units.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines which must be considered in conjunction with municipal zoning regulations:

- a) is designed in accordance with the comprehensive plan;
- b) is designed to lessen congestion in the streets;
- c) will secure safety from fire, panic or other dangers;
- d) will promote health and the general welfare;
- e) will provide adequate light and air;
- f) will prevent overcrowding of land;
- g) will avoid undue concentration of population;
- h) will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- i) gives reasonable consideration to the character of the district;
- j) gives reasonable consideration to the peculiar suitability of the property for particular uses;
- k) will conserve the value of buildings; and
- l) will encourage the most appropriate use of land throughout the municipality.

Subject Lot 1 is bordered on the north and east sides by parking lots serving medical related facilities, on the south by a daycare and a physician's office and on the west side by a single family dwelling unit. Numerous residential condominium/townhouse projects exist in the vicinity including Lamplighter Lane and Baron Arms.

Two primary goals of the land use element of the City of Great Falls Growth Policy are:

- ♦ To support and encourage efficient, sustainable development and redevelopment throughout the community.
- ♦ To preserve and enhance the character, quality, and livability of existing neighborhoods.

A goal of the housing element of the Growth Policy is to provide a diverse supply of safe and affordable housing for residents of all ages, needs, and income levels.

The Growth Policy encourages compatible infill and redevelopment which offer the community the highest degrees of efficiency and sustainability. Land use changes should be compatible with the type, scale, and physical character of the neighborhood.

In addition, the condominium project will be subject to the review and approval of the City's Design Review Board, which considers such features as building architecture, exterior materials, colors, façade design and elevations, outdoor lighting and landscaping.

Considering the remaining procedural steps to insure quality of the built environment, staff concludes all of the above cited criteria are or can substantially be met.

The involved property appears to be ideally suited for the proposed condominium project. It is close to numerous services, the proposed site plan adapts to the elongated configuration and topography of Lot 1, and public infrastructure exists to provide all required services.

The only citizens who spoke during the Public Hearing before the Zoning Commission on June 24 were Mr. Ralph Randoño representing the applicant and Mr. Richard Glover of 275 17th Avenue South who asked if the applicant could increase the density beyond the 12 proposed residential units and what the estimated value of the proposed units would be. Based upon the area of the parcel and the maximum density allowed in the R-5 zoning district, a maximum of 30 units could be placed on the property. However, considering the configuration and topography of the parcel, it would be very difficult to provide the required parking for such density. Mr. Randoño estimated the value of the units between \$225,000 and \$250,000.

Concurrences: Other City Departments including Public Works, Community Development and Fire have been consulted regarding the rezoning. Public Works has provided a Memorandum listing items that will need to be further addressed when more detailed information is available when building permits for the project are sought.

Fiscal Impact: Approval of the rezoning will allow development of a residential condominium project which will enhance the tax base but should not result in any fiscal impact to the City.

Alternatives: If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

Attachments/Exhibits:

Ordinance 3011
Vicinity/Zoning Map
Preliminary Site Plan

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Mike Rattray, Community Development Director
TARA, LLC, 3000 Lower River Road #1, Great Falls, 59405
Benefis Healthcare System, Attn: Wayne Dunn, 1101 26th Street South, 59405

ORDINANCE 3011

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION ON LOT 1, BLOCK 1, BENEFIS WEST MINOR SUBDIVISION, CASCADE COUNTY, MONTANA, ADDRESSED AS 400 17TH AVENUE SOUTH, FROM PLI PUBLIC LANDS AND INSTITUTIONAL DISTRICT TO R-5 MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT

* * * * *

WHEREAS, on the 6th day of September, 2005, the City Commission of the City of Great Falls, Montana, adopted a certain Ordinance designated as Ordinance 2923 entitled: "AN ORDINANCE ADOPTING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS, MONTANA, PERTAINING TO LAND DEVELOPMENT CODES AND REPEALING ANY AND ALL PREVIOUS ORDINANCES OR INTERIM ORDINANCES,"; and,

WHEREAS, said Ordinance 2923 became effective the 6th day of October, 2005; and,

WHEREAS, said Ordinance 2923 has placed the following described property situated in the City of Great Falls, Cascade County, Montana, in a PLI PUBLIC LANDS AND INSTITUTIONAL DISTRICT, as defined therein:

Lot 1, Block 1, Benefis West Minor Subdivision & Amended Plat of St. Peregrine Addition to Great Falls, Cascade County, Montana, addressed as 400 17th Avenue South.

WHEREAS, notice of rezoning the above-mentioned property from the existing PLI PUBLIC LANDS AND INSTITUTIONAL DISTRICT to a R-5 MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT was published in the Great Falls Tribune, advising that a public hearing on this proposed change in zoning would be held on the 5th day of August, 2008, before final passage of said Ordinance herein; and,

WHEREAS, pursuant to said Ordinance 2923, a hearing was duly held after notice thereof was first duly given according to said Ordinance 2923, for the purpose of considering changing said zoning designation on said property to a R-5 MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT; and,

WHEREAS, following said public hearing, it was found and recommended that the said zone change be made, NOW THEREFORE,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. It is determined that the herein requested zone change will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. That the zoning designation on the property hereinabove described be changed from a PLI PUBLIC LANDS AND INSTITUTIONAL DISTRICT to a R-5 MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT.

Section 3. All Ordinances and parts of Ordinances in conflict herewith, are hereby repealed.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 5th day of August, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

State of Montana)
County of Cascade : ss.
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 3011 was placed on its final passage and passed by the City Commission of the City of Great Falls, Montana at a meeting thereof held on the 5th day of August, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 5th day of August, 2008.

Lisa Kunz, City Clerk

(SEAL OF CITY)

State of Montana)
County of Cascade : ss.
City of Great Falls)

Lisa Kunz, being first duly sworn, deposes and says: That on the 5th day of August, 2008, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 3011 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk

(SEAL OF CITY)

VICINITY/ZONING MAP



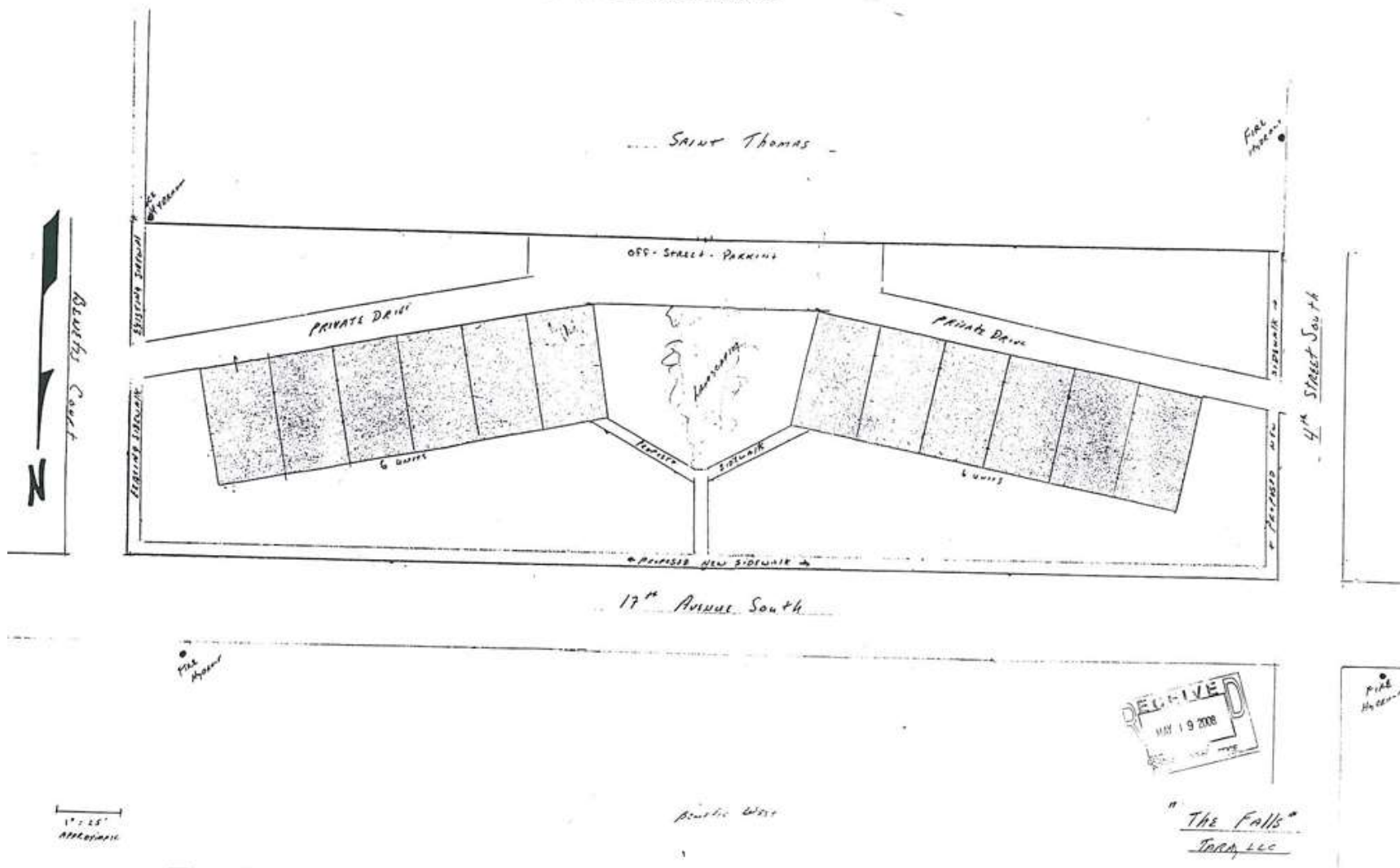
**LOT 1, BLOCK 1, BENEFIS WEST MINOR SUBDIVISION PROPOSED TO BE REZONED FROM
PLI PUBLIC LANDS AND INSTITUTIONAL TO R-5 MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT**

- | | | |
|----------------------------------|-------------------------------|------------------------------------|
| City Limits | R-6 Multi-family high density | PLI Public Lands and Institutional |
| R-2 Single-family medium density | R-10 Mobile home park | POS Parks and Open Space |
| R-3 Single-family high density | C-2 General commercial | Tracts of land outside City |
| R-5 Multi-family medium density | M-1 Mixed-use district | |

475 237.5 0 475 Feet



PRELIMINARY Site Plan





Agenda # 9
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Fire Protection and Emergency Services Fee Schedule between Southern Montana Electric G&T and City of Great Falls Fire Rescue, OF 1472.2

From: Coleen Balzarini, Fiscal Services Director; and Randy McCamley, Fire Chief

Initiated By: Southern Montana Electric Generation and Transmission Cooperative, Inc.

Presented By: Fire Department Staff

Action Requested: Approve the Fire Protection and Emergency Services Fee Schedule

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/deny) the Fire Protection and Emergency Services Fee Schedule for Highwood Generating Station.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Staff Recommendation: Staff recommends the City Commission adopt the proposed fee schedule which will provide necessary fire services to Highwood Generating Station at a fee appropriate to cover all costs related to providing the service.

Background: The City of Great Falls and Southern Montana Electric G&T have been engaged in discussions regarding various city services which are available and necessary to the operation of the Highwood Generating Station (HGS). On June 17, 2008, the City Commission approved a Fire Services Agreement and directed Staff to bring back a fee schedule related to the services for Commission review and action. Any budget or operational increases incurred by GFFR will be offset by the fee for services paid by HGS to the City.

Fee Schedule development by GFFR considered costs related to Fire Suppression, EMS & Rescue, Fire Prevention Activities, and Special Operations/Rescue. There may be years in which some services are not utilized at all, and others utilized in excess of what is anticipated. The Fee will be paid annually, reviewed and adjusted as necessary to compensate the City for the cost of the services provided.

Other agreements that have already been approved include Raw Water, Potable Water, and Wastewater Return Agreements. A condition of the Fire Protection and Emergency Services Agreement, as well as the existing Potable Water and Wastewater Return Agreements, requires

that SME agree not to protest annexation and to comply with additional terms related to future annexation in a separate agreement. The additional terms must meet the requirements of Ordinance 2972, adopted by the City Commission on September 18, 2007.

Former and current discussions include consideration of the impact on City services that will occur during the 4 year construction cycle when up to 550 construction workers will be onsite and during the operations phase which will require approximately 65 full time employees to run the plant. As an example, a primary need identified has been Fire/Rescue services. Reasons why the City Commission approved this agreement include, but are not limited to, the following:

1. The plant will be located within Cascade County, approximately 8 miles to the east of the eastern city limits;
2. Approximately 70% of the construction laborers will be residents of the City;
3. The plant requires fire/rescue services that the Great Falls Fire Department can provide;
4. An agreement with the City for fire/rescue services is a condition of the HGS site rezoning.

The Fire Protection and Emergency Services Agreement is an agreement between the City and SME related to City services to be provided to the Highwood Generating Station facility. Staff met with SME's legal counsel and SME General Manager on Thursday, May 29th to discuss and define the intent and contents of this agreement. A preliminary draft of the agreement was distributed to the City Commissioners on June 5, 2008. The draft was presented to the ECP Board for informational purposes on June 9, 2008.

The services described within the agreement are based on the January 2008 letter submitted, by the Fire Department, during the County Zone Change hearing. As noted above, one of the conditions for the approval of the zone change requires SME to enter into an agreement for fire protection and emergency services with the City of Great Falls.

Concurrences: The proposed fee schedule was prepared by GFFR and reviewed and approved by SME's General Manager, and City Fiscal Services Director. Chief McCamley contacted the Sand Coulee Rural Fire Chief to discuss the provision of fire services to HGS. No issues were raised during that discussion regarding the intent of the agreement. HGS will reside within the Sand Coulee Rural Fire District and will pay all appropriate taxes and fees to that District.

The Great Falls Fire/Rescue Department is the best available provider of the intended services. GFFR has the resources, training, and ability to respond to incidents at the facility. Cascade County Commissioners recognized this by making such an agreement a condition of re-zoning the HGS site.

Fiscal Impact: On October 3, 2006, the Commission authorized a contract with Tischler Bise, Inc. to perform a Fiscal Impact Study. The study evaluated the cost of services attributable to the HGS facility. The results of that study are found within the report dated February 21, 2007.

Based on the Tischler Bise report, it is estimated the annual cost to provide basic city services during the construction and operation phases of HGS will be \$100,000. The approved Fire Services agreement includes services which are in addition to the basic services noted in the report. The intent of all parties is that the fee for the services will cover the costs of providing

those services. Direct costs to be considered include such things as materials, equipment, direct staffing, staff overtime, and staff call back expenses. Consideration must also be given to the intrinsic value of indirect and intangible costs such as having the resources available when needed. The agreement references a cost range between \$150,000 and \$300,000 per year. The Fire Department calculated the fee based upon factors such as anticipated number of responses, type of responses, and anticipated training of HGS staff by GFFR deemed necessary in terms of events such as confined space incidents.

Alternatives:

The City Commission may request changes to the proposed fee schedule.

The City Commission may deny the fee schedule as presented and request Staff to do further work in regards to the fee schedule development.

Attachments/Exhibits:

Fire Protection and Emergency Services Fee Schedule

Fire Protection and Emergency Services Fee Schedule Highwood Generation Station

Upon commencement of construction of Highwood Generation Station, Southern Montana Electric Generation and Transmission Cooperative Inc, agrees to pay the City of Great Falls an annual fee of \$283,000 for fire protection and emergency services.

Each fee includes all costs for apparatus, equipment, personnel (including overtime), fuel, maintenance, etc., unless stated otherwise.

The fees will be reviewed annually and adjusted as necessary to address increased costs of providing the services.

Fire Suppression:	\$ 125,000
--------------------------	------------

Emergency Medical first response Advance Life:	\$ 80,000
---	-----------

Hazardous Materials Mitigation: Hazardous events that are extraordinary in nature will be billed on a per event basis.	\$ 30,000
---	-----------

Special Operations (Confined Space Rescue, Technical Rescue, Cold Water Rescue and High Angle Rope Rescue):	\$ 30,000
---	-----------

Fire Prevention Activities: (Perform site safety inspections, assist with development of Site Safety Preplans for both construction and operations phases.)	\$ 3,000
--	----------

HGS Fire Brigade- Safety Team Training: GFFR will provide basic defensive firefighting skill and basic first aid for up to 20 employee's Inclusive of Fire Training Center rental.	\$ 10,000
--	-----------

Administrative Cost:	\$ 5,000
-----------------------------	----------

<u>Total Annual Fee</u>	<u>\$ 283,000</u>
--------------------------------	--------------------------

As Approved by City Commission on _____, 2008



Agenda # 10
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Resolution 9762 to Levy and Assess the Cost of Removal and Disposal of Nuisance Weeds in the City of Great Falls, Montana from July 1, 2007 to June 30, 2008

From: Judy Burg, Account Technician

Initiated By: Annual Assessment Process

Presented By: Martha Capps, Operations Supervisor

Action Requested: City Commission Adopt Resolution 9762

Suggested Motion:

1. Commissioner moves:

“I move the City Commission adopt Resolution 9762.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

Staff Recommendation: Staff recommends the City Commission adopt Resolution 9762 to Levy and Assess the Cost of Removal and Disposal of Nuisance Weeds.

Background: From May through October of each year, nuisance weed violations are reported to the Public Works Department, either by phone or through e-mail on the City Website. The complaints include uncared for weeds and grasses in alleys, boulevards, vacant lots, yards, etc within the City limits. The Nuisance Weed Program involves investigation and notification of verified weed and grass violations. The investigation process involves an on-site inspection followed by the determination of the legal ownership of the properties. Once ownership of the properties has been established, notification letters of nuisance weed violations are prepared and mailed.

In accordance with the City of Great Falls Municipal Code 8.44.040, owners are given seven business days from the date of the notification letter to comply with the weed ordinance. After the allotted time has expired, properties are once again inspected. Properties found not in compliance are documented and scheduled for cutting by the City crew. Photographs are taken before cutting to verify violations and again when the work is done.

Since July 1, 2007, 2,527 notices of weed violations were mailed to individual property owners, 43 property owners were billed for the weed cutting charges. Exhibit "A" lists 21 remaining property owners to be assessed for non-payment after monthly billings.

Section 7-22-4101, MCA, authorizes the City Commission to levy the cost of removing nuisance weeds against the properties if payment is not made.

Concurrences: Pubic Works staff is responsible for the operational expenses for the Nuisance Weed Program. Fiscal Services staff is responsible for assessing and collecting the revenues necessary to carry out the operations.

Fiscal Impact: Owners whose properties are cut by the City crews are billed for actual time spent cutting at the rate of \$200.00 per hour (minimum of one hour.) Adoption of Resolution 9762 will allow the City to reimburse the cost of work each year in the Nuisance Weed Program.

Alternatives: The City Commission could choose to deny the adoption of Resolution 9762 to levy and assess the cost of removal and disposal of Nuisance Weeds; however, the reduction in services to the community could be harmful and render land unfit for agriculture, forestry, wildlife, native plant communities and the general public.

Attachments/Exhibits: Resolution 9762
Exhibit "A"
Great Falls Tribune Article dated July 22, 2008
(Tribune Article not available online; on file in City Clerk's office.)

Cc: Debbie Kimball, Program Specialist

RESOLUTION 9762

A RESOLUTION LEVYING AND ASSESSING THE COST OF REMOVAL AND DISPOSAL OF NUISANCE WEEDS IN THE CITY OF GREAT FALLS, MONTANA FROM JULY 1, 2007 TO JUNE 30, 2008

WHEREAS, the City Commission of the City of Great Falls declares the properties listed on the attached Exhibit A were issued a notice of weed violation; and,

WHEREAS, the City Commission of the City of Great Falls declares after due notice and re-inspection, the weeds had not been removed and were subsequently cut by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

1. The costs of said weed removal and disposal are hereby assessed upon the aforementioned properties in accordance with City of Great Falls Municipal Code 8.44.040 and Section 7-22-4101, MCA.
2. The description of each lot or parcel of land which is hereby levied upon and assessed, with the name of the owner, the amount of each assessment to be made, is as set out in the Assessment List, attached as Exhibit A, which said list is incorporated herein and made a part of this Resolution by this reference.

PASSED by the Commission of the City of Great Falls, Montana, on this 5th day of August 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

Approved for Legal Content: City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9762 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 5th day of August, 2008, and approved by the Mayor of said City on the 5th day of August 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 5th day of August 2008.

Lisa Kunz, City Clerk

(SEAL OF CITY)

EXHIBIT "A" - Resolution #9762

TO COUNTY FOR LIEN FILING ON NUISANCE WEEDS REMOVAL - JULY 1, 2007 TO JUNE 30, 2008

	PARCEL #	LOT	BLOCK	SUB-DIV.	PARCEL ADDRESS	PARCEL OWNER	TYPE	TOTAL CHARGE
1	47400	9	140	GF1	1223 6th Ave N	Kazda, Keith & Cara	Weeds	200.00
2	55450	9	150	GF4	2223 6th Ave N	Richerson, Terry & Deborah	Weeds	200.00
3	89700	2	204	GF3	1706 5th Ave N	Gallenkamp, Kirk C & Kelly D.	Weeds	200.00
4	103200	2	225	GF11	2504 4th Ave N	Hendricks, Justin	Weeds	200.00
5	142500	10	285	GF12	2717 1st Ave N	Boyle, James H.	Weeds	200.00
6	222770	7	413	GFO	No Address Assigned	Palmer, Wilma Trust	Weeds	200.00
7	233100	S1/2 Lot 1	444	GF1	411 11th St S	Rose, Alan & Ingrid	Weeds	200.00
8	252750	3	473	GFO	608 6th Ave S	Tungsten Properties LLC	Weeds	200.00
9	279850	NW/4 & S/2 of 1 & SW/4 of Lot 2	546	GF6	505 5th St SW	Reed, Len	Weeds	200.00
10	305550	9	589	GF5	1005 1st Ave SW	Ehnes, Tony L. & Ronald W.	Weeds	200.00
11	366800	6	7	BEF	3120 Central Ave	Statewide Mortgage Loan Trust 2006 1	Weeds	200.00
12	369300	3	9	BEF	3012 1st Ave S	Johnson, Kathleen F.	Weeds	200.00
13	594600	N 1/2 of Lot 2	6	COM	115 20th St SW	First Franklin Mortgage Trust	Weeds	200.00
14	808300	10	31	FAV	1717 15th Ave S	Forrest, Harvey B & Evelyn A	Weeds	200.00
15	883600	7B		GAR	210 10th Ave SW	Callies, David F.	Weeds	400.00
16	998200	7	10	HUY	2026 5th Ave S	Santopietro, Clara L.	Weeds	200.00
17	1008800	8A	19	HUY	716 22nd St S	Donohue, James J. Jr. & Julie M.	Weeds	200.00
18	1234800	9	12	PM3	601 Willowcreek Ct	Reed, Leonard D. Etal	Weeds	200.00
19	1280600	1 - 2	20	PPA	1400 18th Ave S	Migneault, Laurie A.	Weeds	200.00
20	1509100	12	10	SHE	1510 High St	Day, William A. & Billie J.	Weeds	200.00
21	1834900	5	36	WGF	1316 2nd Ave NW	Reaugh, Clarita	Weeds	200.00

TOTAL	\$4,400.00
--------------	-------------------



Agenda # 11
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Resolution 9771, Intent to Annex and Ordinance 3013 to Assign City Zoning to Parcel Mark No's 6 & 8, International Airport

From: Bill Walters, Senior Planner

Initiated By: Great Falls International Airport Authority

Presented By: Benjamin Rangel, Planning Director

Action Requested: City Commission adopt Resolution 9771 and accept Ordinance 3013 on first reading and set a public hearing for September 2, 2008.

Suggested Motion: (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9771.”

and;

“I move that the City Commission (accept/deny) Ordinance 3013 on first reading and set a public hearing for September 2, 2008.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Planning Board and Zoning Commission Recommendation: The Planning Board has recommended the City Commission approve the annexation of subject Parcel Mark No's 6 and 8 at the International Airport and the abutting segments of County road right-of-way. The City Zoning Commission has recommended the City Commission assign a City zoning classification of GFIA Great Falls International Airport district upon subject Parcel Mark No's 6 & 8 requested to be annexed to the City.

Background: The Great Falls International Airport Authority has submitted applications regarding the following:

- 1) Annexation to the City of Great Falls of 2.5 acres contained in Parcel Mark No. 6 in the SE1/4SE1/4 of Section 9, Township 20 North, Range 3 East, and 94.4 acres contained in Parcel Mark No. 8, in the NW1/4 and the N1/2SW1/4 of Section 20, Township 20 North, Range 3 East, Cascade County, Montana.
- 2) Establishing a City zoning classification of GFIA Great Falls International Airport district on subject two parcels upon annexation to the City.

Subject Parcel Mark No. 6 is located between the northeast end of the main runway and Sun River Road and Parcel Mark No. 8 is located between the main runway and Airport Bench Road.

Attached is a Vicinity/Zoning Map and attached to Resolution 9771 are Exhibits “A” and “B”, separate vicinity/zoning maps for each of the two parcels requested to be annexed.

The Airport Authority desires to have all of its property incorporated into the City in anticipation of establishing, in concert with the Great Falls City Commission, a Tax Increment Financing Industrial District encompassing the Airport. The majority of the Airport property was annexed in 1994-95.

Annexation of Parcel Mark No. 6 will also necessitate annexation of an approximate 1000 foot segment of Sun River Road and annexation of Parcel Mark No. 8 will also necessitate annexation of an approximate 850 foot segment of Airport Bench Road.

Parcel Mark No. 6 is presently zoned in the County as “R-1” Suburban Residential District and Parcel Mark No 8 is presently zoned “A” Agricultural District. It is proposed both Parcel Mark No’s 6 & 8 be zoned GFIA Great Falls International Airport district upon annexation to the City. Section 76-2-304 Montana Code Annotated lists criteria and guidelines which must be considered in conjunction with municipal zoning regulations:

- a) is designed in accordance with the comprehensive plan;
- b) is designed to lessen congestion in the streets;
- c) will secure safety from fire, panic or other dangers;
- d) will promote health and the general welfare;
- e) will provide adequate light and air;
- f) will prevent overcrowding of land;
- g) will avoid undue concentration of population;
- h) will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- i) gives reasonable consideration to the character of the district;
- j) gives reasonable consideration to the peculiar suitability of the property for particular uses;
- k) will conserve the value of buildings; and
- l) will encourage the most appropriate use of land throughout the municipality.

Parcel Mark No’s 6 & 8 are undeveloped vacant tracts of land which were acquired by the Airport Authority to primarily enhance the buffer around the Airport and secure control of the potential land use of the parcels.

The proposed GFIA Great Falls International Airport zoning classification is consistent with that assigned to the balance of the Airport property. Therefore, staff concludes the above-cited criteria are substantially met.

The Planning Board/Zoning Commission conducted a public hearing on the annexation and zoning assignment for subject Parcel Mark No’s 6 and 8 on July 8, 2008. The only citizen who spoke during the Public Hearing was Cynthia Schultz, Airport Director. At the conclusion of the

public hearing, the Planning Board passed a motion recommending the City Commission approve the annexation of subject Parcel Mark No's 6 and 8 at the International Airport and the abutting segments of County road right-of-way and the City Zoning Commission passed a motion recommending the City Commission assign a City zoning classification of GFIA Great Falls International Airport district upon subject Parcel Mark No's 6 & 8 requested to be annexed to the City.

Concurrences: Other City Departments including Public Works, Community Development and Fire have been consulted regarding the annexation.

Fiscal Impact: Services for the vacant Parcel Mark No's 6 and 8 should be minimal or nonexistent and therefore should not result in any fiscal impact to the City. The annexation will cause the City to assume responsibility for maintenance of an additional 1850 feet of rural roadway.

Alternatives: The City Commission could deny Resolution 9771 and acceptance of Ordinance 3013 on first reading and not set the public hearing. However, such action would deny the Airport Authority due process and consideration of a public hearing, as provided for in City Code and State Statute.

Attachments/Exhibits:

Resolution 9771

Ordinance 3013

Vicinity/Zoning Map

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Mike Rattray, Community Development Director
Cynthia Schultz, Airport Director
Kathy Harris, Stelling Engineers, Inc.

RESOLUTION 9771

A RESOLUTION OF INTENTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE PARCEL MARK NO. 6 IN SECTION 9, TOWNSHIP 20 NORTH, RANGE 3 EAST, AND PARCEL MARK NO. 8 IN SECTION 20, TOWNSHIP 20 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA, AND THE ABUTTING SEGMENTS OF SUN RIVER ROAD AND AIRPORT BENCH ROAD, AND DIRECTING NOTICE TO BE GIVEN BY THE CITY CLERK AS PROVIDED BY LAW.

* * * * *

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but without the boundaries thereof, certain tracts of land described as follows:

♦ A tract of land in the SE1/4SE1/4 of Section 9, Township 20 North, Range 3 East, Cascade County, Montana, commonly referred to as Parcel Mark No. 6, excluding the area designated as easement for Sun River Road, more particularly described on Certificate of Survey 2262 and containing an area of 2.53 acres; and

♦ The segment of Sun River Road in the SE1/4SE1/4 of Section 9, Township 20 North, Range 3 East, Cascade County, Montana, more particularly described as follows:

Beginning at the northeast corner of the SE1/4SE1/4 of Section 9; thence S0°59'45"W, 402.11 feet along the east line of said SE1/4SE1/4 to the true point of beginning; thence thirty (30) feet on either side of the following two courses being the centerline of Sun River Road; thence N63°59'W. 12.24 feet; thence N73°56'30"W, 966.23 feet and containing an area of 1.35 acres;

generally as shown on the vicinity map exhibit attached hereto marked Exhibit "A" and by this reference made a part hereof; and,

♦ A tract of land in the NW1/4 and the N1/2SW1/4 of Section 20, Township 20 North, Range 3 East, Cascade County, Montana, as referenced in the Warranty Deed recorded on Reel 253 Document 426, Clerk and Recorder's Office of Cascade County, Montana, commonly referred to as Parcel Mark No. 8, more particularly described as follows:

Beginning at the northwest corner of Section 20; thence S89°28'13"E, 580 feet along the north line of Section 20 to the true point of beginning; thence S89°28'13"E along the north line of Section 20 to the mid-section point (approximately 2060 feet); thence S0°5'29"E, 815.32 feet; thence S45°11'04"W, 3,675.92 feet to the east right-of-way of Airport Bench Road; thence North along the east right-of-way of Airport Bench Road to the southwest corner of a tract of land described on Certificate of Survey 2338 (approximately 810 feet); thence S89°12'22"E, 550.03 feet; thence North 2606.71 feet to the true point of beginning and containing an area of 94.39 acres; and

- ♦ The segment of Airport Bench Road in the W1/2 of Section 20 and the E1/2 of Section 19, Township 20 North, Range 3 East, Cascade County, Montana, more particularly described as follows:

Beginning at a point on the east right-of-way of Airport Bench Road which is the southwest corner of a tract of land described on Certificate of Survey 2338; thence South along the east right-of-way of Airport Bench Road (approximately 810 feet); thence S45°11'03"W, 84.34 feet to the west right-of-way of Airport Bench Road; thence North along the west right-of-way of Airport Bench Road (approximately 880 feet); thence S89°12'22"E, 60 feet to the east right-of-way of Airport Bench Road and the point of beginning and containing an area of 1.14 acres;

generally as shown on the vicinity map exhibit attached hereto marked Exhibit "B" and by this reference made a part hereof; and,

WHEREAS, Section 7-2-4402, Montana Code Annotated, provides that whenever any land contiguous to a municipality is owned by the state of Montana or a political subdivision of the state, such land may be incorporated and included in the municipality to which it is contiguous.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA;

That in its judgment it will be to the best interest of said City of Great Falls and the inhabitants thereof that the boundaries of said City of Great Falls shall be extended so as to include: "PARCEL MARK NO. 6 IN SECTION 9, TOWNSHIP 20 NORTH, RANGE 3 EAST, AND PARCEL MARK NO. 8 IN SECTION 20, TOWNSHIP 20 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA, AND THE ABUTTING SEGMENTS OF SUN RIVER ROAD AND AIRPORT BENCH ROAD."

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION: That Tuesday, the 2nd day of September, 2008, at 7:00 P.M., in the Commission Chambers at the Great Falls Civic Center, Great Falls, Montana, be and the same is hereby set as the time and place for a public hearing at which time the Great Falls City Commission shall hear all persons and all things relative to the proposed annexation of "PARCEL MARK NO. 6 IN SECTION 9, TOWNSHIP 20 NORTH, RANGE 3 EAST, AND PARCEL MARK NO. 8 IN SECTION 20, TOWNSHIP 20 NORTH, RANGE 3 EAST, P.M.M., CASCADE

COUNTY, MONTANA, AND THE ABUTTING SEGMENTS OF SUN RIVER ROAD AND AIRPORT BENCH ROAD.”

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that the City Clerk of said City shall, at the aforesaid public hearing before the said City Commission and after expiration of a twenty (20) day period following the first publication of notice of passage of this Resolution, lay before the City Commission all communications in writing by her so received pertaining to said annexation.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 5th day of August, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz City Clerk

(SEAL OF CITY)

Approved for Legal Content:

David V. Gliko, City Attorney

State of Montana)
County of Cascade :ss
City of Great Falls)

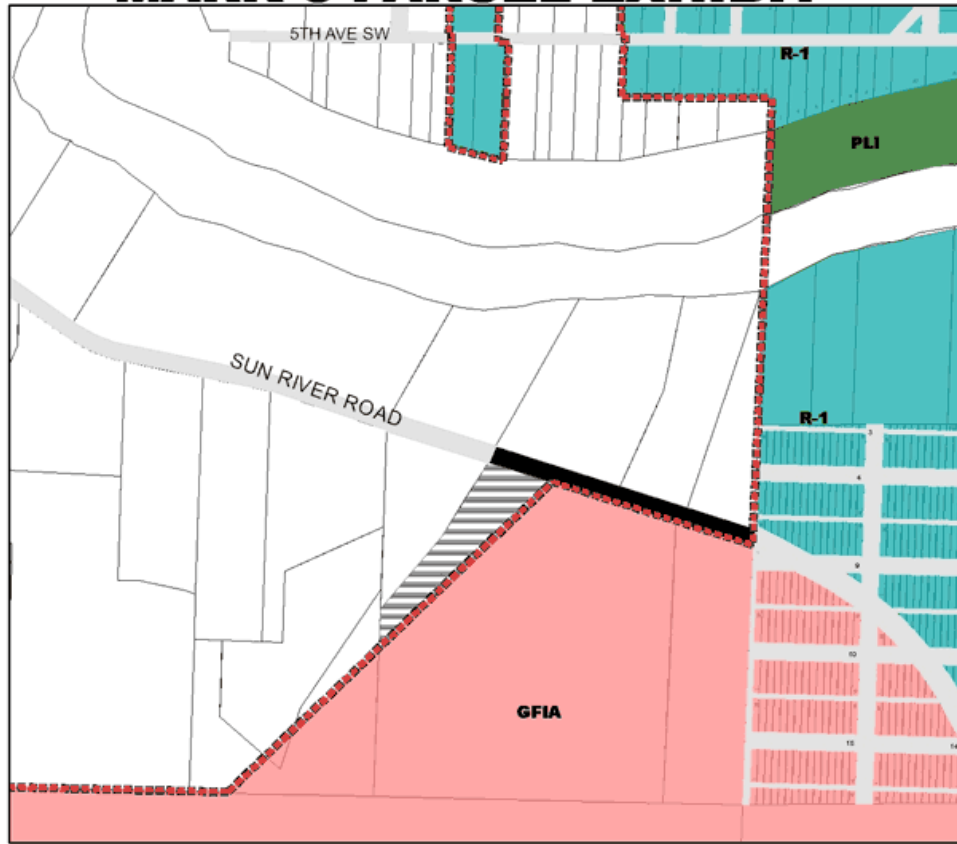
I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9771 was placed on its final passage and approved by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 5th day of August, 2008.








IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 5th day of August, 2008.

Lisa Kunz, City Clerk

(SEAL OF CITY)

EXHIBIT "A" **MARK 6 PARCEL EXHIBIT**



-  PARCEL MARK NO. 6 IN SECTION 9, TOWNSHIP 20 NORTH, RANGE 3 EAST, CONTAINING 3.5 ACRES TO BE ANNEXED TO THE CITY
-  PORTION OF SUN RIVER ROAD TO BE ANNEXED SIMULTANEOUSLY WITH MARK 6
-  City Limits
-  PLI Public Lands and Institutional
-  R-1 Single-family suburban
-  GFIA Great Falls International Airport
-  Tracts of land outside City

560 280 0 560 Feet


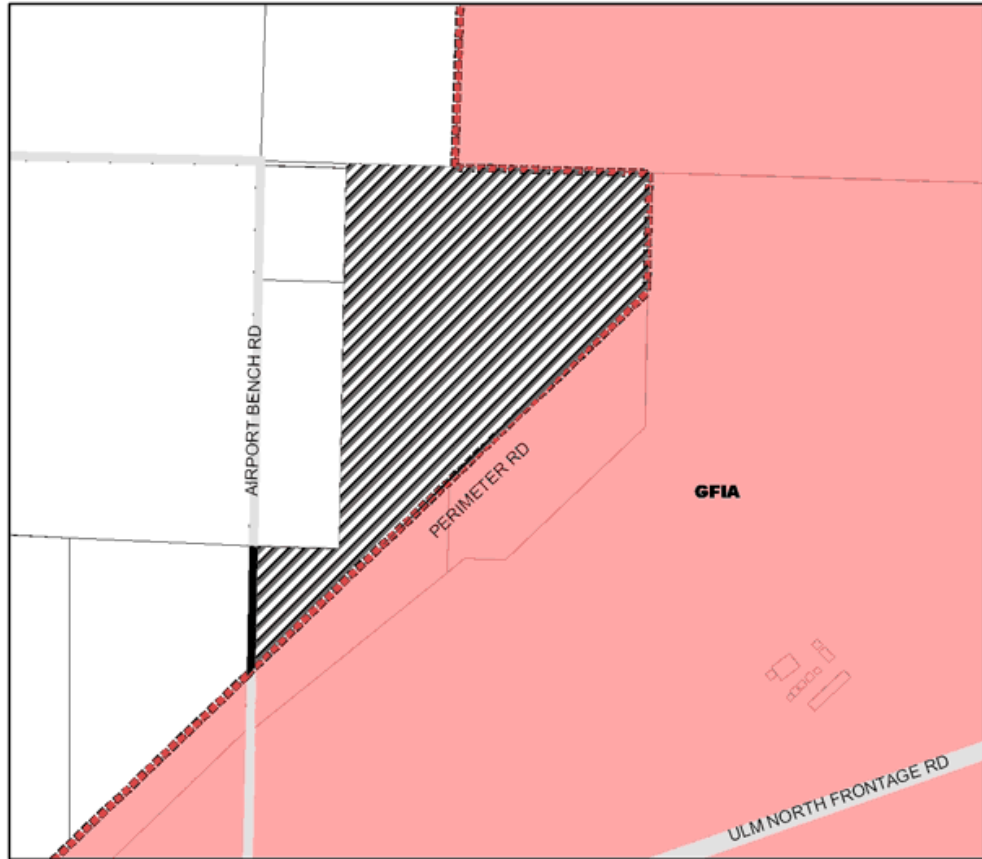







EXHIBIT "B"

MARK 8 PARCEL EXHIBIT




 PARCEL MARK NO. 8 IN SECTION 20, TOWNSHIP 20 NORTH, RANGE 3 EAST, CONTAINING 95.3 ACRES TO BE ANNEXED TO THE CITY

 PORTION OF AIRPORT BENCH ROAD TO BE ANNEXED SIMULTANEOUSLY WITH MARK 8

 City Limits  GFIA Great Falls International Airport  Tracts of land outside City

1,100 550 0 1,100 Feet



ORDINANCE 3013

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF GFIA GREAT FALLS INTERNATIONAL AIRPORT DISTRICT TO PARCEL MARK NO. 6, IN SECTION 9, TOWNSHIP 20 NORTH, RANGE 3 EAST, AND PARCEL MARK NO. 8, IN SECTION 20, TOWNSHIP 20 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA

* * * * *

WHEREAS, the Great Falls International Airport Authority, the owner of Parcel Mark No. 6 located in Section 9, Township 20 North, Range 3 East, and Parcel Mark No. 8, located in Section 20, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana, has petitioned the City of Great Falls to annex said Parcels Mark No's 6 & 8; and,

WHEREAS, the Great Falls International Airport Authority has petitioned said Parcel Mark No's 6 & 8, be assigned a City zoning classification of GFIA Great Falls International Airport district, upon annexation to City; and,

WHEREAS, notice of assigning a zoning classification of GFIA Great Falls International Airport district, to said Parcel Mark No's 6 & 8, was published in the Great Falls Tribune advising that a public hearing on this zoning designation would be held on the 2nd day of September, 2008, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and recommended that the said zoning designation be made, NOW THEREFORE,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. It is determined that the herein requested zoning designation will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. That the zoning of Parcel Mark No. 6 located in Section 9, Township 20 North, Range 3 East, and Parcel Mark No. 8, located in Section 20, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana,, be designated as GFIA Great Falls International Airport district classification.

Section 3. This ordinance shall be in full force and effect either thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County Clerk and Recorder the resolution annexing said Parcel Mark No's 6 & 8 into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 2nd day of September, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

State of Montana)
County of Cascade : ss.
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 3013 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana at a meeting thereof held on the 2nd day of September, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 2nd day of September, 2008.

Lisa Kunz, City Clerk

(SEAL OF CITY)

State of Montana)
County of Cascade : ss.
City of Great Falls)

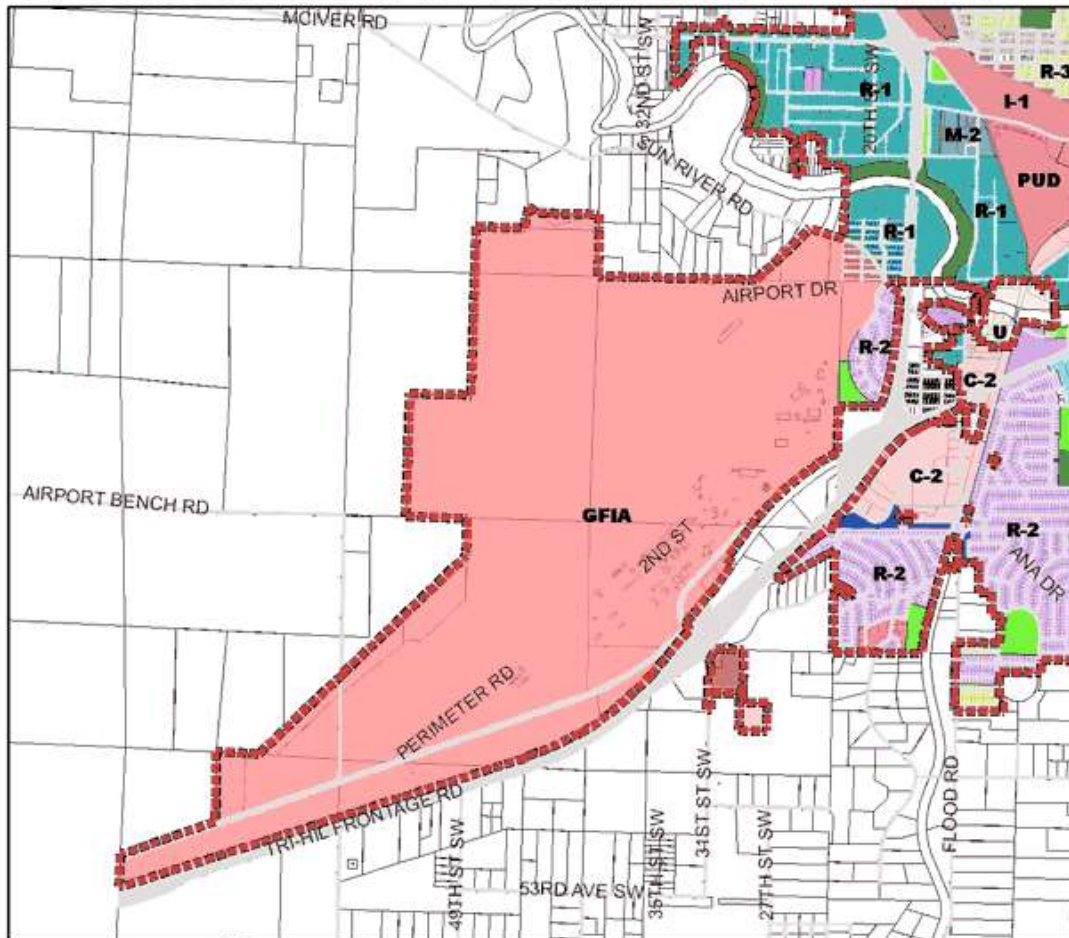
Lisa Kunz, being first duly sworn, deposes and says: That on the 2nd day of September, 2008, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 3013 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk

(SEAL OF CITY)

VICINITY/ZONING MAP





Agenda # 12
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Ordinance 3014 to change the title of the Airport zoning classification from GFIA Great Falls International Airport to AI Airport Industrial District

From: Bill Walters, Senior Planner

Initiated By: Great Falls International Airport Authority

Presented By: Benjamin Rangel, Planning Director

Action Requested: City Commission accept Ordinance 3014 on first reading and set a public hearing for September 2, 2008.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (accept/deny) Ordinance 3014 on first reading and set a public hearing for September 2, 2008.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

City Zoning Commission Recommendation: The City Zoning Commission has recommended the City Commission approve the request to amend Section 17.20.2.040.A.18 of the City of Great Falls Land Development Code by changing the title of the zoning classification currently assigned to the Great Falls International Airport from “GFIA Great Falls International Airport” district to “AI Airport Industrial” district.

Background: The Great Falls International Airport Authority has requested Section 17.20.2.040.A.18 of the City of Great Falls Land Development Code be amended by changing the title of the zoning classification currently assigned to the Great Falls International Airport from “GFIA Great Falls International Airport” district to “AI Airport Industrial” district.

The proposed amendment is a prerequisite in conjunction with the efforts of the Great Falls International Airport Authority, in concert with the Great Falls City Commission, to establish a Tax Increment Financing Industrial District encompassing the Great Falls International Airport. No other changes are being proposed to the zoning regulations pertaining to the Great Falls International Airport including changes to allowable uses or zoning standards. The current zoning classification of GFIA Great Falls International Airport only applies to the International Airport and not to any other properties in the City.

Concurrences: All agencies affected by the zoning district title change, including the Airport Authority, City Zoning Commission and City Commission, have been directly involved with Ordinance 3014.

Fiscal Impact: Changing the title of the zoning classification assigned to International Airport should not result in any fiscal impact to the City.

Alternatives: The City Commission could deny acceptance of Ordinance 3014 on first reading and not set the public hearing. However, such action would deny the applicant due process and consideration of a public hearing, as provided for in City Code and State Statute.

Attachments/Exhibits:

Ordinance 3014

Vicinity/Zoning Map

Cc: Cynthia Schultz, Airport Director
Kathy Harris, Stelling Engineers, Inc.

ORDINANCE 3014

AN ORDINANCE AMENDING SECTION 17.20.2.040.A.18 OF THE LAND DEVELOPMENT CODE CHANGING THE TITLE OF THE ZONING CLASSIFICATION CURRENTLY ASSIGNED TO THE GREAT FALLS INTERNATIONAL AIRPORT FROM “GFIA GREAT FALLS INTERNATIONAL AIRPORT” DISTRICT TO “AI AIRPORT INDUSTRIAL” DISTRICT

* * * * *

WHEREAS, the Great Falls Airport Authority has petitioned the City of Great Falls to amend Section 17.20.2.040.A.18 of the City of Great Falls Land Development Code by changing the title of the zoning classification currently assigned to the Great Falls International Airport from “GFIA Great Falls International Airport” district to “AI Airport Industrial” district; and,

WHEREAS, the proposed amendment is a prerequisite in conjunction with the efforts of the Great Falls Airport Authority, in concert with the Great Falls City Commission, to establish a Tax Increment Financing Industrial District encompassing the Great Falls International Airport; and,

WHEREAS, the City of Great Falls Planning Board/Zoning Commission has held a public hearing and has recommended the City Commission approve the request to amend Section 17.20.2.040.A.18 of the City of Great Falls Land Development Code by changing the title of the zoning classification currently assigned to the Great Falls International Airport from “GFIA Great Falls International Airport” district to “AI Airport Industrial” district; and,

WHEREAS, notice of amending Section 17.20.2.040.A.18 of the Land Development Code by changing the title of the zoning classification currently assigned to the Great Falls International Airport from “GFIA Great Falls International Airport” district to “AI Airport Industrial” district was published in the Great Falls Tribune, advising that a public hearing on the proposed amendment would be held on the 16th day of September, 2008, before final passage of said Ordinance herein, NOW THEREFORE,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. Section 17.20.2.040.A.18 of the Land Development Code is hereby amended to change the title of the zoning classification currently assigned to the Great Falls International Airport from “GFIA Great Falls International Airport” district to “AI Airport Industrial” district.

Section 2. All Ordinances and parts of Ordinances in conflict herewith, are hereby repealed.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 16th day of September, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

State of Montana)
County of Cascade : ss.
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 3014 was placed on its final passage and passed by the City Commission of the City of Great Falls, Montana at a meeting thereof held on the 16th day of September, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 16th day of September, 2008.

Lisa Kunz, City Clerk

(SEAL OF CITY)

State of Montana)
County of Cascade : ss.
City of Great Falls)

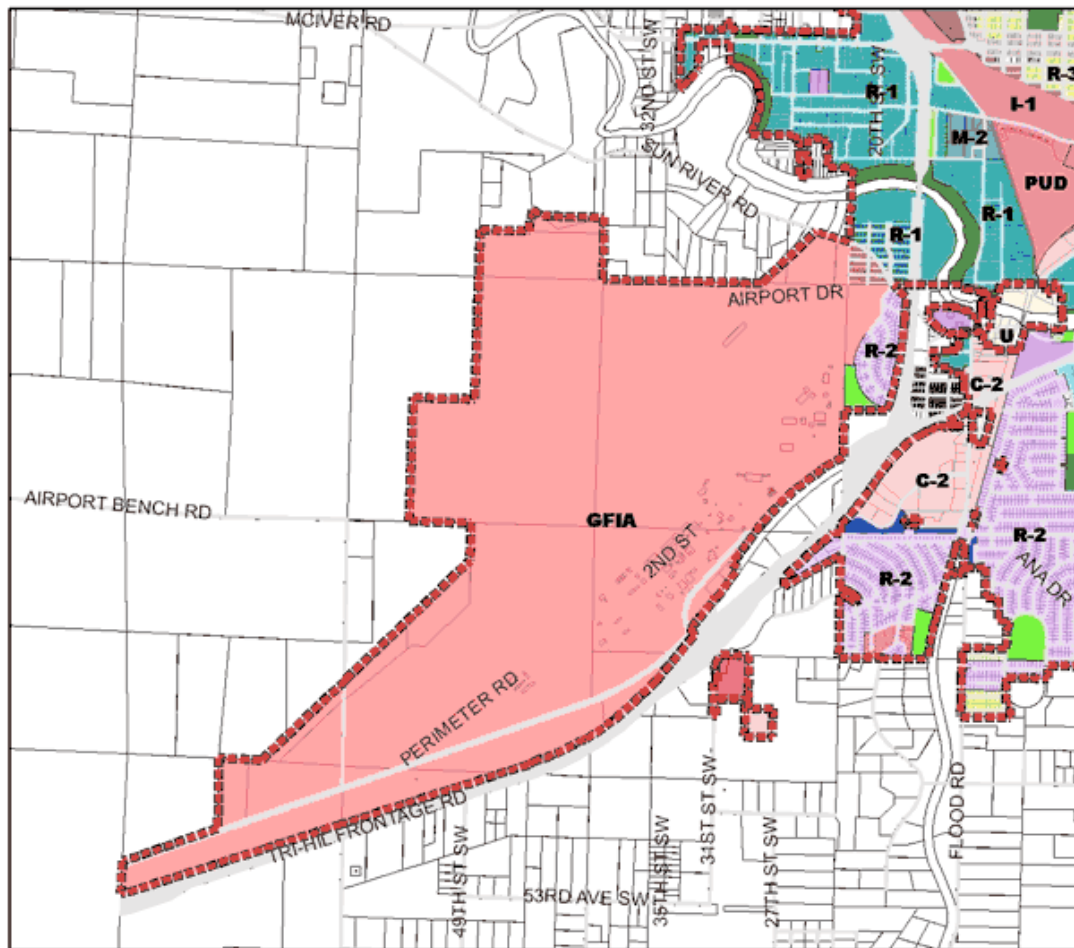
Lisa Kunz, being first duly sworn, deposes and says: That on the 16th day of September, 2008, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 3014 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk

(SEAL OF CITY)

VICINITY/ZONING MAP





Agenda # 13
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Ordinance 3015 to rezone Parcel Mark No. P1, Section 5, T20N, R4E
(City-owned parcel previously used as compost site)

From: Bill Walters, Senior Planner

Initiated By: City Administration

Presented By: Benjamin Rangel, Planning Director

Action Requested: City Commission accept Ordinance 3015 on first reading and set a public hearing for September 2, 2008.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (accept/deny) Ordinance 3015 on first reading and set a public hearing for September 2, 2008.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

City Zoning Commission Recommendation: The City Zoning Commission, at the conclusion of a public hearing held July 22, 2008, passed a motion on a 4 to 2 vote recommending the City Commission rezone Parcel Mark No. P1, Section 5, T20N, R4E, from POS Parks and open space district to M-2 Mixed-use transitional district.

Background: The City is the owner of a 10.64 acre tract of land legally described as Parcel Mark No. P1, Section 5, Township 20 North, Range 4 East, Cascade County, Montana. Subject parcel is located at the southwest corner of the intersection of 38th Street North and River Drive. Interest has been expressed in having the parcel rezoned from POS Parks and open space district to M-2 Mixed-use transitional district to make the property more marketable for development. The M-2 Mixed-use transitional district allows commercial, residential, and institutional uses and public spaces. The zoning district does not permit light or heavy industrial uses.

Please refer to the attached Vicinity/Zoning Map.

The City purchased the parcel from a subsidiary of Montana Power Company in 1992. The Park and Recreation Department used it for several years as a compost site until the operation was relocated a few years ago. The Department is not aware of any provision requiring the parcel to be retained or maintained for park or recreational uses. Additionally, the parcel was purchased

using economic revolving funds with the purpose of land banking it for future possible economic development, provided any future use would be compatible with the adjoining golf course and other recreational uses in the area. No City Department has indicated a need for the parcel, either short or long term.

City water and sanitary sewer mains exist in the abutting portion of 38th Street North. Vehicular access is currently provided via 38th Street North.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines which must be considered in conjunction with municipal zoning regulations:

- a) is designed in accordance with the comprehensive plan;
- b) is designed to lessen congestion in the streets;
- c) will secure safety from fire, panic or other dangers;
- d) will promote health and the general welfare;
- e) will provide adequate light and air;
- f) will prevent overcrowding of land;
- g) will avoid undue concentration of population;
- h) will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- i) gives reasonable consideration to the character of the district;
- j) gives reasonable consideration to the peculiar suitability of the property for particular uses;
- k) will conserve the value of buildings; and
- l) will encourage the most appropriate use of land throughout the municipality.

Parcel Mark No. P1 is bordered on the north and east sides by industrial related facilities and on the south and west sides by outdoor recreational facilities (golf course and baseballs fields).

Two primary goals of the Economic Development Element of the City of Great Falls, *Growth Policy* are:

- ◆Attract new businesses.
- ◆Encourage businesses and industries that will utilize existing infrastructure.

Two primary goals of the Land Use Element of the *Growth Policy* are:

- ◆Support and encourage efficient, sustainable development and redevelopment throughout the community.
- ◆Support and encourage a compatible mix of land uses in newly developing areas.

The *Growth Policy* also encourages compatible infill and redevelopment which offer the community the highest degrees of efficiency and sustainability. Land use changes should be compatible with the type, scale, and physical character of the neighborhood.

In addition, development upon Parcel Mark No. P1 will be subject to review and approval by the City's Design Review Board, which considers such features as building architecture, exterior materials, colors, façade design and elevations, outdoor lighting and landscaping.

Considering the remaining procedural steps to insure quality of the built environment, staff concludes all of the above cited criteria are or can substantially be met.

As no City Department has indicated a need for the subject property, either short or long term, it appears to be ideally suited for private development involving commercial or light manufacturing and assembly use(s). Rezoning the property to M-2 Mixed-use transitional district is a step towards accommodating and facilitating the above stated goals, as well as the purpose for which the parcel was initially purchased.

Two citizens spoke during the Public Hearing before the Zoning Commission on July 22, 2008. They were Mr. Brett Doney of the Great Falls Development Authority who spoke in favor of the rezoning and Ms. Mary Gettel, 3419 Fairway Drive, who spoke in opposition to the rezoning. Ms. Gettel thought the rezoning would be an encroachment allowing industrial type uses closer to the recreational and residential uses west of 38th Street North. The Minutes of the Zoning Commission Hearing held July 22nd will be provided to the City Commission prior to the hearing being scheduled for September 2nd.

Concurrences: Other City Departments including Public Works, Community Development, Park and Recreation and Fire have been consulted regarding the rezoning.

Fiscal Impact: Approval of the rezoning could eventually result in private development of the property which will enhance the tax base.

Alternatives: The City Commission could deny acceptance of Ordinance 3015 on first reading and not set the public hearing. However, such action would preclude due process and consideration of a public hearing, as provided for in City Code and State Statute.

Attachments/Exhibits:

Ordinance 3015

Vicinity/Zoning Map

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Mike Rattray, Community Development Director
Marty Basta, Park and Recreation Director
Brett Doney, GF Development Authority

ORDINANCE 3015

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION ON PARCEL MARK NO. P1, SECTION 5, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA, LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF 38TH STREET NORTH AND RIVER DRIVE, FROM POS PARKS AND OPEN SPACE DISTRICT TO M-2 MIXED-USE TRANSITIONAL DISTRICT

* * * * *

WHEREAS, on the 6th day of September, 2005, the City Commission of the City of Great Falls, Montana, adopted a certain Ordinance designated as Ordinance 2923 entitled: "AN ORDINANCE ADOPTING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS, MONTANA, PERTAINING TO LAND DEVELOPMENT CODES AND REPEALING ANY AND ALL PREVIOUS ORDINANCES OR INTERIM ORDINANCES,"; and,

WHEREAS, said Ordinance 2923 became effective the 6th day of October, 2005; and,

WHEREAS, said Ordinance 2923 has placed the following described property situated in the City of Great Falls, Cascade County, Montana, in a POS PARKS AND OPEN SPACE DISTRICT, as defined therein:

Parcel Mark No. P1, Section 5, Township 20 North, Range 4 East, Cascade County, Montana, located at the southwest corner of the intersection of 38th Street North and River Drive.

WHEREAS, notice of rezoning the above-mentioned property from the existing POS PARKS AND OPEN SPACE DISTRICT to a M-2 MIXED-USE TRANSITIONAL DISTRICT was published in the Great Falls Tribune, advising that a public hearing on this proposed change in zoning would be held on the 16th day of September, 2008, before final passage of said Ordinance herein; and,

WHEREAS, pursuant to said Ordinance 2923, a hearing was duly held after notice thereof was first duly given according to said Ordinance 2923, for the purpose of considering changing said zoning designation on said property to a M-2 MIXED-USE TRANSITIONAL DISTRICT; and,

WHEREAS, following said public hearing, it was found and recommended that the said zone change be made, NOW THEREFORE,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. It is determined that the herein requested zone change will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. That the zoning designation on the property hereinabove described be changed from a POS PARKS AND OPEN SPACE DISTRICT to a M-2 MIXED-USE TRANSITIONAL DISTRICT.

Section 3. All Ordinances and parts of Ordinances in conflict herewith, are hereby repealed.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this
6th day of October, 2008.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

State of Montana)
County of Cascade : ss.
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 3015 was placed on its final passage and passed by the City Commission of the City of Great Falls, Montana at a meeting thereof held on the 6th day of October, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 6th day of October, 2008.

Lisa Kunz, City Clerk

(SEAL OF CITY)




State of Montana)
County of Cascade : ss.
City of Great Falls)




Lisa Kunz, being first duly sworn, deposes and says: That on the 6th day of October, 2008, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 3015 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:




On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library



Lisa Kunz, City Clerk

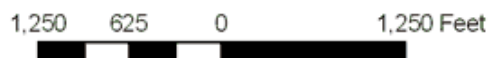
(SEAL OF CITY)

 City Limits
  C-1 Neighborhood commercial
  I-1 Light industrial

 R-3 Single-family high density
  M-2 Mixed-use transitional
  I-2 Heavy industrial

 R-5 Multi-family medium density
  PLI Public Lands and Institutional
  Tracts of land outside City

 R-10 Mobile home park
  POS Parks and Open Space



GREAT FALLS ZONING COMMISSION

MINUTES OF THE PUBLIC HEARING REZONING MARK NO. P1, SECTION 5, T20N, R4E July 22, 2008

CALL TO ORDER

The public hearing was called to order at 3:06 p.m. in the Commission Chambers of the Civic Center by Chairman John Harding.

ROLL CALL & ATTENDANCE

Planning Board/Zoning Commission Members present:

Mr. Art Bundtrock
Ms. Dana Duffy
Mr. John Harding
Mr. Terry Hilgendorf
Mr. Joe Schaffer
Mr. Wyman Taylor

Planning Board/Zoning Commission Members absent:

Mr. Ron Kinder
Dr. Greg Madson
Mr. Bill Roberts

Planning Staff Members present:

Ms. Sherry Marshall, Transportation Planner I
Ms. Deb McNeese, Administrative Assistant
Mr. Ben Rangel, Planning Director
Mr. Charlie Sheets, Planner I
Mr. Bill Walters, Senior Planner

Others present:

Mr. Dave Dobbs, City Engineer

A copy of the attendance list, as signed by those present, is attached and incorporated by reference.

EXPLANATION OF HEARING PROCEDURES

Mr. Harding advised that agendas are available on the table at the back of the room and the agenda will be followed. He requested that everyone present sign the attendance list, which was also on the table. There will be an opportunity for proponents and opponents to speak. Mr. Harding asked those intending to speak to come to the rostrum, state their name, address and whom they represent. He requested remarks be on the subject before the Board at this hearing and be limited to a reasonable length of time to allow everyone equal opportunity to speak. The Chairman reserves the right to determine reasonable time. The hearing is recorded on tape as an aid in preparing minutes. He asked that cell phones and electronic devices be turned off.

READING OF PUBLIC NOTICE

As there was no response to Mr. Harding's question on whether anyone present wished to have the public notice read, the public notice was not read.

PLANNING STAFF REPORT & RECOMMENDATION

After reviewing the staff report and recommendation, Mr. Walters offered to respond to any questions from the Board.

Mr. Harding asked if the City planned to sell this property to a private developer, and if the M-2 zoning would allow condominium or multi-family uses.

Mr. Walters answered that having the appropriate zoning already in place would make the property more marketable to a private developer and that residential uses were permitted in an M-2 Mixed-use transitional district.

PROponents OPPORTUNITY TO SPEAK

Mr. Brett Doney, 3048 Delmar Drive, with the Great Falls Development Authority (GFDA), stated that the GFDA initiated this rezoning. He believes that if this premium property is properly zoned, it will attract a quality development. Because outside developers consider the need to rezone a significant risk, he encouraged the Board to approve this request.

OPponents OPPORTUNITY TO SPEAK

Ms. Mary Gettel, 3419 Fairway Drive, asked Mr. Walters how the property was zoned prior to being purchased by the City. Mr. Walters believed it was originally zoned suburban residential and was changed to POS Parks and open spaces when the entire City was rezoned in 2005. Ms. Gettel sees this action as an encroachment of the industrial park and is opposed to the rezoning. She feels the property was originally purchased by the City for future recreational and public use and should not be changed to private use.

OTHER PUBLIC COMMENT

There was no other public comment.

ZONING COMMISSION DISCUSSION & ACTION

Mr. Hilgendorf stated he has always been in favor of development, but he is not convinced this is the correct zoning for the property. He echoed Ms. Gettel's views of encroachment across 38th Street North by the industrial park, and fears it might progress into the baseball fields. He did not see the logic in putting a light industrial use next to spaces children use, and would like a more transitional zoning district assigned. He opposed this request.

Mr. Schaffer disagreed. He stated he believes a strong economy builds a strong community and feels relatively safe with the rules and regulations already in place which oversee all projects. He is a strong proponent for this type of movement, if it helps Great Falls to diversify and strengthen the economy.

Ms. Duffy stated that Great Falls needs to protect the river. Mr. Bundtrock asked Ms. Duffy how the river could be protected, when there are already industrial uses to the east of this property along with a railroad line. He did not see how development of this property could obstruct the river, and viewed its development as an extension of North Park.

Mr. Harding said the M-2 Mixed-use transitional zoning district was created specifically for this type of area, wherein an industrial use abuts potential open space or residential areas. He noted no one complained when this property was purchased and used for compost for the last 10 years. This zone classification would control the industrial encroachment, and soften the transition for other land uses.

Mr. Taylor thought 38th Street North should be the barrier line for commercial and industrial uses. He did not want any heavy industrial on the subject property, and asked if there was any control in the type of project that could be placed in the M-2 zoning district.

Mr. Rangel stated that M-2 allows for a mixture of commercial, residential and institutional uses, and standards must be met for each type. Parking, landscaping and other code requirements are overseen by the Design Review Board. Mr. Rangel noted that the conclusion section of the staff report indicates this area is ideally suited for private development involving commercial or light manufacturing and assembly, which should not be confused with industrial uses.

There followed further discussion of the structure and authority of the Design Review Board.

MOTION: That the Zoning Commission recommend to the City Commission that Parcel Mark No. P1 in Section 5, T20N, R4E, be rezoned from POS Parks and open space district to M-2 Mixed-use transitional district.

Minutes of the July 22, 2008
Public Hearing
Rezoning Parcel Mark No. P1, Section 5, T20N, R4E
Page 4
Made by: Mr. Schaffer
Second: Mr. Bundtrock

Mr. Harding remarked that, as there is already industrial activity across 38th Street North, heavy traffic on River Drive North, and an active rail line that will become more active as North Park grows, M-2 zoning would be the best choice.

Vote: The motion passed on a vote of 4-2

Roll Call Vote: Yes: Mr. Bundtrock, Mr. Harding, Mr. Schaffer & Mr. Taylor
No: Ms. Duffy & Mr. Hilgendorf

Mr. Walters said staff will forward this recommendation to the City Commission. He anticipated the first reading in front of the City Commission would occur at the first meeting in August.

ADJOURNMENT

The hearing adjourned at 3:36 p.m.

CHAIRMAN

SECRETARY

Regular City Commission Meeting

Mayor Stebbins presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL: City Commissioners present: Dona Stebbins, Bill Bronson, Mary Jolley, Bill Beecher and John Rosenbaum. Also present were the City Manager, Assistant City Manager, City Attorney, Directors of Community Development, Fiscal Services, Library, Park and Recreation, Planning and Public Works, the Police Chief, Fire Chief, and the City Clerk.

NEIGHBORHOOD COUNCILS

NC 2.

1A. Sue Ann Strickland, Phyllis Hemstad, Dorothy Schmidt and Robert Mehlhoff, NC 2 Representatives, appeared to correct Paul Cory's statement televised tonight that no one opposed the Tier I and Tier II Sex Offender Program proposed for the Great Falls Pre-Release Center. Neighborhood Council 2 authored a letter dated March 12, 2008, which Paul Cory of the Great Falls Pre-Release responded to. Ms. Strickland stated that he was well aware that Neighborhood Council 2 opposed this proposal.

Mr. Mehlhoff added that the function of the Pre-Release Center is being changed by accepting sex offenders. Mr. Mehlhoff believes that change should take place through a vote of Cascade County. He asked, if the City Commission has not done so already, to send a letter in opposition. He also believes the police need more money right now, not less. Police retention and safety are major issues. Cutting the DARE program is a penny saved now and a dollar lost later. Mr. Mehlhoff stated that there is one officer in charge of the sex offenders in Great Falls and he is over worked. He asked the Commission to look at the budget and find a way to keep the police and fire numbers up to where they should be.

Ms. Hemstad inquired who to contact about speeding on 1st Avenue N.W., 9th/10th Streets by West Elementary. City Manager Gregory Doyon advised Ms. Hemstad that she has done that tonight.

NC 7.

1B. Aaron Weissman, Chair NC 7, thanked the City Manager, City staff and Chief Grove for attending their meeting to further explain the budget cuts that are being contemplated.

NC4.

1C. Sandra Guynn, Chair NC 4, thanked the City for a table at RiverFest. Ms. Guynn believes the better turnout was because of a banner by Kelly's Signs. She also thanked Commissioner Jolley for attending and telling people how important neighborhood councils are.

PUBLIC HEARINGS

Revised Ord. 3002 and accompanying Amendment to Agreement. Adopted.

2. REVISED ORDINANCE 3002, TO EXTEND THE LAND ACQUISITION DATE REFERENCED IN ORIGINAL ORD. 3002 (CVS PHARMACY).

Planning Director Ben Rangel reported that on April 15, 2008, the City Commission adopted Ordinance 3002 to rezone six residential lots along 9th Avenue South between 20th and 21st Streets to accommodate a CVS Pharmacy, as proposed by The Velmeir Companies. Ordinance 3002 contained a provision that should The Velmeir Companies fail to acquire the lots by August 31, 2008, the Ordinance would become null and void and the lots would remain zoned as single family residential. The Velmeir Companies has requested the land acquisition date in the Ordinance be extended to April 30, 2009, to provide adequate time to begin construction in the spring of 2009, instead of late this summer as initially anticipated.

On June 17, 2008, the City Commission set public hearing for this evening. After conducting the public hearing, Mr. Rangel requested that the City Commission adopt Revised Ordinance 3002, which would extend the land acquisition date to April 30, 2008. Mr. Rangel also requested the approval of a related Agreement that further acknowledged the revised date.

Commissioner Bronson moved, seconded by Commissioners Beecher and Rosenbaum, that the City Commission adopt Revised Ordinance 3002 and approve the accompanying Amendment to Agreement.

Mayor Stebbins declared the public hearing open. Speaking in favor of Revised Ordinance 3002 was **Jon Lennander**, Project Manager of The Velmeir Companies. Mr. Lennander explained the requested change in the date was to give their client more flexibility in the closing date, and change the plans from start of construction in the fall to next spring.

No one spoke in opposition.

Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

Motion carried 5-0.

Ord. 3009, Disorderly Premises. Tabled.

3. ORDINANCE 3009, DISORDERLY PREMISES.

City Manager Gregory T. Doyon reported that the revised and updated ordinance proposes three changes: (1) the notification process for a potentially disorderly residence is that, after three calls in a 30 day period, a warning letter is sent, and if it is five calls in a 30 day period, then the premises could be cited as disorderly; (2) a disorderly premise will not include those incidents related to domestic violence or family member assault; and, (3) the penalty associated

with a premise that has been declared as disorderly and has not met the obligations as outlined by the City in a plan of correction was changed to a civil instead of a criminal fine.

Commissioner Jolley moved, seconded by Commissioner Beecher, that the City Commission adopt Ordinance 3009, as amended.

Mayor Stebbins declared the public hearing open.

Wally Bell, NC 9, 1425 8th Avenue South, stated that when Neighborhood Council 9 spoke about this ordinance they felt that three warnings were more than generous for notification in a 30 day period. Each disorderly call requires a minimum of two officers to respond. The City is short on budget and police officers, and more than three warnings is a waste of resources. He also stated his opposition to reducing the penalty.

Aaron Weissman, Chair NC 7, 315 4th Avenue North, thanked the City for beginning to address the issue of crime throughout Great Falls. This did stem from problems in the lower north and south sides of Great Falls. Mr. Weissman stated that, overall, the council is happy about the changes implemented in this ordinance. However, Neighborhood Council 7 does not believe that the provision for five visits in only a 30 day period is appropriate. The council believes the threshold is too high and makes it almost worthless. Mr. Weissman suggested five visits in 60 or 90 days.

Ronda Wiggers, 3208 2nd Avenue South. On behalf of the Great Falls Association of Realtors, Ms. Wiggers spoke in opposition to Ordinance 3009. Ms. Wiggers stated that the Landlord Tenant Act and City ordinances already on the books would solve this if the lines of communication were opened. Since this ordinance has been proposed, they have already found places to work with the Police Department. If the ordinance were to be passed, Ms. Wiggers suggested five visits in 30 days was too short; more clearly identify the meaning of visits to a specific complex unit versus the property; notify the owner of record and strike owner's agent throughout; notification by mail only and strike posting on the door throughout; that the wording "such a notice shall be sufficient for all legal purposes" would work better if wording was added that a ticket must be written, and that the owner be notified after the second visit. She explained the Landlord/Tenant Act and notice requirements of eviction; the date of written notification be changed to five business days from the date of receipt of the mail; under § 7-1-111, M.C.A., she doesn't believe the City has any obligation to see the management contracts with the building supervisor; and, that a time limit be set for the second offense. Ms. Wiggers concluded that a ticket needs to be written for eviction purposes in Justice Court.

Terry Hilgendorf, 3507 Fairway Drive, does not disagree that action should be taken to provide safe and enjoyable neighborhoods in Great Falls, but does not agree this is the method to do so. It makes property owners liable for the

actions of others over which they have little control and creates a very burdensome process which may not result in solutions. Property owners become responsible for almost any member of the public who disturb the community in the vicinity of their premises. He believes the City should take additional responsibility for providing a solution. His concerns are: the notification process to be used by the City does not require that the property owner receive notice. The legal owner of real property is public record and the City should be required to provide notice to that owner; once the property has been classified as a disorderly premise, not only is it almost impossible for a local owner to receive notice by mail, hire legal representation and attend a meeting within five business days, it is absolutely impossible for an out of state owner to do so; the process of requiring a written agreement at the conclusion of the meeting with the City will reduce the likelihood of the parties reaching an agreement which satisfies both parties and while solving the problem. He believes it is more likely the property owner will be unable to sign the agreement based on legal advice, which would result in litigation and further delay and resolution of the problem; and, the word "shall" and not "may" pursue legal remedies leaves no option for trying to work towards a solution. He also believes the City must require more than just visits by the police in order to designate a premise as disorderly. Tickets must be written. Mr. Hilgendorf encouraged the partnership of the City and property owners for more negotiations and creative solutions, and urged the Commission to table this matter.

Jim Dey, Co-Chair of Political Affairs Committee for the Great Falls Association of Realtors, residing at 3600 7th Avenue South, stated that he deeply appreciates the police. But, if no citations are written, then they are asking landlords to do their job. Ticket must be written so property owners can defend themselves and their actions more effectively in Justice Court. Mr. Dey does not believe the 30 day period for five visits is a useful tool and suggested a 60 or 90 day period. Cooperation, rather than an adversarial relationship, between the police and landlords would move them forward versus receiving a threatening letter. Mr. Dey requested that the word "premises" be clarified and asked how it affects Parkdale. Mr. Dey concluded by saying that criminals need to be regulated, not landlords.

Ron Gessaman, 1006 36th Avenue N.E., reminded the Commission that he requested how an ordinance similar to this worked in Franklin, Massachusetts. Mr. Gessaman researched the web and found that the ordinance in Franklin was passed in July, 2007, and, if that was true, it wouldn't have much history and experience. He suggested the Commission table this matter until they review a report from Franklin. Mr. Gessaman stated that the language in the agenda report regarding the warning notice means to him that there would be eight visits. He also objects to the last sentence in Section 8.48.030 where it states "any" method of service is adequate. The posting that other persons objected to and were assured would not be used exclusively, could be the only method of service that the City even attempts.

Yvonne Honeywell, 724 3rd Avenue North, stated that she is a realtor, resides in the lower north side and owns rental property. In the last year she and her husband have had more trouble with tenants taking care of properties and paying their rent with the cost of living expenses increasing. Ms. Honeywell does not believe this ordinance was put together with proper thought and the ramifications were not considered long enough. She believes that no one should be responsible for the actions of others. To add this to a landlord's burden is not right. On the other hand, she does believe this could work if written properly and notification was given to the owner and not the manager on the first incident. Ms. Honeywell urged that tickets be written.

Pat Goodover, 803 Forest Avenue, real estate broker, incoming President of the Association of Realtors and a property manager, stated that he was speaking in his own behalf as a landlord. Mr. Goodover stated that this ordinance is a good concept, but is bad law. He referred to § 7-1-111, MCA. As this ordinance is worded now, he believes there is a jurisdiction conflict. He strongly requested that the City police give a copy of the ticket to the landlord. In his opinion, going before Judge Jensen and telling her the City said "we could do it" will not fly. Mr. Goodover also asked that the word "premises" be clarified. He also urged that notification be given to the owner and that the property managers be kept out of it. He has issues with the City saying the property was "visited" so many times. That wording is only accusations and will not hold up in court. He provided a positive example of working with the police. Mr. Goodover requested that the Commission delay action on this matter.

John Hubbard, 615 7th Avenue South, stated that the ordinance proposes making landlords into policemen, believes this is double jeopardy, and believes the City will see more disgruntled people with the cost of inflation.

Marlin Wilke, 121 34th Street N.W., stated that his concern is the liability issues when Montana law is specific about evictions. This ordinance is not in accordance with existing laws. Mr. Wilke urged the Commission to table this matter until it is thoroughly examined.

Paula Brandon, 731 33B Avenue N.E., stated she is a realtor and property manager and that there is a screening process for good tenants. Ms. Brandon stated there has to be just cause and proof for eviction. Neighbors will complain without justification and, if passed, would be a huge burden on the police.

Bonnie Beuning, 1818 7th Avenue North, President of the Great Falls Association, thanked the City for their efforts to clean up downtown. Ms. Beuning believes the eviction process has been overlooked. She said she has been blessed with the wonderful opportunity to work with Terry Youngworth. He has been an advocate for landlords, as well as tenants. She would like to see Terry brought in to these discussions with the Great Falls Housing Authority and the eviction process. You cannot evict just because a city

ordinance says so. She urged the Commission to table this matter or vote no, and to have some interaction with the Great Falls Housing Authority.

Kim Martin, 235 Sun Meadows Road, realtor and landlord, stated that there are over 900 listings on the market right now. Some people are turning to leasing their properties due to the economy. A law like this would be scary for someone who has never been a landlord before and would scare people interested in multi-family investments.

Jim Whittaker, 4020 5th Avenue South, stated this is a bad ordinance, bad idea, and urged the Commission to table this matter.

Robert Mehlhoff, 407 9th Street N.W., thanked City Manager Doyon for meeting with him and discussing this matter. Mr. Mehlhoff believes the ordinance is going after the wrong person. It should not hold the landlord responsible for something that someone else has done. His solution was to write good laws that go after the person offending. Let landlords know in a timely manner what is going on so that the landlord can be part of the process. Penalizing landlords is taking this too far. Judges need to enforce the laws and go after the people that are doing the offending. He suggested notification by certified mail after the first instance, but no later than the second, and take out the penalty. Mr. Mehlhoff requested that this matter be tabled.

Stephanie Ritter, 3121 4th Avenue South, Human Resource Director for Quality Life Concepts, stated that QLC provides services to members of the community with developmental disabilities. Sometimes they are scared or just need someone to talk to and they will periodically call the police. Her fear was that QLC and others would be fined for these nuisances, when they don't know they were being nuisances. QLC is governed by the State of Montana and once they agree to provide services to the clients they are bound by the contract and cannot evict their clients.

Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

Commissioner Beecher suggested tabling Ordinance 3009. There were some items raised tonight that warrant looking at this ordinance additionally. This ordinance was not meant to penalize the good landlords. It was designed to deal with a landlord that totally ignores the fact that there are problems on their property.

Commissioner Beecher withdrew his second, and suggested tabling Ordinance 3009.

Commissioner Jolley stated that there could be changes, but it has been tweaked so much that no one spoke in favor of the amendments this evening. If it was changed to no fines there wouldn't be any point to these amendments. Commissioner Jolley suggested that the Commission vote and, perhaps, kill

this ordinance.

Mayor Stebbins added that she believes there is still merit in this ordinance. There were valid points raised: extending the time to 60 days; a phone call after two tickets; mandate to actually ticket; the unit specificity; ten days to meet with the City; and, notify only the owner. She believes the ordinance can be amended so that it works for everybody. She encouraged City staff to work with Ms. Wiggers.

Commissioner Bronson echoed Mayor Stebbins' and Commissioner Beecher's comments. Commissioner Bronson added that the concept of this ordinance is a sound one. He has concerns that many of the objections raised tonight were not raised earlier. He doesn't envision a lot of the problems with the enforcement of this ordinance that some had suggested this evening. In the interests of having some additional time, there is certainly room and flexibility not to create the kinds problems that some are concerned about. Commissioner Bronson stated he does not object to this being put aside for a reasonable period of time so that the concerns can be addressed.

Commissioner Rosenbaum stated that he thinks everyone has hit on something. Not everyone will be happy because there is a specific target out there. Commissioner Rosenbaum stated that the notice requirement needs a better look at. He is in favor of tabling this matter if Commissioner olley would remove her motion.

Commissioner Jolley moved, seconded by Commissioners Beecher and Rosenbaum, to amend her motion and table Ordinance 3009.

Motion carried 5-0.

**Res. 9750, Intent to
Increase Property Tax.
Adopted.**

4. RESOLUTION 9750, INTENT TO INCREASE PROPERTY TAX.

Assistant Director of Fiscal Services, Melissa Kinzler, reported that § 15-10-203, MCA, requires the City to hold a public hearing before passing a resolution stating its intent to increase property tax revenues. Section 15-10-420, MCA, authorizes a property tax increase of "one-half of the average rate of inflation for the prior three years. The Consumer Price Index showed a 3.34% average increase as provided by the Montana Department of Administration. Therefore, the City is allowed and is proposing a 1.67% property tax increase. Sections 15-10-420 and 2-9-212(2)(a), MCA, also allow property tax levy increases for premium contributions for group benefits. The City is proposing an additional 2.16% property tax levy increase for health insurance premiums. The total proposed allowable property tax levy increase is 3.83%. The fiscal impact of the proposed property increases for inflation and the permissible mill levy for a residential home with a taxable market value of \$100,000 would be approximately \$16.33 per year. The fiscal impact of not authorizing the increase for inflation and the permissive health mills to the General Fund would result in a revenue shortfall of \$371,337 for the

proposed budget. Staff recommends that, after conducting the public hearing, the City Commission adopt Resolution 9750.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission adopt Resolution 9750.

Mayor Stebbins declared the public hearing open. No one spoke in favor of Resolution 9750. Those speaking in opposition to Resolution 9750 were:

John Hubbard, 615 7th Avenue South, stated that he is against any rate hikes, raises for politicians, new police officers, equipment, or property taxes, on the grounds that natural gas will be going up five times higher.

Eric Sprague, 205 17th Avenue N.W., stated that he is frustrated because when education needs more funds, it is a mill levy that gets assessed to the property owners. Whenever monies are needed for things like this it is an increase in property taxes. Yet, everyone benefits from these things, but only the property owners are the only ones financing this through increased taxes. Natural gas for heating costs is a huge concern. Over four dollars per gallon of gas is scary. Food costs are going up. Just surviving is an effort now. The homeowners are responsible for the majority of the costs. Mr. Sprague suggested that there should be a way to distribute the costs more evenly.

Mike Witsoe, 510 11th Street South, thanked Melissa for her presentation. Mr. Witsoe requested that someone from Physical [*sic*] explain at the next meeting how much water, sewer, garbage and property taxes have gone up in the past physical [*sic*] year.

Larry Steele, 419½ 5th Avenue North, stated that, with the way the economy is, the government should tighten the budget to show community support. Mr. Steele suggested that the City/County go back to the State legislature and ask for permanent tax cuts to help offset the local property owner taxes.

Carol Fisher, 500 53rd Street South, read Gregg Smith's blog written on December 21, 2007. Ms. Fisher suggested that, instead of raising taxes this year, the City should ask SME for the \$1.4 million dollars back.

Mayor Stebbins declared the public hearing closed and asked if there was any discussion amongst the Commission.

Commission Jolley commented that, in the past, she has spoke against tax increases. The Commission has been through a long budget process. Commissioner Jolley stated that, because of past actions, she believes it is reasonable for the residents of Great Falls to be lulled into a false sense of the City having oodles of money lying about. This amount will help pay for essential City services and she is voting for this tax increase.

Commissioner Rosenbaum jokingly commented he thought he heard advocates for a sales tax. Only having one source of taxes in the State of Montana is a

handicap. It puts a burden on a target that has been traditional. The value of the dollar has decreased and it is a multi-edged sword. The City does have to take care of its resources, and has to continue to move forward.

Mayor Stebbins added that the City is facing the same cost increases that the citizens are facing.

Motion carried 5-0.

Res. 9751, Annual Budget Resolution. Adopted.

5. RESOLUTION 9751, ANNUAL BUDGET RESOLUTION.

City Manager Gregory T. Doyon reported that, for those interested, a copy of the Proposed Budget is available on-line at www.greatfallsmt.net, at the Great Falls Public Library or at the Civic Center. Mr. Doyon presented a condensed version of what was presented at the prior Work Session. The highlights discussed were Commission Priorities – public safety issues, golf course, parking garage, public pools, create a Park Master Plan, look at long term planning, and maintain services at present levels; Budget Highlights - contractual commitments with union employees, inflationary cost increases including fuels, construction and insurance; Budget Adjustments – did not fund requested increase in positions (2.5 police officers, 1 civilian officer and 1 GFFD office clerk), adjusted programs (DARE and LRE) to keep the patrol force where it was at for the past year, no capital funding for the new Animal Shelter, removed proposed playground equipment for Verde Park, removed funding for RiverFest and fireworks for FY 2009, and reduced funding for Cable 7, and not pursue the public safety mill levy; Mr. Doyon reviewed the programs subsidized by the City and the associated funding requests versus what is being proposed. The total city-wide proposed revenues to the general fund is over \$92 million and is a proposed increase of approximately 3%. The total proposed general fund revenue is over \$22 million and is a proposed increase of 4.37%. The proposed real property tax levy will increase to \$9.7 million and includes the statutorily authorized increases. The bulk of general fund expenditures are related to personnel with an increase of about 6% and a decline in some other expenditures including debt service. The Commission will review a proposed 5% rate increase for water and sewer, and 10% for street maintenance in the next few months and the public will have an opportunity to comment. Mr. Doyon discussed the challenges that the community is facing is stabilizing the aquatics programs, a need to continue economic development and making sure that we are not growing too fast on the residential side without attracting business to the community and providing jobs and stabilizing the tax base with new business, the initiative by the City/County Health Department to support their structure and how they are financing the needs for that entity, the Animal Shelter and make decisions about the new facility, and the age of the Police Department building and its structural integrity. Some of the challenges are the fuel prices. Mr. Doyon reported that he tried to limit the services proposed to reduce and tried not to eliminate staff in this proposed budget. He is hoping to see improvement in some of the funds in terms of subsidy, that includes the golf courses, and

hopefully see some improved utilization of the Multi-Sports Complex. In looking down the road, the City needs to keep the reserves intact and look at a capital plan in terms of structures and facilities. Mr. Doyon concluded that was a lot of information and should the Commissioners have any questions he encouraged them to call his office.

Commissioner Beecher suggested that the Commission receive public input before making a motion on the budget.

Mayor Stebbins declared the public hearing open. Those commenting on Resolution 9751 were:

Aaron Weissman, NC 7 Chair, thanked the City Manager, Chief Grove and Melissa Kinzler for taking the time to attend a NC 7 meeting to explain the budget in greater detail. In light of the meeting and the previous discussion to increase the property tax, Mr. Weissman stated he was encouraged that the City was respecting public dollars by initiating the conversation to eliminate wants and re-examine needs. Mr. Weissman encouraged the City, as part of this discussion, to look at areas where waste can be eliminated. Mr. Weissman challenged the Commission to lead the charge to privately fund treasured public services. Mr. Weissman agreed with the comments of Mr. Mehlhoff that the \$140,000 saved by eliminating the DARE and LRE programs are pennies saved and will result in dollars later.

Sandra Guynn, NC 4 Chair, requested the opportunity to have Manager Doyon and Chief Grove come to their Neighborhood Council meeting next Thursday to provide more detail about the budget. Ms. Guynn requested that this matter be tabled until after that time.

Larry Steele, 419½ 5th Avenue North, is opposed to the City funding the fireworks and RiverFest. He believes that businesses should step up and take ownership to retain quality employees. He compared those activities to Special Olympics and what businesses can do for a community. He is against cutting the DARE and LRE programs. Because of those programs, law enforcement is well respected in the high schools. Because of the police patrols, Parkdale does not have the stigma it once had.

Larry Rezentes, 2208 1st Avenue North, commended Manager Doyon for doing a credible job in attempting to lead the City in a difficult set of circumstances that were a result of acts not of his doing. Mr. Rezentes read an Albert Einstein quote. He stated that the budget problems are a result of some bad decisions relating to the efforts to organize the future establishment of the Highwood Generating Station and its precursor, Electric City Power. Mr. Rezentes discussed portions of the budget relating to ECP and suggested a time table to shut down ECP and consult a bankruptcy attorney. Mr. Rezentes opined that the program cuts would not be necessary if the City had the \$5 million expended on ECP and HGS. He complimented the new City Manager for his leadership and beginning a process of reporting ECP results. Mr.

Rezentes stated again that the Commission is ignoring the will of the people by continuing its efforts in pursuit of Highwood and violating City Ordinance 2925.

Ed McKnight, 906 3rd Avenue North, asked for an explanation regarding \$780,000 borrowed from various City funds that went into the Electric City Power fund in a six month time period. Commissioner Beecher reminded Mr. McKnight that this is the time for him to make comments. Mr. McKnight interrupted and read a portion of a State statute regarding the preliminary budget. Fiscal Services Director Coleen Balzarini stated that she couldn't answer Mr. McKnight because she doesn't know what time frame or dollars he was talking about. Ms. Balzarini requested that Mr. McKnight provide her with more information and she would get back to him on it. Commissioner Jolley stated that she thought she heard about the \$780,000 when going through the financials presented at the Electric City Power Board meeting. Mr. McKnight quoted a statute and stated that this matter will need to be tabled. Mr. McKnight asked, if the City is borrowing money from various funds to float ECP, doesn't that come under the purview of the budget. Ms. Balzarini responded that the money that was borrowed by ECP is being charged interest for the privilege of that borrowing. In the ECP fund budget there is an interest expense for that borrowing. Mr. McKnight inquired how the City came up with the figure \$9.5 million in the budget for ECP. Ms. Balzarini responded that she assumed that was the expenditure line. She believes that the cost of energy is \$730,000 per month times 12 months. Mr. McKnight stated that every year there is a prediction of how much money will be spent on power and believes this is severely under-budgeted. Mr. McKnight discussed a chart he prepared that shows the cost of electricity from ECP was more expensive than from NorthWestern Energy. Mr. McKnight suggested tabling this matter to consider the statutes.

Dennis Renning, 3015 4th Avenue South, teaches LRE at Great Falls High School. Mr. Renning stated that it is one of the most popular classes there. It teaches modern, community policing, which is very valuable to the community. It is also a recruiting tool. Mr. Renning stated that LRE is a good investment - 11 hours per week and leaves the officer 29 hours to patrol. Mr. Renning urged the Commission not to eliminate the LRE program.

Kathleen Gessaman, 1006 36th Avenue N.E., stated her concerns about losing the DARE program. Ms. Gessaman suggested giving \$250,000 to the Animal Shelter from the \$500,000 budgeted for the year and the difference to run the DARE and LRE programs. Ms. Gessaman stated that Missoula uses a percentage of the cable franchise fee to fund public access television and suggested that Great Falls do that with Cable 7.

Aart Dolman, 3016 Central Avenue, thanked the Police Chief and Fire Chief for a peaceful Fourth of July. Mr. Dolman inquired why the ECP budget was not included in the overall picture, asked if SME has improved the budget, and wondered why the taxes were not raised more to fund the valuable programs in

the community.

Ron Gessaman, 1006 36th Avenue N.E., is unhappy with the whole budget process. Mr. Gessaman suggested the Commission consider getting out of the sanitation business. Mr. Gessaman stated that the ECP losses were not discussed and were larger than the golf courses and sanitation department. Mr. Gessaman referred to p. 42 of the budget and a figure of \$354,500 that contained no explanation. Ms. Kinzler provided an explanation.

Stuart Lewin, 615 3rd Avenue North, stated that he believes it is a mistake to cut back on public access television. He also suggested putting every check written on the City's website, and that the City Manager look carefully at City employees and their job descriptions. Mr. Lewin believes the City needs to be more open to the people.

Ed Brown, 2012 8th Avenue South, stated that he has done budgets and it is always a tough decision. Mr. Brown asked why every time a budget comes up public safety and firemen are cut. He believes the police motorcycles are a great enforcement tool. He also asked if private citizens got together a committee to put on a firework show would they have to put up insurance and also pay for the fire truck in case of a misfire. Mr. Brown believes that RiverFest can be maintained by a private committee. He hates to see the DARE program, Police and Fire Departments' budgets cut.

Mike Witsoe, 510 11th Street South, disagrees with budget cuts to the Police, Fire, SRO's, and other crime related services such as the DARE program. Commissioner Jolley corrected Mr. Witsoe that the City Commission did not cut SRO's. Mr. Witsoe opposes cutting the Cable 7 budget. He also discussed cutting the CCHD budget and was corrected that it was proposed to be budgeted at the same level as last year. Mr. Witsoe suggested getting a budget analysis from an outside source and delay this matter.

Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

Commissioner Jolley moved that the City Commission schedule action on Resolution 9751 for August 5, 2008. Motion failed for lack of a second.

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, to adopt Resolution 9751.

Motion carried 4-1 (Commissioner Jolley dissenting.)

OLD BUSINESS

Water Rights. Accepted the 1889 water right (41QJ123410) volume

6. WATER RIGHTS, REVIEW AND POSSIBLE ACTION ON PRIOR REDUCTION OF 1889 WATER RIGHT (41QJ123410).

reduction amendments as previously submitted to the Montana Department of Natural Resources and Conservation.

City Manager Gregory T. Doyon reported that he hoped the information presented at the Work Session was helpful. At the request of the Commission, Mr. Doyon stated that several motions were framed up for the Commission to act upon with regard to the water right action taken previously.

Mayor Stebbins asked if there was any discussion amongst the Commission.

Commissioner Jolley commented that she has the same concerns, that this was a discussion that should have been made public several years ago.

Commissioner Jolley moved that the City Commission request an extension from the Montana Department of Natural Resources and Conservation in order to evaluate its 1889 water right (41QJ123410) volume reduction amendment. Motion failed for lack of a second.

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission accept the 1889 water right (41QJ123410) volume reduction amendments as previously submitted to the Montana Department of Natural Resources and Conservation and currently on record with the Montana Department of Natural Resources and Conservation.

Mayor Stebbins asked if there were public comments.

Aart Dolman, 3016 Central Avenue, expressed disappointment that Commissioner Jolley's motion was not considered. Mr. Dolman stated that the water rights issue is a very difficult one. Mr. Dolman stated that the public process was eliminated on a very difficult issue.

Stuart Lewin, 615 3rd Avenue North, stated his observations of the Work Session were that the Commission does not have a handle on what is going on in the water courts or water law; the presenters were knowledgeable but one has a conflict of interest; the water rights the City is giving up are worth \$350 million; and, that it is a huge mistake not asking for more time. Mr. Lewin agreed with Mr. Dolman's comments. Mr. Lewin asked if water rights were given up to secure the contract with PPL to go forward with HGS.

Pamela Morris, 2201 8th Avenue North, NC8 representative, commented that this was very likely the most important issue for the City of Great Falls. Ms. Morris stated that water is Great Falls' liquid gold asset and the City is throwing it away. Ms. Morris urged the Commission to reconsider Commissioner Jolley's motion to table this matter.

Andrea Deligdish, 3016 Central Avenue, commented that she has heard a lot about water rights. She cannot understand why the Commission would not ask for a delay from the water court. Ms. Deligdish asked the Commission to reconsider.

Mike Witsoe, 510 11th Street South, commented that there has been over eight hours of water rights meetings in the past three weeks, and that Commissioner Jolley stayed every hour. Mr. Witsoe urged the Commission to request an extension and reconsider Commissioner Jolley's motion.

Kathleen Gessaman, 1006 36th Avenue N.E., thanked Commissioner Jolley and Mr. Doyon for attending the water rights meetings. Ms. Gessaman stated she was disappointed that Commissioner Jolley's motion did not have a second. No where in the budget is there a line item for \$750,000 to buy future water rights. Ms. Gessaman stated that the City would use no where near that amount to argue at the water court. Ms. Gessaman urged the Commission to reconsider its action tonight.

Ron Gessaman, 1006 36th Avenue N.E., commented that the experts that spoke at the Work Session talked about adjudication of water rights among ranchers or farmers along a river or creek. He did not hear them talk about water rights of a major city in the State of Montana. There is a difference between the water rights being considered for agriculture versus a municipality. Mr. Gessaman stated that when Dave Schmidt first presented here, he talked about his conflict of interest, the fact that he had water rights for sale, and the City should allocate \$750,000 for the next 10 years to purchase water rights. The GFDA water meetings have been informative. Mr. Gessaman reported that the deadline to make an objection or request an extension is August 4, 2008, not mid-August as reported by Dave Schmidt. Mr. Gessaman believes that water is the future and is important for future development. He urged the Commission to extend this matter.

Commissioner Beecher commented that the Commissioners are not experts on water rights and that is the reason why the people were hired to guide and inform the Commission. He believes the experts are qualified and agrees with their observations. The Commission is not doing this in a flurry of activity. The 2002 Water Report states there was a big risk as the City was oversubscribing of the Gibson water rights and the recommendation was that the Commission consider reducing that down to a use the City can prove. The Commission is listening to the people they have confidence in.

Mayor Stebbins added that, if the City did file an objection to the amended water rights, the City would have to have verifiable historical usage prior to 1973. The reduction of those amended water rights was actually based on a verifiable history of beneficial use. The City is not rushing into things. This has been a very considered action on the Commission's part.

Commissioner Bronson echoed the Mayor's comments with respect to the 1889 water right. After considering the comments in recent weeks, dovetailing it with his own knowledge and research, and listening to the comments of Mr. Schmidt and Mr. Harris, he came to the conclusion that requesting an extension of time to reevaluate the previous position taken by the City is not a prudent decision. If the City is going to do anything with respect to the 1889

water right and based on the law that applies to it, substantial evidence would have to be established that the City had, in fact, reached the higher volume level. It is apparent from the research that has been done that the City cannot get anywhere near that. He finds it interesting that some have commented in such a way to suggest that a solution is out there to grasp more water rights. Yet, he has not heard a definitive legal opinion from anyone on that subject, not had anything offered that would suggest that the City is in a position to make the kinds of arguments suggested. He has given consideration to the suggestion that there is some Great and Growing Cities Doctrine to rely on to somehow enhance the City's position vis-à-vis other water rights users. After researching that doctrine, Commissioner Bronson stated that doctrine does not apply in the State of Montana. He does not see how the Courts can apply that doctrine to the historic type water right that we are talking about. The only way to establish any basis for a municipality to show the need for greater use down the road is through the water reservation process that was set up about 20 years ago. That is what the City has been attempting to do. After having listened to a number of folks talk about this subject who are knowledgeable about it, having done research in the field, Commissioner Bronson is satisfied that the recommendation that was made by Mr. Schmidt some time ago to reduce the volume down to the 20 thousand or so was a wise decision. Legally, he does not believe the City can do anything other than what it has done.

Commissioner Rosenbaum added that it was the legislature and the Supreme Court's decision on consumptive use or defensible use and the City does not have it. Not that he discounts Commissioner Jolley's opinion that the City should delay or re-look at this, he believes what he sees is what he believes. The City is in a tight budget and should not fight court cases that it cannot win.

Motion carried 4-1. (Commissioner Jolley dissenting.)

NEW BUSINESS

ORDINANCES/RESOLUTIONS

Ord. 3011, to Rezone Lot 1, Block 1, Benefis West Minor Subdivision from PLI Public Lands and Institutional District to R-5 Multi-Family Residential Density District. Accepted Ord. 3011 on first reading and set public hearing for August 5, 2008.

7. ORDINANCE 3011, TO REZONE LOT 1, BLOCK 1, BENEFIS WEST MINOR SUBDIVISION FROM PLI PUBLIC LANDS AND INSTITUTIONAL DISTRICT TO R-5 MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT.

Planning Director Ben Rangel reported that Mike Tabacco and Ralph Randono, doing business as TARA, LLC, are in the process of purchasing a one acre parcel of land from Benefis Healthcare System. Their interest is to rezone the parcel and build 12 residential condominiums on the site, which is located in South Great Falls along 17th Avenue South, between 4th Street and Benefis Court. Mr. Rangel requested that the Commission accept Ordinance

3011 on first reading and to set public hearing for August 5th to consider rezoning the parcel from PLI Public lands and institutional to R-5 Multi-family residential.

Commissioner Jolley moved, seconded by Commissioners Beecher and Bronson, that the City Commission accept Ordinance 3011 on first reading and set public hearing for August 5, 2008.

Mayor Stebbins asked if there was any discussion amongst the Commission or comments from the public. No one responded.

Motion carried 5-0.

**Consent Agenda.
Approved as presented.**

CONSENT AGENDA

8. Minutes, July 1, 2008, Commission meeting.
9. Total expenditures of \$2,824,312 for the period of June 23 – July 9, 2008, to include claims over \$5,000, in the amount of \$2,578,356.
10. Contracts list.
11. Grant list.
12. Set public hearing for August 5, 2008, on Resolution 9758, cost recovery at 706 19th Street Southwest.
13. Set public hearing for August 5, 2008, on the 2008/2009 Business Improvement District Budget and Work Plan.
14. Set public hearing for August 5, 2008, on Resolution 9746, to levy and assess the Street Maintenance District.
15. Set public hearing for August 5, 2008, on Resolution 9747, to levy and assess Special Improvement General Boulevard Maintenance District No. 3570.
16. Set public hearing for August 5, 2008, on Resolution 9759 to levy and assess Special Improvement Portage Meadows Maintenance District No. 1195.
17. Approve purchase of water meter equipment for Fiscal Year 2009 from Dana Kepner Co. of Billings in an amount not to exceed \$270,000.
18. Approve FY 2009 Traffic Signal Maintenance Agreement with the Montana Department of Transportation.

Commissioner Jolley moved, seconded by Commissioner Beecher, with the exception of Items 9 and 10, to approve the Consent Agenda as presented.

Motion carried 5-0.

Commissioner Jolley inquired if the payment on Item 9 for the Montana League of Cities and Towns was for one year and was informed yes.

With regard to Item 10D, Commissioner Jolley asked what the \$20,000 artist fee was for. Park and Recreation Director Marty Basta responded that the

City is paying Gurtman and Murtha to promote the artists for a fund raising event. The revenue from the program will be used to fund the sound system for the theatre.

Commissioner Jolley moved, seconded by Commissioner Beecher and Bronson, to accept Items 9 and 10 of the Consent Agenda.

Motion carried 5-0.

BOARDS & COMMISSIONS

19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

CITY MANAGER

20. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Gregory T. Doyon requested that the Commission either call him or put in writing the amendments it would like in the Disorderly Premises Ordinance before the next time they meet. Commissioner Jolley responded that, if no amendments were suggested, to assume that she wants it dispatched all together. Mayor Stebbins added that Mr. Doyon would have her amendments in the morning. Mr. Doyon announced that Chief Grove was recognized by the National Order of Toast Masters for completing some of the events related to that. He also received a Thank You note from the Special Olympics for their appreciation of the City in support of the event held here recently.

PETITIONS AND COMMUNICATIONS

21. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Stebbins opened the meeting to Petitions and Communications.

HGS.

21A. Ron Gessaman, 1006 36th Avenue N.E., read an article entitled "Come at once. We've struck a berg. How would you respond?" that he handed out at the July 1 Commission Meeting. Mr. Gessaman made comparisons regarding global warming, climate change, and the distress signals from the scientific community, and the Highwood Generating Station.

ECP.

21B. Ed McKnight, 906 3rd Avenue North, requested the promised written response and an honest accounting of the cost of power. Mr. McKnight stated that ECP is deceiving the public and now he has definitive proof. Mr. McKnight stated that no one has ever asked what the actual cost of power was and that all they had to do was divide two numbers. Mr. McKnight argued with Commissioner Bronson that he promised he would ask. Mr. McKnight stated that he has the audited payments to SME and that for four years the Commission has not seen the information that he has and now he is not going

to share it with them. Mr. McKnight inquired when he could expect the written response and was told to resubmit the question in writing.

Water rights, HGS, inflation, Weissman property.

22C. John Hubbard, 615 7th Avenue South, commented that he was disgusted about the water rights answers, the EPA decision to deter HGS because it was against the Clean Air Act, and asked how the poor people are supposed to live in this country. Mr. Hubbard inquired about the Weissman property maps that he gave to the Fire Chief.

Canadian money, RiverFest, City bus service.

21D. Mike Witsoe, 510 11th Street South, discussed conversations he had with Canadians and comments they made about two stores in Great Falls that they visited and wouldn't accept Canadian money. Mr. Witsoe discussed RiverFest and requested an accounting. He also recommended that the microphones be set up in the Gibson Room for all future meetings. Mr. Witsoe discussed the bus service and made suggestions.

CITY COMMISSION

22. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Commissioner Jolley stated that she voted against the budget only because the Commission didn't extend the meeting to next month. She thanked Mr. Doyon and Melissa Kinzler for their work on the budget.

ADJOURNMENT

Adjourn.

There being no further business to come before the Commission, **Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the regular meeting of July 15, 2008, be adjourned at 11:00 p.m.**

Motion carried 5-0.

Mayor Stebbins

City Clerk

Minutes Approved: August 5, 2008

Special City Commission Meeting

Mayor Stebbins presiding

CALL TO ORDER: 3:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL: City Commissioners present: Dona Stebbins, Bill Bronson, Bill Beecher and John Rosenbaum. Commissioner Jolley was excused. Also present were the City Manager, City Attorney, and the City Clerk.

OLD BUSINESS

JUDGE E. WAYNE PHILLIPS' ORDER, RE: MONTANA ENVIRONMENTAL INFORMATION CENTER VS. CITY OF GREAT FALLS

City Attorney David Gliko reported that we are here to decide whether to appeal or not to appeal the decision by the District Court. Mr. Gliko provided background information and reminded the Commission how we got here and why this is being litigated. He assured the Commission it was not because of anyone's figment of imagination, mere desire, or out of thin air, and certainly not by anyone's disingenuousness in the City. It was based on State law. Specifically, § 2-6-401(2)(c), MCA, provides the definition of public records as it relates to local government does not include preliminary drafts. It is as simple as that. The City followed that statute and the District Court has decided that the City was in error in that process. Taking a look at how the Court arrived at that conclusion, Mr. Gliko stated that the first eight and one-half pages of the District Court's Decision is a recitation of the legal process to arrive at the Court hearing, followed by a recitation of the stipulated facts, followed by a recitation of the parties' arguments before the Court. Starting on page 9, the Court renders its decision and makes three points. The first point the Court makes is it draws a distinction between two definitions in two separate statutes. A definition of public writings in § 2-6-101, MCA, and a definition of public records in § 2-6-401, MCA. Section 2-6-401, MCA, is the statute the City relied upon. Mr. Gliko submits that it is a distinction without a difference. There is no difference between public writings and public records. One includes the other. A public record is a public writing and a public writing is a public record. Mr. Gliko stated he doesn't believe it has any relevance to the decision in this case.

The second point that the Court makes is, as it relates to § 2-6-401, MCA, the statute the City relied upon, the Court says that it only relates to local government records retention and disposition schedules. That is true. That is what this statute relates to. But, once again, Mr. Gliko submits that the constitutional mandate of open records applies across the board. It doesn't matter what the statute is speaking to – if it is speaking of public records it is either constitutional or it isn't. It doesn't matter if it is being spoken of in § 2-6-101, MCA, or § 2-6-401, or some other statute. We are looking at what the constitution provides. There is another issue with the Court's reasoning and that stems from the 1995 Montana Supreme Court Decision in Becky v. Butte-Silverbow School District. The City relied upon that case heavily when it argued before the Court. It is virtually the key, besides the statute, to the City's position. In that case, the Supreme Court looked directly to § 2-6-401, MCA, the same section the City relied on, in its decision. Mr. Gliko read quotes from that Becky decision: The Court first notes that the Montana Constitution does not define documents of public bodies. The issue of what constitutes such documents has not previously

been addressed by this court. What constitutes a public writing has, however, been addressed by the Montana legislature. See, §§ 2-6-101 and 2-6-102, MCA. See also, § 2-6-401(2), MCA, which defines public records. Section 2-6-401(2), MCA, is the statute the City relied upon. The Court was looking directly at it for a definition of public record. Finally, the Court concludes its reasoning in the Becky case with the statement that the result would be same pursuant to § 2-6-401, MCA, which defines public records in the context of local government including school districts. The Supreme Court had said that it is looking to this section of the law relative to local government to define public records. It has done so in the Becky case. In fairness, the Becky case did not analyze subsection (2)(c) of § 2-6-401, MCA, which relates to the exclusion of public drafts from the definition of public records. That is the subsection the City is concerned with and the Court in the Becky case did not address. That is why we are here, and why we are litigating the point.

The whole point is that the District Court's trying to distinguish § 2-6-401, MCA, as only relating to records retention, has clearly been superseded by the Supreme Court's decision in the Becky case, where it looked to define public record.

The third point of the Court's decision is found on page 11, wherein it states: "However, if the City has those drafts, they must be disclosed pursuant to the public's constitutional right to know under Article II, Section 9." The Court does not support it with any cited precedence or any further authority. Mr. Gliko stated that he wonders, since all the decisions rendered in the arena of public right to know since the adoption of the Montana Constitution in 1972, how the Court would come to its conclusion without the citation of any supporting authority. Mr. Gliko suggests it might be because the primary supporting precedence is the Becky case and the Court's decision would struggle in trying to distinguish the Becky case because, as he stated, it defines public record from the very statute that the City relied upon.

At the time of the adoption of the Montana Constitution in 1972, it was a very avant-garde constitution in its provisions. Particularly, the individual rights of the public's right to know. It was progressive as far as any other state constitution, and even more progressive than the U.S. Constitution. Since that time, the Montana Supreme Court has been very vigorous in the extreme in upholding all individual rights of the Constitution, including the right to know under Article II, Section 9.

In making its decision, Mr. Gliko reminded the Commission to take into consideration what he said about the Becky case and the State legislation, but also understand that the Montana Supreme Court has been very vigorous in coming down on the side of the public's individual rights and, especially, the right to know.

The District Court also went on to award Plaintiff's attorney fees in this case. That is indisputable a correct conclusion. In fact, § 2-3-221, MCA, allows the prevailing party a constitutional challenge to be awarded attorney's fees. Mr. Gliko reported that he received an Affidavit this week from the Plaintiff's attorney claiming fees in the amount of \$9,620. If this is appealed and if Plaintiff's won on appeal, Mr. Gliko told the Commission to understand that the City would also, presumably, be required to pay their attorney's fees.

When he was preparing his Brief for the District Court hearing, Mr. Gliko thought it was also necessary to discuss some of the practical implications of the decision of this case. What is it going to mean if every draft document is accessible to the public and, by the way, what is the definition of a draft. If it is a scrap of paper that he writes on at 3:00 o'clock in the morning when he has an epiphany and bring it into the office and use it in some document drafting, is his piece of scrap paper a draft public document, as well as

the draft he is working on. Exemption (5) of the Federal Freedom of Information Act exempts draft documents from public record. There have been several Federal Court decisions interpreting that provision. Mr. Gliko cited Chicago v. U.S. Nuclear Regulatory Commission and read the rationale from that decision. Policy concern applies to draft versions of documents ultimately destined for release to the public. Presumably, the agency employees or outside contractors charged with the preparation of such documents, would feel unduly constricted in their tasks and would produce inferior work if forced to produce while swimming in a fish bowl. Creative or unorthodox ideas that might have been put forward in draft versions of documents could be stifled if their authors knew their documents could be subject to public view. Further, public confusion could result if ideas that were purely personal to the authors of draft documents were mistaken for the official position of the agency.

The 1995 Denver Law Review provides a concise summary of exemption (5) of the Federal Freedom of Information Act, and explains the deliberative process. First, the privilege protects candid discussions within an agency; second, it prevents public confusion which would result from premature disclosure of agency opinions occurring before the agency establishes its final policy; third, it protects the integrity of an agency's decision because the public should not judge officials based on the information they considered prior to issuing their final decision.

Mr. Gliko reported that is the rationale and basis of supporting the Federal exemption. It does not control our State law or the Montana Constitution. However, Mr. Gliko submits it is a relevant consideration when this Commission or the Supreme Court should choose to consider whether or not our draft documents should also be open to public access.

Another issue to discuss relates directly to public access of documents. Subsequent to the filing of this legal action, SME, through their attorney, filed a series of affidavits claiming trade secret protection for SME documents in the custody of the City. They did that pursuant to State law and State statute, the Uniform Trade Secrets Act, § 30-14-401, MCA. Mr. Gliko read the definition of trade secret, quoting from 402: "Trade secret" means information or computer software, including a formula, pattern, compilation, program, device, method, technique, or process, that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Essentially, a trade secret is any information that has economic value and disclosure of which would prejudice the owner of that information. There is a remedy in the statute under 403, a party complainant can seek injunctive relief to prevent the disclosure of such trade secrets. But, if the disclosure were made, there are damages. Section 30-14-404, MCA, states, in pertinent part, a complainant is entitled to recover damages for misappropriation. Damages may include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. . . If willful and malicious misappropriation exists, the court may award exemplary damages. Mr. Gliko reported that this is serious business, particularly with the great value under consideration for the power company industry, the marketing value of electricity. Mr. Gliko advised the Commission that the City is obliged to honor and respect the trade secret claim by SME.

Mr. Gliko reported that the attorney for SME faxed a letter to him today. He read a portion of the letter that stated: "This letter is sent to you on behalf of Southern Montana Electric Generation and Transmission Cooperative, Inc. ("SME") to request that, regardless of the City's decision whether to appeal this ruling, the City not make available to the public the documents and categories of documents and information for which it has claimed confidentiality."

Mr. Gliko concluded that this is a complex matter, as constitutional issues always are difficult to deal with.

Mayor Stebbins asked if any Commissioners had any questions for Mr. Gliko.

Commissioner Bronson stated the Judge Phillips' Decision seems limited to the scope of whether or not draft documents should be provided to the public. Mr. Gliko responded that is correct. The portion of the Decision that he previously quoted regarding constitutional protection only speaks to draft documents. He believes the Decision is limited in that scope. Commissioner Bronson stated that it struck him, in the early stages, there might have been some references to the issue of discovery of documents at which a party asserts protection under either trade secrets guidelines or other confidentiality provisions. At least till this point in time, the Court has not addressed any particular document request where that assertion of protection has been made and then had to resolve the question of whether or not it is a trade secret or confidential and should be protected. Mr. Gliko responded that was right. SME did not file their affidavits claiming trade secret protection until after this suit was filed. It wasn't a fact in existence at the time. It could not possibly have been a part of the case, and the Complaint was never amended to include an issue of trade secrets. So, the whole issue of a trade secret was never before the District Court.

From a hypothetical standpoint, Commissioner Bronson stated his understanding of how the issue of trade secrets and other confidential information and how that issue is to be addressed, pursuant to the PSC decision by the Supreme Court, if a party makes that assertion that a particular document or portions thereof are entitled to protection because of trade secret issues, he assumes they can make the requisite showing that that is the case. If some party wishes to contest that, that issue can go to the court or other appropriate forum, that court or appropriate forum can conduct an in-camera inspection of those documents and make a determination of whether or not the party asserting the privilege is making their argument on solid grounds. If they agree, that is fine and then the other party can appeal. If they don't, the documents, presumptively, might be released, subject probably to an appeal or further protection pursuant to the Supreme Court's ruling. Mr. Gliko responded that is exactly right. There is another check and balance involved. When the affidavit is filed with the government entity claiming a trade secret protection, then the government entity also has to review the documentation in light of the affidavit to verify the legitimacy of that trade secret claim. City staff had done that with regard to these affidavits filed by SME.

Commissioner Beecher asked for clarification of whether staff had reviewed the affidavits and Mr. Gliko responded that they had. Commissioner Beecher asked if there was a time when something becomes a formal part of that file as opposed to somebody's thoughts to themselves. Mr. Gliko responded that there is no statutory timeline. He thought that would vary from department to department and individual to individual in his work on file or subject matter. Except for the exclusions made pursuant to the statute – 404, unless it is specifically excluded thereby, any document in the custody of a government agency is presumably a public record. Mr. Gliko read the exclusions from the statute. There is a laundry list there of items that the legislature has considered and has determined to not fall under the definition of a public record. Commissioner Beecher asked Mr. Gliko if it was his thought that if someone was in a meeting and took notes as to what was going on, until that information became part of document that was in the public file, was it exempt from the availability to the public. Mr. Gliko responded that, if it doesn't fall within one of the exemption categories, then he would conclude that it was in the public domain in the custody of a government entity and would be a public record. Commissioner Beecher asked, given what the Court has said and considering what the legislature says are exempt, is Mr. Gliko saying that the Court comes down often on the side that, no, they are not exempt. Mr. Gliko stated that he made statements critical to the District Court's Decision. He didn't want to leave the Commission with the impression that he felt that

decision was the only consideration to be made here – the statute, the Becky case, and so on. The Montana Court has been very vigorous in upholding the Montana Constitution. That constitution is probably the most progressive, avant-garde, greatest protection of individual public rights in the State of the Union. Mr. Gliko advised that Commission that he is not saying this case is a slam dunk if they choose to appeal. It will be a very tall hill to climb. But, he is saying that there is strong argument in support of it – State legislation.

Commissioner Beecher asked for clarification that if the City has a document that SME said was exempt from the public because it was a trade secret, is there a process then that the City could get a determination by the Court or some appropriate entity that, yes, in fact that is a trade secret and that the City would be violating Montana law, as opposed to the City getting sued a second time to divulge those contracts if, in fact, the Commission does not appeal. Mr. Gliko responded that the Supreme Court has already passed upon this issue in 2003 in the matter of Great Falls Tribune vs. Public Service Commission and they upheld the Trade Secrets Act. They did not do it on the basis of Article II, Section 9, of the Constitution, with regard to the right to know, vis-à-vis the right to privacy, they turned, instead, and upheld it pursuant to due process and equal protection clauses of the State and Federal Constitutions. Due process and equal protection clauses are typically relevant to property rights. That is why the Court relied on those provisions of the Constitution. If anyone is going to challenge a claimed trade secret, they are going to know that the Constitutional issue involved has been settled. The only question is whether there is a real economic issue involved. There is plenty of statutory authority here to seek injunctions or seek damages. But, the issue of whether or not it is a legitimate and legal provision as a trade secret has already been settled.

Commissioner Rosenbaum stated that this is a narrow scope of interest here. But, if expanded to all City departments and offices, would the documents, permits, information submitted by individuals, be considered draft documents; and, are there expectations of individuals doing business with the City that, due to this ruling, can become debilitating or prejudicial. Mr. Gliko stated that his question zeros in exactly on the practical aspects of this decision that he spoke of and the Federal Freedom of Information Act, exemption 5, and the quotes from the Federal Court. The chilling effect that it will have on deliberations, on outside parties dealing with the City, all kinds of, perhaps, confusion, misconception, that government staff and parties cannot freely deliberate, consult, provide any written direction, for fear of operating in this “fish bowl.” Commissioner Rosenbaum asked if this would interest Montana League of Cities and Towns; that this is far reaching and not just Great Falls. He asked where does the State sit on this. Mr. Gliko answered that this decision was rendered in the Eighth Judicial District Court and is binding only in this district. Outside of the Eighth Judicial District, it is merely precedence. It would take a Montana Supreme Court decision to make it binding state wide.

Commissioner Beecher asked City Manager Doyon that, assuming the Commission chose not to appeal, is there a process, or will there be a process in place to review the requests with the idea that the City is not violating any trade secret or law that would put the City in jeopardy; and, does the City have an expense recapture structure if we get a lot of requests that takes a lot of staff time. City Manager Doyon responded not yet. Staff is working that now and will be before the Commission. Right now, an individual would only be charged the copy fees for the copies they requested. Mr. Doyon also stated that, with regard to the first question, there is a process in place. It starts, essentially, with an in-house review, attorney Gliko will review what it is we feel may be subject to the trade secret requirements, and the hope is to have legal representation from SME to follow up on that as well.

Commissioner Beecher asked Mr. Gliko if the legal expenses submitted by CCE appear to be reasonable.

Mr. Gliko responded that they appear to be reasonable. They were not disproportionate and believes they are reasonable.

Commissioner Bronson asked Mr. Gliko if he really had a chance to review the affidavit yet. Mr. Gliko responded no, he just received it today.

Commissioner Bronson commented that it is his inclination not to appeal Judge Phillips' Decision. But, that being said, he doesn't want that comment to be construed as being contrary to anything that Mr. Gliko has said here. He concurs with Mr. Gliko's statements. He respectfully disagrees with Judge Phillips that the position advocated by the City was "disingenuous." He agrees with Mr. Gliko that, if you read the Becky decision and the language realized by the Court in that case, a reasonable attorney or party could assume that the Court was, in fact, construing that portion of the statute in part 4 of Title 2 to suggest that draft documents were not subject to public disclosure. It is his sense that the Supreme Court on appeal would make a distinction from the Becky decision and construe Part 4 at the draft document exception relates more to document retention as opposed to document disclosure. Commissioner Bronson stated that he doubts that the Supreme Court would look at the policy considerations favorably and would not be sympathetic.

Commissioner Beecher moved, seconded by Commissioner Bronson, that the Great Falls City Commission not appeal the Decision regarding the case in front of them.

Mayor Stebbins opened a 15 minute comment period.

Wally Bell, 1425 8th Avenue South, commented that he has seen this issue divide the community. He agrees with the decision not to appeal. Mr. Bell would like to see the division over this issue heal.

Neil Taylor, 3417 4th Avenue South, CCE – MEIC member, commend the decision not to appeal, the Court decision.

Ed McKnight, 906 3rd Avenue North, commended the Commission for their thoughtful deliberation. Mr. McKnight stated he is confused with the issue of document retention versus trade secrets. Commissioner Bronson stated that the motion made and seconded is strictly not to appeal this decision. Commissioner Bronson explained the process to assert trade secret protection and referenced a NorthWestern Energy and PSC case. This Commission is not resolving that matter one way or another today.

Ron Mathson, 122 Treasure State Drive, CCE – MEIC member, commended the Commission on the direction the proceedings have taken. He feels draft documents are important to be viewed by the public to see the direction that things are moving before the final deliberation.

John Hubbard, 615 7th Avenue South, commented that the public has a right to know and cited the Freedom of Information Act.

Tim Gregori, General Manager SME, commented that, if the Commission should decide to appeal, he requested that the letter faxed today be entered into the record. Mr. Gregori stated that the decision deals with a narrow scope of information and documents and does not mean that all documents that the City has in its possession are now open to public scrutiny and public record. There are some very important trade secret information contained in the documents and is why they went through the process of filing the affidavits. Since the advent of the Energy Policy Act of 1992 and subsequent FERC Orders 2000 and

2001, the electric utility administrative wholesale power side is completely competitive.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the special meeting of July 23, 2008, be adjourned at 4:03 p.m.**

Motion carried 5-0.

Mayor Stebbins

City Clerk

Minutes Approved: August 5, 2008



Agenda # 15
Commission Meeting Date: August 5, 2008

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

ITEM: \$5,000 Report
Invoices and Claims in Excess of \$5,000

PRESENTED BY: Fiscal Services Director

ACTION REQUESTED: Approval with Consent Agenda

ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$5000:

MASTER ACCOUNT CHECK RUN FOR JULY 16, 2008	1,164,024.59
MASTER ACCOUNT CHECK RUN FOR JULY 23, 2008	415,122.83
MASTER ACCOUNT CHECK RUN FOR JULY 30, 2008	244,848.81
MUNICIPAL COURT ACCOUNT CHECK RUN FOR JULY 14, 2008	4,548.00
MUNICIPAL COURT ACCOUNT CHECK RUN FOR JULY 15 TO JULY 18, 2008	2,900.00
MUNICIPAL COURT ACCOUNT CHECK RUN FOR JULY 22 TO JULY 25, 2008	10,901.00
WIRE TRANSFERS FROM JULY 10 TO JULY 16, 2008	224,978.59
WIRE TRANSFERS FROM JULY 17 TO JULY 23, 2008	801,347.54
WIRE TRANSFERS FROM JULY 24 TO JULY 30, 2008	1,871,501.25

TOTAL: \$ 4,740,172.61

GENERAL FUND

OTHER ADMIN

CITY COUNTY HEALTH DEPARTMENT	FIRST HALF ANNUAL CONTRIBUTION	125,000.00
-------------------------------	--------------------------------	------------

POLICE

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	1,545.87
CENTRAL SERVICES DIVISION	ANNUAL CJIN SERVICES	2,075.28
	(SPLIT AMONG FUNDS)	
ILF MEDIA PRODUCTIONS LLC	DUI TYPOGRAPHY PROJECT	6,580.37

FIRE

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	2,836.63
-------------	----------------------------------	----------

PARK & RECREATION

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	1,312.30
MONTANA WASTE SYSTEMS INC	JUNE CHARGES (SPLIT AMONG FUNDS)	224.32

VISITORS CENTER

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	54.08
-------------	----------------------------------	-------

SPECIAL REVENUE FUND

STREET DISTRICT

M F FINISHING	OF1405.4 1527 6TH AVE NW CURB, GUTTER SIDEWALK & SOD REPLACEMENT	5,448.96
UNITED MATERIALS	ASPHALT FOR STREET DEPT	33,803.23

LIBRARY

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	2,086.71
-------------	----------------------------------	----------

PARK & RECREATION SPECIAL REVENUE

RON HALL SPRINKLERS INC	IRRIGATION SYSTEM BELVIEW PARK	13,798.00
-------------------------	--------------------------------	-----------

NATURAL RESOURCES

MONTANA WASTE SYSTEMS INC	JUNE CHARGES (SPLIT AMONG FUNDS)	73.58
---------------------------	----------------------------------	-------

FEDERAL BLOCK GRANTS

INNOVATIVE PRINTING/POSTAL SERVICES	MAILING NEIGHBORWORKS SURVEYS ADDRESSING, FOLD, & INSERT	6,839.85
PARK SUPPLY OF AMERICA INC	316 CENTRAL AVE - CABINET MATERIALS	7,945.04
UNITED MATERIALS	FINAL PMT RIVER RD WATER/SEWER INFRASTRUCTURE PROJECT	9,900.00
GUY TABACCO CONSTRUCTION CO	PMT 1 KITCHEN REMODEL PROJECT @ NEW DIRECTIONS CENTER	13,911.57

HOME GRANTS

NEIGHBORWORKS	PMT #2 LOAN DRAWDOWN	52,438.58
NEIGHBORWORKS	PMT #4 FOR DOWN PAYMENT & CLOSING COST ASSISTANCE FOR NEIGHBORHOOD HOUSING SERVICES	8,950.71
NEIGHBORWORKS	DRAWDOWN #3 FOR PROJECT FILE 770604	8,912.42
NEIGHBORWORKS	DRAWDOWN #1 FOR PROJECT FILE 770802	11,377.64

WEST BANK URBAN RENEWAL

NCI ENGINEERING	PMT #3 4TH AVE NW IMPROVEMENTS	14,207.48
GEOMATRIX	OF #1488 4TH AVE NW IMPROVEMENTS	6,525.00

DEBT SERVICE

IMPROVEMENT DISTRICT REVOLVING

US BANK	SID #1268 1268 BOND SERIES 1995 BI #4167	72,385.00
US BANK	SID #1275 BOND SERIES 1997 10-97 BE	23,015.00
US BANK	SPECIAL IMPROVEMENT DISTRICT #1301 BONDS SERIES 2005	72,747.50

CAPITAL PROJECTS

GENERAL CAPITAL

LAPKE CONSTRUCTION	FINAL OF #1541 JAYCEE POOL PARKING AREA	26,161.94
--------------------	--	-----------

ENTERPRISE FUNDS

WATER

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	4,562.54
MT DEPT OF TRANSPORTATION	2ND AVE N 15TH ST - PARK PROJECT	217,806.08
	JUNE 2008 COSTS	
PHILLIPS CONSTRUCTION	PMT 4 SUNNYSIDE WATER MAIN	69,271.45
	REPLACEMENT	
DORSEY & WHITNEY	LEGAL SERVICES FOR REVENUE BOND	11,500.00
	SERIES 2008	
THOMAS DEAN & HOSKINS	PMT #2 WTP HEAD HOUSE FLOOR	8,017.55
	REPLACEMENT	
US BANK	WATER SYSTEM REVENUE REFUNDING	738,082.50
	BONDS SERIES 2002A	

SEWER

VEOLIA WATER NORTH AMERICA	MONTHLY CONTRACTED CAPITAL	12,500.00
	IMPROVEMENTS	
VEOLIA WATER NORTH AMERICA	MONTHLY WWTP OPERATION CONTRACT	212,571.08
MONTANA WASTE SYSTEMS INC	JUNE CHARGES (SPLIT AMONG FUNDS)	141.86
US BANK	SANITARY SEWERAGE SYSTEM REVENUE	716,731.25
	REFUNDING BONDS SERIES 2002A	
US BANK	SEWERAGE SYSTEM BONDS SERIES 2005	248,540.00

STORM DRAIN

GODWIN PUMPS OF AMERICA INC	NE REGIONAL STORM WATER RETENTION	12,348.00
	POND - PUMP RENTAL	

SANITATION

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	118.06
MONTANA WASTE SYSTEMS INC	JUNE CHARGES (SPLIT AMONG FUNDS)	102,203.68

ELECTRIC

SME	PMT OF ENERGY SUPPLY EXPENSE	110,819.00
	APRIL 2008	
SME	PMT OF ENERGY SUPPLY EXPENSE	769,302.83
	JUNE 2008	

SAFETY SERVICES

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	386.47
CENTRAL SERVICES DIVISION	ANNUAL CJIN SERVICES	8,710.93
	(SPLIT AMONG FUNDS)	
QWEST	JULY 2008 CHARGES	5,602.26

PARKING

APCOA/STANDARD PARKING	AUGUST 2008 PARKING COMPENSATION	22,369.33
------------------------	----------------------------------	-----------

GOLF COURSES

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	249.07
-------------	----------------------------------	--------

SWIM POOLS

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	4,266.51
-------------	----------------------------------	----------

RECREATION

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	606.56
-------------	----------------------------------	--------

CIVIC CENTER EVENTS

PRETTY ONE PRODUCTIONS	PAY OUT PETER PAN PROCEEDS	25,486.31
------------------------	----------------------------	-----------

INTERNAL SERVICES FUND

HEALTH & BENEFITS

BLUE CROSS BLUE SHIELD	HEALTH INS CLAIMS JULY 8 TO JULY 14, 2008	114,159.59
------------------------	---	------------

INSURANCE & SAFETY

MT MUNICIPAL INS AUTHORITY	2008/2009 PROPERTY INSURANCE	206,004.00
----------------------------	------------------------------	------------

FISCAL SERVICES

POSTMASTER	POSTAGE	8,365.05
------------	---------	----------

INFORMATION TECHNOLOGY

NEW WORLD SYSTEMS INC	MUNICIPAL COURT SOFTWARE MAINTENANCE JULY 1, 2008 - JUNE 30, 2009	5,430.00
LANTEK INC	WATERPARK NETWORK CABLING	5,849.83

CENTRAL GARAGE

BISON MOTOR CO INC	2008 FORD F250 W/UTILITY BODY	24,413.33
MOUNTAIN VIEW CO-OP	DIESEL FUEL	28,806.40
MOUNTAIN VIEW CO-OP	UNLEADED FUEL	28,102.90

ENGINEERING

SELBYS ESSCO	WIDE FORMAT PRINTER/SCANNER	14,992.30
--------------	-----------------------------	-----------

PUBLIC WORKS ADMINISTRATION

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	1,949.35
-------------	----------------------------------	----------

CC FACILITY SERVICES

ENERGY WEST	JUNE CHARGES (SPLIT AMONG FUNDS)	1,144.14
-------------	----------------------------------	----------

TRUST AND AGENCY

COURT TRUST MUNICIPAL COURT

DALE TAYLOR	BOND REFUND	5,085.00
-------------	-------------	----------

CLAIMS OVER \$5000 TOTAL:**\$ 4,276,652.27**

COMMUNICATION TO THE CITY COMMISSION

DATE: August 5, 2008

ITEM:

AMENDED CONTRACT LIST

Itemizing contracts not otherwise approved or ratified by City Commission Action
(Listed contracts are available for inspection in the City Clerk's Office.)

PRESENTED BY:

Lisa Kunz, City Clerk

ACTION REQUESTED:

Ratification of Contracts through the Consent Agenda

MAYOR'S SIGNATURE: _____

CONTRACT LIST

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	FUND	AMOUNT	PURPOSE
A	Great Falls Police Department	Great Falls Public School Administration (GFPS)	2008/2009 School Year	Police Dept.	Contract rate of \$47.00 per hour at a four hour minimum.	Contract extension for school security.
B	Great Falls Fire Rescue	Department of the Air Force/Montana Air National Guard Fire Department	07//2008	Fire Dept.	MANG may charge for incident costs above the normal operating costs while fighting a fire or hazardous materials incident response.	Agreement for Mutual Aid in Fire Protection and Hazardous Materials Incident Response.
C	Great Falls Fire Rescue	State of Montana Dept. of Military Affairs Disaster & Emergency Services Division	07/01/2008 – 06/30/2009	224	\$44,167	State of Montana funding to be used to sustain the interoperability efforts of the six regional teams, coordinate response with entities outside their local government jurisdiction, and for the maintenance and update of assigned state equipment used in hazardous materials response. (HazMat)

D	Great Falls Police Department	Qwest Corporation	36 months	Police Dept.	Tariff rates in effect for all service monthly rate elements.	Qwest Enhanced 9-1-1 Service Agreement.
E	Public Works	Auction Way Services	08/09/2008		10% commission on gross sales.	Agreement for City Auction
F	Park and Recreation	Electric City BMX Association	08/01/2008 – 07/31/2012	100-0000-346-4029	\$150 – 2008, with a 3% increase each year thereafter	Lease Agreement – use of park land for BMX activities
G	Public Works Engineering	Phillips Construction	08/2008 – 09/2008	515-3175-535-9319	\$31,278	Re-route the storm drain around a detention pond to eliminate the pond on 25 th Avenue NE. OF 1167.2



Agenda # 17
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Auction of Surplus Equipment
From: Tom Hugg, Vehicle Maintenance Supervisor
Initiated By: Public Works Department
Presented By: Jim Rearden, Public Works Director
Action Requested: Declare Equipment Surplus

Suggested Motion:

1. Commissioner moves:
“I move that the City Commission declare the attached list of property as surplus.”
 2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.
-

Staff Recommendation: Staff recommends that the City Commission declare the attached list of property as surplus.

Background:

Purpose:

City Code Section 3.04.070 requires that any property with an estimated value of \$1,000 or more be formally declared surplus by the City Commission before the property may be sold.

Significant Impacts:

The City has held many auctions of surplus property over the years. Other government agencies are invited to participate, such as Cascade County, Great Falls Housing Authority and the Great Falls School District.

This year's auction is scheduled for August 9, 2008 at the Public Works Complex, 1025 25th Avenue Northeast.

Alternatives: The City Commission could vote not to declare the equipment as surplus.

Attachments/Exhibits: Attachment A – List of property for August 9, 2008, City Auction that may sell for \$1,000 or more.

cc: Kelly Audet, Fiscal Services
Cheryl Lucas, Staff Accountant

**City of Great Falls
Public Works Department
INTER - OFFICE MEMORANDUM**

RE: CITY VEHICLES TO BE AUCTIONED AUGUST 9, 2008

**ATTACHMENT 'A'
CITY EQUIPMENT PROPOSED FOR SURPLUS DECLARATION**

YEAR	MAKE	MODEL	SERIAL NUMBER	TYPE	LATEST OLD UNIT #	ORIGINAL OWNING AGENCY
TRUCKS						
1995	Ford	F150	1FTEF15Y7SLA80245	Pick up	673	Water Plant
1997	Ford	F350	1FTJX35G4VEA55102	Utility Body	614	Water Distribution
1998	Chevrolet	S 10	1GCCS19X7W8136438	Pick up	426	Engineering
EQUIPMENT						
1993	Olathe/Toro	54HL	54HL540544 ADO	Sweeper	AC 24	Parks
1996	John Deere	345	M00345A040210	Mower	671	Water Plant
CARS						
1998	Chevrolet	Lumina	2G1WL52M1W9201833	Sedan	204	Central Garage
2004	Chevrolet	Impala	2G1WF55K149265725	Sedan	PD 41	Central Garage
1993	Chevrolet	Lumina	2G1WL54T1P1125549	Sedan	402	Central Garage



Agenda # 18
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

From: Marty Basta, Park & Recreation Director

Initiated By: Park & Recreation Department

Prepared By: Patty Rearden, Deputy Park & Recreation Director

Presented By: Marty Basta, Park & Recreation Director

Action Requested: City Commission to consider approval of Change Order SI-3 and Change Order SII-4, Mitchell, Jaycee and Water Tower Pools Rehabilitation, (O.F. 1501), the final balancing change orders for the project.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission approve Change Order SI-3 and Change Order SII-4, Mitchell, Jaycee and Water Tower Pools Rehabilitation (O.F. 1501) to Talcott Construction.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Staff Recommendation:

Staff recommends approval of Change Order SI-3 and SII-4, Mitchell, Jaycee and Water Tower Pools Rehabilitation, O.F. 1501, to Talcott Construction.

Background:

Change Order SI-3:

This change order was prepared after the construction of the Mitchell Pool was completed and the substantial completion form sent to the contractor. This final “balancing” change order reflects the contract dollar amount changes based on the final project. The original contract had allowances for testing services for concrete and gravel quality control, exploratory excavation to expose pipe and features that were not able to be seen before construction started, and items of construction that were modified during the course of the project. The attached worksheet shows the changes that occurred. The miscellaneous work allowance was increased to cover the cost associated with the old pool foundation, several buried concrete vaults that were uncovered and the removal of an old pipeline. The as constructed quantities resulted in a final increase of \$4,415.00 on the Mitchell Pool, so the final contract amount for SI-3 was \$939,300.00.

Change Order SII-4:

This change order was prepared after the construction of the neighborhood pools was completed and the substantial completion form sent to the contractor. This final “balancing” change order reflects the contract dollar amount changes based on the final project. The original contract had allowances for testing services for concrete and gravel quality control, exploratory excavation to expose pipe and features that were not able to be seen before construction started, and items of construction that were modified during the course of the project. The attached worksheet shows the changes that occurred. The “as constructed quantities” resulted in a final deduct of \$7,772.00 on the neighborhood pools so the final contract amount for SII was \$1,032,048.00.

The community swimming pools were built and/or renovated in the 1960s. The pools systems and infrastructures have deteriorated over time and the City was faced with significant capital and maintenance issues. The “rehabilitation project” was estimated to cost just under \$2.3 million.

A General Obligation Bond in the amount of \$2,270,000 for a ten-year term was placed on the November 7, 2006 ballot. The General Obligation Bond passed with 15,158 voting to approve the bonds and 5,648 voting against approval. At the December 5, 2006 City Commission Meeting, the Commission approved Resolution #9627 to establish compliance with reimbursement bond regulations under the Internal Revenue Code. On December 19, 2006, the City Commission approved the Professional Services Agreement with Interstate Engineering, Inc., in the amount of \$217,500 for the Rehabilitation of the Mitchell, Water Tower and Jaycee Pools, O. F. 1501.

The decision was also made to pursue funding and construction of spray parks/splash decks for the community. It was determined that the best locations for the spray parks, were Jaycee and Water Tower Pools, creating a complex and expanded entertainment for the community. Although funding is different for the two projects, for efficiency and cost savings, both projects were bid together and are being constructed at the same time.

On June 5, 2007 and August 7, 2007 the City Commission awarded contracts to James Talcott Construction, Inc. in the amounts of \$1,453,165.00 and \$1,083,985.00 for the renovation of Jaycee and Water Tower Pools and for renovation of Mitchell Pool, respectively. Change Order No. SI-1 for a credit of \$96,100 for Mitchell Pool and Change Order No. SII-1 for a credit of \$46,800.00 for Jaycee and Water Tower Pools were approved on August 7, 2007. On October 2, 2007, the City Commission approved Change Orders No. SI-2 and No. SII-2 removing the installation of PVC membrane liners from the contract and adding modifications to the Jaycee and Water Tower bathhouses. The reduction in scope of work resulted in deductions in the amounts of \$53,500.00 and \$99,708.00, respectively for the Mitchell Pool contract and for Jaycee and Water Tower Pools contract. On February 5, 2008, City Commission approved Change Order SII-3 in the amount of \$2,363.00 for the Jaycee and Water Tower Pools contract.

Concurrences: Final budget numbers provided by Brian Milne, Interstate Engineering were reviewed and approved by Jason Handl, City Engineers Office.

Fiscal Impact:

The \$2,270,000 bond issue was approved by voters on November 7, 2006 to rehabilitate the Mitchell, Jaycee and Water Tower Pools. The final budget is based on current estimate of interest earnings of \$75,000, leaving a balance of \$5,268, to be used on amenities to the pools that could not be funded because of budget constraints.

Alternatives:

Not approve change orders.

Attachments/Exhibits: (Attachments not available online; on file in City Clerk's Office.)

1. Change Order SI-3
2. Change Order SII-4
3. Balancing Change Order Schedule I Mitchell Pool Worksheet
4. Balancing Change Order Schedule II Neighborhood Pools Worksheet
5. Certificate of Substantial Completion Schedule I Mitchell Pool
6. Certificate of Substantial Completion Schedule II Neighborhood Pools



Agenda # 19
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Memorandum of Understanding between the Great Falls Development Authority and the City of Great Falls regarding the use of Ag-Tech Industrial Tax Increment District funds for the purpose of preliminary road design work through the District connecting to Great Bear Innovation Park (OF 1552)

From: Coleen Balzarini, Fiscal Services Director

Initiated By: Brett Doney, President/CEO Great Falls Development Authority

Presented By: Coleen Balzarini, Fiscal Services Director

Action Requested: Approve Memorandum of Understanding

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission approve the Memorandum of Understanding between the Great Falls Development Authority and the City of Great Falls regarding the use of Ag-Tech Industrial Tax Increment District Funds for a preliminary engineering design and cost estimate for an access road from US 87 East to Black Eagle Road.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Staff Recommendation: Staff recommends that the City Commission approve the Memorandum of Understanding between the Great Falls Development Authority (GFDA) and the City of Great Falls regarding the use of Ag-Tech Industrial Tax Increment District Funds. The estimated cost of \$24,200 is for the GFDA to obtain a preliminary engineering design and cost estimate for an access road from US 87 East to Black Eagle Road. The purpose of the road is for the development of an industrial park east of Black Eagle Road.

Background: On May 17, 2005, the City Commission adopted Ordinance 2911, creating the Central Montana Agricultural and Technology Park Tax Increment Industrial Infrastructure District. The approved projects in the district include purchasing the IMC rail spur to attract other potential industrial facilities to the area, and providing the necessary infrastructure improvements. On November 6, 2007 the City Commission approved the annexation and zoning of the MT Megawatts property, to allow the construction of a natural gas electric generator. The City entered into service agreements with the developer in regards to the potable and raw water and sanitary sewer services to the facility. Resolution 9717, adopted November 20, 2007, stated

the City's intent to amend the boundaries of the Central Montana Agricultural and Technology Park Tax. On December 4, 2007 Ordinance 2996 amended the Central Montana Agricultural and Technology Park Tax Increment Industrial Infrastructure District to include Lot 5, Block 1, International Malting Company, LLC addition, and the abutting segment of U.S. Highway 87.

Section 7-15-4288 (4), MCA provides that the cost of acquiring a rail spur and infrastructure improvements, including, but not limited to streets, roads, water and sewer systems, may be paid by tax increment financing.

Design of the proposed road will benefit the existing Ag-Tech Industrial Tax Increment District. It is the intent of the City and GFDA to expand the boundaries of the existing Ag Tech Industrial Tax Increment District to encompass the proposed industrial park. The funds are available with the current district to pay the costs of the preliminary design and cost estimates for the access road.

GFDA has previously conducted a public RFP/RFQ process for the design and cost estimates and selected a qualified consultant to provide the work. The firm is NCI Engineering.

Concurrences: The design and cost estimate of the access road is an eligible tax increment project under Section 7-15-4288(4), MCA. The City participated in the RFP/RFQ process and has accepted the proposal as submitted and agrees to allow GFDA to contract with NCI Engineering in the amount of up to \$24,200 for the services as proposed. GFDA agrees to provide project management and submit all payables in accordance with City requirements.

Fiscal Impact: The Ag-Tech Tax Increment District Fund will provide up to \$24,200 requested by the GFDA if approved. The funds are currently available for this project.

Alternatives: If the Memorandum of Understanding is not approved the GFDA would have to look for an alternative funding source for this project, which would delay the design and cost estimate of the access road.

Attachments/Exhibits:

1. Memorandum of Understanding
2. GFDA cover letter

MEMORANDUM OF UNDERSTANDING

This agreement, made and entered into this ____ day of _____, 2008, by and between the City of Great Falls, Montana, a municipal corporation of the State of Montana hereinafter called the City, and the Great Falls Development Authority a registered non-profit development corporation in the State of Montana hereinafter called the GFDA,

WITNESSETH:

Whereas, there currently exists a partially un-platted undeveloped area of land approximately 1,100 acres in size, located in Cascade County and generally bounded on the west by Black Eagle Road, on the east by property owned by Archer Daniel's Midland, on the north by the Archer Daniel's Midland Rail Spur, and on the south by property owned by a variety of private owners and PPL Montana and,

Whereas, there exists an agreement between the GFDA and the owner of the described property to pursue development of an industrial park on a portion of the land, and,

Whereas, said industrial park development will require a public access road from US 87 to its entrance off Black Eagle Road, and

Whereas, the City and GFDA have acknowledged the need for the industrial park and wish to obtain preliminary design and cost estimates for the described access road in order to move forward with obtaining funding for the project, and

Whereas, it is the intent of the City and GFDA to expand the boundaries of the existing Ag-Tech Industrial Tax Increment District to encompass the proposed industrial park, and

Whereas, design of the proposed road will benefit the existing Ag-Tech Industrial Tax Increment District, and

Whereas, there are funds available within the Ag-Tech Industrial Tax Increment District to pay the costs of the preliminary design and cost estimates for the described access road, and

Now, therefore, it is hereby understood and agreed as follows:

The City agrees to use existing eligible tax increment funds to pay the costs of \$24,200 required for GFDA to obtain a preliminary engineering cost and design for an access road from US 87 east to Black Eagle Road for the purpose of developing an industrial park east of Black Eagle Road.

GFDA has previously conducted a public RFP/RFQ process for the design and cost estimates and selected a qualified consultant to provide the work. That firm is NCI Engineering.

The City participated in the RFP/RFQ process and has accepted the proposal as submitted and agrees to allow GFDA to contract with the successful consultant NCI Engineering in the amount of up to \$24,200 for the services as proposed.

GFDA agrees to provide project management and submit all payables in accordance with City requirements.

DATED this ____ day of _____, 2008.

GREAT FALLS DEVELOPMENT AUTHORITY

Brett Doney, President/CEO
Great Falls Development Authority

By

CITY OF GREAT FALLS

ATTEST:

By

City Manager

City Clerk

I, _____, Clerk of the City of Great Falls, do hereby certify that the above Memorandum of Understanding was regularly adopted by the City Commission at a meeting thereof held on ____ day of _____, 2008 and that the City Commission of Great Falls authorized the City Manager to sign this Memorandum of Understanding on behalf of the Commission.

City Clerk



July 23, 2008

Coleen Balzarini, Controller
City of Great Falls
P O Box 5021
Great Falls MT 59403

RE: MoU for Industrial Park Access Road Design

Dear Coleen,

Please find enclosed two signed original Memorandum of Understanding between the City of Great Falls and GFDA. This MoU relates to the payment and procurement of services to obtain the preliminary design and cost estimates required to move forward with an access road off US 87 for the Industrial Park north of Black Eagle.

Please proceed to process this for an upcoming City Commission meeting, so we can proceed with contracting NCI and move forward with the preliminary design. As you know, it is our intention to then look at a potential EDA grant as part of the means to fund the construction of the road.

If you have any questions, please give Lillian Sunwall or me a call. Thank you for your help on this project.

Sincerely,

Brett Doney, President/CEO



Agenda # 20
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Construction Contract Award: Wastewater Treatment Re-Roof Projects, O. F. 1457.4

From: Engineering Division

Initiated By: Public Works Department

Presented By: Jim Rearden, Public Works Director

Action Requested: Consider Bids and Approve Contract

Suggested Motion:

1. Commissioner moves:

"I move the City Commission award a contract in the amount of \$218,095.00 to Treasure State Roofing for the Wastewater Treatment Re-Roof Projects, O. F. 1457.4, and authorize the City Manager to execute the construction contract documents."

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

Staff Recommendation: Approve construction contract award.

Background:

Significant Impacts

This project will replace roofs on fourteen of the wastewater treatment plant buildings. The existing roofs were installed between 1972 and 1975.

Citizen Participation

Not applicable.

Workload Impacts

Fusion Architecture + Design, P.C. designed the project, and will perform construction inspection. City engineering staff will perform contract administration duties

Purpose

This project will replace roofs that have been failing and are leaking inside the buildings.

Project Work Scope

This project will replace approximately 4,825 square feet of built-up roofing with new single-ply EPDM roofing. An alternate bid item is included for covering the vertical brick walls adjacent to the Administration Building.

Evaluation and Selection Process

Two bids were received and opened for this project on July 30, 2008. The base bids ranged from \$217,295.00 to \$332,452.00. The alternate bids ranged from \$800.00 to \$3,000.00. Treasure State Roofing submitted the low bids and has executed all the necessary documents. Treasure State Roofing is an established and responsible contractor.

The architect's estimate was \$236,528.00 for the base bid and \$5,616.00 for the alternate item.

Conclusion

City staff recommends awarding the construction contract to Treasure State Roofing in the amount of \$218,095.00, which includes the base bid and the alternate.

Concurrences:

Fusion Architecture + Design, P.C. has recommended approval of the selected bidder.

Fiscal Impact:

Replacement of these roofs will save on maintenance due to man hours and resources necessary for cleanup and repairs of water damaged property.

The attached bid tabulation summarizes bids that were received. Wastewater utility funds are available for this project.

Alternatives:

The City Commission could vote to deny award of the construction contract and re-bid the project or do nothing and continue to repair damages as they occur.

Attachments/Exhibits:

1. Bid tabulation is attached. (Bid tab not available online; on file in City Clerk's Office.)



Agenda # 21
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Release Agreement – Marathon Oil, et al vs. City, et al.

From: David V. Gliko, City Attorney

Initiated By: David V. Gliko, City Attorney

Presented By: David V. Gliko, City Attorney

Action Requested: Approve the Release and authorize the City Manager to execute the Release

Suggested Motion:

1. Commissioner moves:

“I move the City Commission (approve/deny) the Release Agreement and (authorize/deny authorization) the City Manager to execute the same”

2. Mayor calls for a second, discussion, public participation, and calls for vote.

Staff Recommendation: Pursuant to a Court ordered Settlement Conference attended by all parties in April, 2008, Third Party Plaintiff, Marathon Oil, dismissed all claims against the City without compensation of any alleged damages and therefore, it is recommended the City Commission approve the release.

Background: Plaintiff property owners in the vicinity of 1700, 10th Avenue South filed legal action alleging petroleum contamination of ground water and soil originating from Keith's Country Store. Marathon Oil filed a third party complaint against the City alleging the contamination resulted, in part, by transmission through the City's sewer lines. However, expert analysis disclosed the sewer lines are under pressure and could not possibly be a conduit for petroleum seepage and transmission. Therefore, the City was able to successfully deny the claim and be dismissed out of the legal action without any compensation for alleged damages. The Release Agreement provides a mutual release by all parties.

Concurrences: City Manager concurs in the release.

Fiscal Impact: No payment of damages by the City.

Alternatives: The City could deny authorizing the release and may thereby suffer further legal action on breach of settlement claims by the other parties.



Agenda # 22
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Preliminary Plat of Tyndall Addition Phase 1

From: Charles Sheets, Planner I

Initiated By: Kendall and Maxima Cox, Property Owner and Developer

Presented By: Benjamin Rangel, Planning Director

Action Requested: City Commission approve Preliminary Plat of Tyndall Addition Phase 1.

Suggested Motion:

1. Commissioner moves:

“I move the City Commission (approve/deny) the Preliminary Plat of Tyndall Addition Phase 1, and the accompanying Findings of Fact, subject to fulfillment of stipulated conditions.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Planning Board Recommendation: At the conclusion of a public hearing held July 22, 2008, the Planning Board passed a motion recommending the City Commission approve the Preliminary Plat of Tyndall Addition Phase 1, and the accompanying Findings of Fact, subject to fulfillment of stipulated conditions.

Background: Kendall and Maxima Cox have submitted applications regarding the following:

- 1) Preliminary Plat of Tyndall Addition Phase 1, located in the SESW Section 26, Township 21 North, Range 3 East, Cascade County, Montana.
- 2) Annexation of said Preliminary Plat, consisting of 2.824 acres, to the City of Great Falls.
- 3) Establishing a City zoning classification of R-3 Single-family high density district, upon annexation.

Tyndall Addition Phase 1 is located along 37th Avenue Northeast and consists of 10 single-family lots ranging in size from 9,472 sq. ft. to 10,240 sq. ft.

For additional information, please refer to the attached material.

- Vicinity/Zoning Map
- Reduced drawing portion of Preliminary Plat

Access to the subdivision would be via 37th Avenue Northeast through West Ridge Addition Phase V. The developer will install standard City paving, curb and gutter for the roadway within the subdivision.

City water mains and sanitary sewer mains are proposed to be installed in the public roadway. Easements will be provided at the rear of each lot in the subdivision for private utilities such as electric, gas, telephone and cable TV.

Surface drainage from the subdivision flows westerly to the unincorporated portion of the Owners property. A storm drainage plan is required and the developer's engineer will work with City staff to develop the plan.

The developer intends to fulfill the subdivision's park obligation by paying a fee in lieu of dedicating park land, which is acceptable to by the Park and Recreation Department.

The Planning Board conducted a public hearing on the preliminary plat on July 22, 2008. The development has generated no public comment. At the conclusion of the public hearing, the Planning Board unanimously passed a motion recommending the City Commission approve the Preliminary Plat of Tyndall Addition Phase 1 and the accompanying Findings of Fact, subject to the following conditions being fulfilled by the applicant:

- 1) The final plat of Tyndall Addition Phase 1 shall incorporate correction of any errors or omissions noted by staff and include the following provisions: 1) a notification clause to lot purchasers regarding soil conditions; and 2) utility easements as recommended by the City Engineer.
- 2) The final engineering drawings and specifications for the required public improvements to serve Tyndall Addition Phase 1 shall be submitted to the City Public Works Department for review and approval prior to consideration of the final plat.
- 3) An annexation agreement shall be prepared containing terms and conditions for annexation of Tyndall Addition Phase 1, including agreement by applicant:
 - a) to install, within two years of the date of annexation of the subdivision, the public improvements referenced in Condition 2) above;
 - b) to pay proportionate share of the costs for the regional storm water retention facility and offsite storm piping system;
 - c) to indemnify and hold City harmless for any damages that may be sustained as a result of adverse soil and/or groundwater conditions;
 - d) to notify lot purchasers and home builders that individual home booster pumps may be desirable to enhance water pressure; and,
 - e) to notify lot purchasers and home builders that individual grinder pumps may be required for sewers.
- 4) To obtain easements at the west side of the subdivision to accommodate storm drainage and/or vehicle turnaround.
- 5) All applicable fees owed as a condition of plat or annexation approval shall be paid upon final platting and annexation, including:
 - a) Annexation Agreement Fee \$ 200.00
 - b) Resolution of Annexation Fee \$ 100.00

c) Final Plat Fee	\$ 200.00
d) Storm Sewer Fee (\$250/acre x 2.824 gross acres)	\$ 706.00
e) Park Fee in Lieu of Land Dedication (\$ to be determined/acre x 2.269 net acres x 11%)	to be determined
f) Recording fees for Agreement and Resolution (\$11 per page x pages)	to be determined

The zoning for the subdivision will be addressed in conjunction with the final plat and annexation of the development.

Concurrences: Representatives from the City's Public Works, Community Development, Park and Recreation, and Fire Departments have been involved throughout the review and approval process for this project.

Fiscal Impact: Providing services to the single-family lots in the subdivision is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenues from improved properties.








Alternatives: The City Commission could either, deny the preliminary plat; approve the preliminary plat without conditions; or approve the preliminary plat with modified or additional conditions to the extent allowed in City Code and State Statute.

Attachments/Exhibits:

1. Vicinity/Zoning Map
2. Reduced drawing portion of Preliminary Plat
3. Findings of Fact

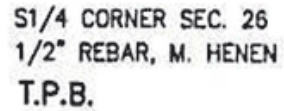
Cc: Kendall and Maxima Cox, 3805 7th St NE, Great Falls, MT, 59404
HKM Engineering, P O Box 49, Great Falls, MT, 59403

The map displays a grid of streets and property parcels. Key streets include 4th St NE, 36th Ave NE, 32nd Ave NE, 30th Ave NE, 29th Ave NE, 28th Ave NW, 3rd St NW, 2nd St NE, 3A St NE, Skyline Dr NE, Riverview Dr W, and Riverview Dr E. Zoning districts are indicated by colors: R-3 (yellow), R-2 (light blue), PUD (pink), PLI (green), POS (light green), and S (orange). Property owners are labeled: James W Peretti, Etal; Kendall and Maxima Cox; Rudolph and Thelma Harms; Vern Rothschilder; S & L Development; and S & L Development. A red dashed line outlines a specific area of interest, likely the subject of the rezoning application.

-  R-2 Single-family medium density
  PLI Public Lands and Institutional
  PUD Planned unit development
 R-3 Single-family high density
  POS Parks and Open Space
  U Unincorporated enclave
 Tracts of land outside City



IN THE SE1/4 SW1/4 SEC. 26, T 21 N, R 3 E, P.M.M.
CASCADE COUNTY, MONTANA



**FINDINGS OF FACT FOR
PRELIMINARY PLAT OF
TYNDALL ADDITION PHASE I
IN SECTION 26, T21N, R3E
CASCADE COUNTY, MONTANA
(PREPARED IN RESPONSE TO 76-3-608(3)MCA)**

I. PRIMARY REVIEW CRITERIA

Effect on Agricultural

Utilization of the subdivision site for dryland crop production has diminished due to its proximity to urban residential development. The subdivision will not interfere with any irrigation system or present any interference with agricultural operations in the vicinity.

Effect on Local Services

The subdivision will connect to City water and sewer systems. The cost of extending the utility systems will be paid by the subdivider. The City should not experience an appreciable increase in maintenance and operating costs. The occupants of eventual homes within the subdivision will pay regular water and sewer charges.

The subdivision will receive law enforcement and fire protection services from the City of Great Falls. The nearest fire station is two and a half miles from the subdivision site. Providing these services to the single family lots in the subdivision is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenues from improved properties.

Public streets will be extended into the subdivision to serve the proposed residential lots, but the subdivision will have a negligible impact on cost of road maintenance. The subdivider will have responsibility to install curb, gutter and paving in the roadways within the subdivision.

The tract of land (total 2.824 acres) in which the proposed subdivision is located, pays less than \$ 50.00 annually in local property taxes. After full improvement of the subdivision, covering the 10 involved lots, each with a new single family residence, are expected to pay in excess of \$30,000 annually in local property taxes to the County, City, State, School District and other taxing entities at current mill levies.

Effect on the Natural Environment

The subdivision, which consists of 10 lots ranging in area from 9,472 to 10,240 sq ft, is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. Surface drainage from the subdivision will be directed westerly toward property owned by the applicant.

Effect on Wildlife and Wildlife Habitat

The subdivision is in close proximity to urban development. The subdivision is not in an area of significant wildlife habitat and will not result in closure of public access to hunting or fishing areas, nor to public lands.

Effect on Public Health and Safety

Based on available information, the subdivision is not subject to abnormal potential natural hazards such as flooding, snow or rockslides, wildfire, nor potential man-made hazards such as high voltage power lines, nearby industrial or mining activity, or high traffic volumes.

II. REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT, UNIFORM STANDARDS FOR MONUMENTATION, AND LOCAL SUBDIVISION REGULATIONS

The subdivision meets the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Monumentation, and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local subdivisions regulations.

III. EASEMENT FOR UTILITIES

Necessary utilities exist at the boundary of the proposed subdivision. Within the subdivision, the subdivider will provide the necessary easements as a part of the subdivision plat.

IV. LEGAL AND PHYSICAL ACCESS

Dedicated public roadways improved to municipal standards and maintained by the City provide legal and physical access to the subdivision and to each proposed lot in the subdivision.



Agenda # 23
Commission Meeting Date: August 5, 2008
CITY OF GREAT FALLS
COMMISSION AGENDA REPORT

Item: Appointment to the Historic Preservation Advisory Commission

From: City Manager's Office

Initiated By: City Commission

Presented By: City Commission

Action Requested: Appoint one member to the Historic Preservation Advisory Commission.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission appoint _____ to a three-year term through April 30, 2011, to the Historic Preservation Advisory Commission.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Staff Recommendation: It is recommended that the City Commission appoint one new member to the Historic Preservation Advisory Commission for a three-year term through April 30, 2011.

Background: Jason Kiser was appointed to the Historic Preservation Advisory Commission in May of 2005. Mr. Kiser is not interested in reappointment; therefore, it is necessary to appoint one member to fill the vacancy.

Purpose

HPAC members must have the following qualifications: All members must have a demonstrated interest, competence, or knowledge in historic preservation and must have expertise/qualifications in history, planning, archaeology, architecture, architectural history, historic archaeology, or other history preservation-related disciplines such as cultural geography or cultural anthropology. Ownership of property nominated to the National Register of Historic Places may be substituted for professional expertise/qualifications. The HPAC consists of nine members -- four appointed by the City Commission, four appointed by the County Commission and the ninth member with professional architectural expertise chosen by a majority of the eight other members.

Evaluation and Selection Process

Announcements regarding the openings were placed in the *Great Falls Tribune* and on the City's Website. Two applications were received for consideration by the Commission in making an appointment.

Continuing members of this board are:

Gerald Clark
Jerry McKinney
Bob Milford
Carol Bronson (County)
Warren Harding (County)
Nancy Sinclair (County)
Martin Winder (County)
Ken Sievert (HPAC)

Citizens interested in serving on this Board:

Joyce Davis
Ryan Forde

Concurrences: Not applicable.

Fiscal Impact: Not applicable.

Alternatives: Continue advertising to seek further citizen interest.

Attachments/Exhibits:

Board Applications