

Regular City Commission Meeting

Mayor Winters presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL: City Commissioners present: Michael Winters, Bill Bronson, Fred Burow, Bob Jones and Mary Jolley. Also present were the City Manager; Deputy City Manager; City Attorney; Directors of Fiscal Services, and Planning and Community Development; City Engineer; Police Chief; and the Acting City Clerk.

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

NEIGHBORHOOD COUNCILS

1. SWEARING IN CEREMONY.

Mayor Winters performed the swearing in ceremony for Barbara Going, representative of Neighborhood Council 8.

2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Karen Grove, Chair NC 8, welcomed Barbara Going to the council. She reported that there would not be a June meeting, but reminded everyone that the council would be having an ice cream social in July.

BOARDS & COMMISSIONS

3. REAPPOINTMENT, POLICE COMMISSION.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission reappoint Ted Barnes to the Police Commission for a three-year term through June 30, 2015.

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

Ron Gessaman, 1006 36th Avenue NE, referred to the agenda report and questioned the recommendation by the Police Department rather than the Police Commission. He could not find a record that the board has been meeting, and was told the board had not met for a considerable period of time.

Chief Bowen reported the board has been meeting and screening police applicants. He doesn't believe there are official meeting notes when screening applicants.

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

Motion carried 5-0.

Mayor Winters directed the City Manager to follow up with staff regarding Mr. Gessaman's concerns.

4. **APPOINTMENTS, BUSINESS IMPROVEMENT DISTRICT BOARD OF TRUSTEES.**

Commissioner Jolley moved, seconded by Commissioner Jones, that the City Commission appoint Rebecca Hughes, Philip A. Riedel, M.D., and George Wheeler to the Business Improvement District Board of Trustees for four-year terms beginning July 1, 2012, and expiring June 30, 2016.

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

Motion carried 5-0.

5. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters did not call for miscellaneous reports and announcements from representatives of Boards and Commissions.

PUBLIC HEARINGS

6. **ORDINANCE 3086 AMENDING TITLE 12 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS.**

Planning and Community Development Director Mike Haynes reported the City Commission accepted Ordinance 3086 on May 15, 2012 and set the public hearing for June 5, 2012. Due to the public hearing notice not being duly published, the City Commission vacated the June 5, 2012 public hearing and rescheduled it for June 19, 2012.

City Engineer Dave Dobbs reported the purpose of Ordinance 3086 is to make changes in Title 12 that are being requested by the Public Works Department. Major changes cover the Americans with Disabilities Act, boulevards, and snow routes. Other changes include typographical, terminology or section numbers corrections, new sections, a new snow route, and deleting old sections.

Mayor Winters declared the public hearing open.

No one spoke in opposition to or in support of Ordinance 3086.

Mayor Winters declared the public hearing closed.

Commissioner Burow moved, seconded by Commissioner Jolley, that the City Commission adopt Ordinance 3086.

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

Hearing none, Mayor Winters called for the vote.

Motion carried 5-0.

7. **ORDINANCE 3087 AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS.**

Planning and Community Development Director Mike Haynes reported the proposed changes to Title 17 were recommended for adoption by the Planning Advisory Board at their meeting on April 10, 2012. The City Commission accepted Ordinance 3087 on May 15, 2012, and set the public hearing for June 5, 2012. Due to the public hearing notice not being duly published, the City Commission vacated the June 5, 2012 public hearing and rescheduled it for June 19, 2012.

Mr. Haynes reviewed the proposed changes including changes related to bonus living spaces; changes related to the C-5 zoning district; changes related to downtown parking; and changes related to driveways. Public Works is also proposing some changes to curb-cut and driveway standards and some other minor clean up items.

Mr. Haynes reported that the homeowner-friendly, business-friendly and development-friendly set of amendments is designed to support and encourage new development and redevelopment especially in the periphery of downtown.

Mayor Winters declared the public hearing open.

Speaking in opposition to Ordinance 3087 were:

Ron Gessaman, 1006 36th Avenue NE, questioned if new or existing “U” shaped driveways would be prohibited, and he questioned why they are being prohibited.

Commissioner Jolley responded that new “U” shaped driveways would be prohibited. Mr. Dobbs agreed and noted that the existing ones would be grandfathered in. He noted “U” shaped driveways take up parking and landscaping.

Mr. Gessaman believes “U” shaped driveways should not be prohibited if there is sufficient space.

Commissioner Jolley questioned if there are drainage issues. Mr. Dobbs responded the aesthetics of the neighborhood are the major concern.

Mr. Gessaman referred to the agenda report and noted previous administrators of the parking program did not require payment in lieu of a reduction in parking spaces in the Central business core. He questioned if other charges in the Code are not observed.

Mr. Haynes responded there has been limited development downtown, but no records have been located of those payments.

Mr. Gessaman believes the proposed prohibitions on accessory living spaces are a discouragement for an individual starting a small business.

Mr. Haynes responded home occupations would be excluded in the accessory structure because, by definition, they are likely to be closer to neighbors and potential parking issues.

Mr. Gessaman questioned if home occupations are allowed in an attached garage.

Mr. Haynes responded the conditions of a home occupation state that a garage cannot be used for a home occupation; a home occupation must be located in a home. There are regulations in Title 5 and Title 17.

Mr. Gessaman noted similarities with inconsistencies in Title 5 and Title 17.

Commissioner Jolley responded the section in Title 5 that was sent back was trying to reconcile two sections of the Code regarding persons working in the home occupation. With the proposed amendment, people can have a home occupation but cannot build a structure for that purpose.

Discussion followed regarding a hobby shop vs. a home occupation.

Mr. Haynes stated there is a list of conditions under which a home occupation can operate that are designed to maintain the aesthetic of the home and protect the neighbors from noise and parking issues.

Mr. Gessaman expressed concern that a garage cannot be used for storage of any products that would be sold.

Mr. Haynes believes the intent is to prevent people from filling their garage with products that are made in a home occupation without the required parking.

Mr. Gessaman expressed concern of selective enforcement with more restrictions.

Mike Witsoe, 510 11th Street South, expressed concern for people who do crafts in their garage to supplement their income.

Commissioner Jolley questioned if Mr. Witsoe had read the proposed ordinance.

Mr. Witsoe responded he had not completely read the ordinance.

Mr. Haynes stated there are no changes to home occupations in the proposed changes to Title 17.

John Hubbard, 615 7th Avenue South, believes there is ambiguous language in the proposed changes.

Commissioner Jolley commented the purpose of the proposed changes is to expand opportunities for persons who want to have enjoyment of their property. People would be allowed to build a structure with a large rec room or bonus room that is not a garage, but the structure cannot be a living space.

Speaking in support of Ordinance 3087 were:

Pat Watt, 1917 4th Avenue North, believes the proposed changes are friendly to the older parts of town because many of the homes do not have rec rooms.

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

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission adopt Ordinance 3087.

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

Commissioner Bronson commented that he is amazed that common sense proposals from staff can be torn apart by bizarre commentary.

Commissioner Burow questioned if kitchens can be licensed for home occupations.

Mr. Haynes responded Health Department regulations are involved with kitchens.

Mayor Winters called for the vote.

Motion carried 5-0.

OLD BUSINESS

NEW BUSINESS

8. **MEMORANDUM OF UNDERSTANDING WITH VEOLIA WATER NORTH AMERICA.**

Commissioner Jones moved, seconded by Commissioners Jolley and Burow, that the City Commission approve the Memorandum of Understanding with Veolia Water North America and authorize the City Manager to sign the document.

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

Ron Gessaman, 1006 36th Avenue NE, asked the total amount to be paid Veolia retroactively. He also questioned additional payments to workers to do what is part of their job.

Water Plant Supervisor Mike Jacobson responded the retroactive amount to be paid is \$15,883, plus \$1,319.42 times 12.

City Attorney Jim Santoro reviewed the process leading up to the MOU and noted the City will save approximately 50%.

Mr. Jacobson reported the maintenance is mechanics work on unique and expensive equipment.

Mike Witsoe, 510 11th Street South, questioned the cost of the Co-Generator.

Mr. Santoro responded that information will be provided. He encouraged some questions to be asked in advance so the information can be available at the meeting.

Mr. Witsoe questioned if the Co-Generator is costing the City money or if the City is earning money since its installation.

Mayor Winters responded that question would be answered by Mr. Dobbs at the next meeting.

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

Motion carried 5-0.

ORDINANCES/RESOLUTIONS

9. **ORDINANCE 3084 TO ASSIGN CITY ZONING TO STONE MEADOWS ADDITION PHASE II.**

Planning and Community Development Director Mike Haynes reported that this is a request to set a public hearing for July 17, 2012, to consider Ordinance 3084 that would assign initial zoning of R-3 (Single-family high density) to ±8.7 acres of property that will comprise Phase 2 of the Stone Meadows residential subdivision located just south of Eagles Crossing. Stone Meadows Phase 2 will contain 30 single-family lots accessed from an east-west road proposed to be named Choteau Avenue connecting to 9th Street NE. The plat and the vicinity map are included in the agenda report.

At a public hearing held on December 13, 2011, the Planning Advisory Board/Zoning Commission recommended the City Commission annex the subject property into the city, approve subdivision of the property as previously outlined, and assign R-3 zoning to the property. The delay in proceeding to the City Commission for final action was caused by the applicant's concern with the soils and groundwater clause of the annexation agreement that has now been resolved.

Commissioner Jolley moved, seconded by Commissioners Bronson and Jones, that the City Commission accept Ordinance 3084 on first reading and set a public hearing for July 17, 2012.

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

Ron Gessaman, 1006 36th Avenue NE, questioned a new named street because of problems for emergency services.

Mr. Haynes responded the proposed Choteau Avenue is due to the alignment of lots and roads as to what will be the ultimate grid system. The street to the north will be 42nd Avenue NE. Different depths of development are approved in subdivisions.

Mr. Gessaman questioned if there is a plan for how emergency services will address another named street.

Mr. Haynes responded that every new street or extension to a street goes through the 911 mapping process.

Mr. Gessaman believes approval of the PUD's should be reconsidered since they result in the problem of non-gridded streets.

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

Motion carried 4-1 (Commissioner Burow dissenting).

10. **ORDINANCE 3090, AN ORDINANCE OF THE CITY OF GREAT FALLS AMENDING TITLE 10, CHAPTER 39 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS BY ADDING SECTION 110 TITLED "USE OF ELECTRONIC COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE."**

City Attorney Jim Santoro provided a PowerPoint presentation on the use of electronic communication devices while operating a motor vehicle. He reported three options were proposed at the May 15, 2012 Work Session: (1) do nothing, (2) absolute prohibition, and (3) draft an ordinance. The Commission gave direction to draft an ordinance.

Mr. Santoro reviewed other communities around Montana that have drafted an ordinance regarding the use of cell phones. Most communities have a civil violation.

The Great Falls Police Department, Fire Rescue, the Municipal Court Judge, and Mayor Winters were involved in discussions for the penalty options.

Mr. Santoro reviewed six exceptions to the proposed ordinance including emergency reporting, emergency responders, passengers in vehicles, hands-free, and two-way radios.

Prohibiting text messaging is also part of the draft ordinance. He reviewed an addition of "and/or" to be added for the July 3, 2012 public hearing.

Mr. Santoro reported the ordinance is about distracted driving.

Chief Bowen reported police officers are trained to drive in a distracted manner. He noted officers on patrol will be utilizing hands-free devices, however, there will be times that officers have to use the cell phone.

Mr. Santoro noted the effective date of an ordinance is 30 days after adoption.

Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission accept Ordinance 3090, as amended by Mr. Santoro, on first reading and set a public hearing for July 3, 2012.

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

Commissioner Jolley suggested adding 'Bicycle' to the Use of Electronic Communication Devices While Operating a Motorized Vehicle.

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

Jeremy Trebas, 2509½ 7th Avenue North, read a report from the Highway Loss Data Institute. He expressed concern drivers may move their phones out of sight when texting which would take driver's eyes further from the road.

Mike Witsoe, 510 11th Street South, expressed support for the proposed ordinance, but preferred graduated fines.

Mr. Santoro reviewed the proposed penalty stages for the ordinance that include a range that gives discretion to the judge for the civil violation that would be a primary offense.

Mr. Witsoe agreed with the addition of bicycles.

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

Motion carried 4-1 (Commissioner Jolley dissenting).

CONSENT AGENDA

11. Minutes, June 5, 2012, Commission meeting.
12. Total expenditures of \$1,483,305 for the period of May 24 through June 12, 2012, to include claims over \$5,000, in the amount of \$1,187,772.
13. Contracts list.
14. Grants list.
15. Approve Final Payment to Liggett Construction and the State Miscellaneous Tax Division in the amount of \$3,429.94 for the 6th Street Northeast and 7th Street South Water Main Replacements.
16. Approve Final Payment to United Materials of Great Falls, Inc. and the State Miscellaneous Tax Division in the amount of \$10,150 for the 21st Avenue NE Drainage Improvements.

Commissioner Bronson requested Item #11 be pulled for separate consideration.

Commissioner Bronson noted corrections to the June 5, 2012 Minutes: Agenda Item #3 – Commissioner Bronson moved, rather than Commissioner Jones; Agenda Item #4 – Spelling correction for Sheila Rice; Agenda Item #9 – Stuart Lewis and Bob Milford spoke in favor of Resolution 9968 rather than in opposition;

Commissioner Bronson moved, seconded by Commissioner Jolley, that the City Commission approve the Minutes as corrected.

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

Ron Gessaman, 1006 36th Avenue NE, questioned if the monies for the Animal Shelter Electrical Service Upgrade under Agenda Item #12 and for the sprinkler installation at the Animal Shelter under Item #13 are coming from the Thorndike Trust.

Deputy City Manager Jennifer Reichelt responded the two items are coming out of the general operating budget for the Animal Shelter. Monies for the HVAC upgrade at the Animal Shelter on the June 5, 2012 agenda were provided from the Thorndike Trust.

Mr. Gessaman questioned the need for the two servers for virtual server backups under Agenda Item #12 because of the current Windows-based system.

Fiscal Services Director Melissa Kinzler responded different types of servers are still needed under the Windows-based system.

Mr. Gessaman questioned the expense of the heated access ramp for the Civic Center under Agenda Item #13.

Mr. Dobbs responded the de-icing heating elements inside of the two concrete ramps on the north side of the Civic Center have burned out and must be replaced.

Mr. Gessaman questioned the details and cost of the replacement ceiling in the filter room at the Water Treatment Plant under Item #13

Mr. Dobbs responded he would provide Mr. Gessaman with a cost estimate. The routine maintenance project will replace ceilings installed in 1970. The suspended ceilings are shedding material into the room below and the wire supports are corroding because of the humid and chlorinated environment.

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

Motion carried 5-0.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission approve the balance of Consent Agenda as submitted.

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

Motion carried 5-0.

PETITIONS AND COMMUNICATIONS

17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Winters opened the meeting to Petitions and Communications.

- A. Bob Church**, 715 55th Street South, commented on enforcement of the fireworks ordinance passed in 2007. He expressed concern for veterans with post traumatic stress disorder. He questioned the number of complaints and citations during the 2011 fireworks season.

Chief Bowen responded there has been over a 35% reduction in the number of calls for service from 2008 to 2011. Officers will actively and completely investigate and cite those people who are in violation of the ordinance.

- B. Jeremy Trebas**, 2509½ 7th Avenue North, believes fireworks and cell phone bans are subtle comments telling young people they are not welcome Great Falls. He appreciates efforts to find balance for safety issues.
- C. Brett Doney**, Great Falls Development Authority (GFDA), reported they are working on two large industrial prospects. He discussed upcoming agri-processing efforts, recent bid results, and progress on the brand development. He also commented on the recent SBA Community of the Year award presented to the City, as well as the Family-Owned Business of the Year award presented to Bennett Motors. Also, a new brew pub will open soon.

Mayor Winters thanked Mr. Doney for nominating Great Falls for the SBA Community of the Year award.

- D. Mike Witsoe**, 510 11th Street South, invited everyone to attend Alive@5 and Farmer's Market events. He also commented on local bicycle and swimming opportunities.
- E. Ron Gessaman**, 1006 36th Avenue NE, referred to a recent newspaper article referring to the Agri-Tech Park as the first industrial park in 30 years. He also commented on the lack of progress in resolving the rail spur issue for the Great Bear Innovation Park.
- F. John Hubbard**, 615 7th Avenue South, discussed inaudible speakers at recent Great Falls High School graduations. He also commented on a newspaper report on coal-fired generators, accountability, and fireworks.
- G. David Fleming**, 2101 1st Avenue SW, thanked the Commission for their service and patience.

CITY MANAGER**18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon displayed the recent SBA Community of the Year award presented to the City.

He reported the GFDA has asked the City to co-sign on a grant for the Agri-Tech Park. He requested a consensus from the Commission for approval to sign an application on behalf of the City for an EDA grant for an approximate \$827,000 that will be matched by the GFDA for infrastructure in the proposed park.

Mr. Doyon reviewed efforts to support the Agri-Tech Park. By signing the EDA grant, the City would be a co-applicant for the grant. Acceptance of the grant would require formal Commission action.

Mr. Doyon explained the City is required to be a co-applicant to the grant because the City will ultimately own the infrastructure going into the park. The grant deadline is June 21, 2012.

Mr. Doyon reminded the Commission the Agri-Tech Park is not in the City at this time; it is currently in an annexation process. Commission acceptance of the grant would obligate the City to extend the infrastructure and ongoing maintenance.

City Attorney Jim Santoro reminded the Commission the City has invested \$3.5 million with the malt plant for the Great Bear Innovation Park; the City's investment in the Agri-Tech Park is approximately \$140,000. He noted the current litigation against the GFDA with the developer of the Great Bear Innovation Park. The City could be brought into that litigation.

Brett Doney, Great Falls Development Authority (GFDA), reported EDA notified him about a week ago that the City was a required co-applicant for the grant. He noted the City would not accept the grant until annexation is approved. He reviewed the scope of the grant application and noted the value to the City.

Mr. Doney reported GFDA is in settlement negotiations with the current litigation that won't involve cash. GFDA has strongly supported the Great Bear Innovation Park. He added GFDA does not steer companies. However, to date, there is no single lot in the city, county, or the Golden Triangle that is shovel-ready for a company that needs heavy industrial zoning, water, sewer, and rail.

Mr. Doney reported Great Falls is number one in the running with the current eastern Canada prospect, with an opportunity for up to 1,000 high-wage working-with-your-hands jobs.

Commissioner Jolley gave approval for the City Manager to sign the grant application.

Commissioner Jones asked if the current business prospect would be more suitable at the Great Bear Innovation Park.

Mr. Haynes responded that the Planning and Community Development Department preference for development would be in the area of the malt plant.

Commissioner Bronson also gave approval for the City Manager to sign the grant application. As a GFDA board member, he noted many prospective companies need rail access.

Commissioner Burow noted signing the grant application does not commit the City.

Mr. Santoro stated the Planning and Community Development Department prefers development to the north because of military issues and environmental issues. He noted the grant application is a letter of intent that shows direction.

Mayor Winters inquired about the commitment of the current business prospective.

Mr. Doney responded there are no guarantees. There have been visits, e-mails, and a technical-level conference call. The company has hired a consultant to do an in-depth study required by MDT.

The consensus of the Commission was to authorize the City Manager to sign the application.

CITY COMMISSION

19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

The Mayor did not call for miscellaneous reports and announcements from the Commission.

20. COMMISSION INITIATIVES.

The Mayor did not call for Commission initiatives.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Jolley moved to adjourn, and Mayor Winters adjourned the regular meeting of June 19, 2012, at 9:58 p.m.**

Motion carried 5-0.

Mayor Winters

Acting City Clerk

Minutes Approved: July 3, 2012