

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, Bob Jones, Bill Bronson and Fred Burow. Commissioner Kelly was excused. Also present were the City Manager and Deputy City Manager; Interim City Attorney; Directors of Fiscal Services and Public Works; Interim Director of Planning and Community Development; Police Chief; and the 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. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Sandra Guynn, Chair NC 4, reported that the council accepts nominations for the “Good Neighbor Award” from anybody who would like to recognize individuals, businesses or organizations who they think are going above and beyond to make our community a better place. She read the nomination letter and presented this year’s “Good Neighbor Award” to Mr. Eric Spragg and his employer, Emeritus at Cambridge Place.

CONSENT AGENDA

2. Minutes, May 21, 2013, Commission meeting.
3. Total expenditures of \$1,831,783 for the period of May 16-29, 2013, to include claims over \$5,000, in the amount of \$1,570,930.
4. Contracts list.
5. Lien release list.
6. Award contract to Missouri River Trucking & Excavating, Inc. in the amount of \$136,223.50 for the Delmar Drive Street Improvements, Phase 1. **OF 1653.1**

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

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

Motion carried 4-0.

BOARDS & COMMISSIONS

7. **REAPPOINTMENT, HOUSING AUTHORITY BOARD.**

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission reappoint Michael McCleary for a five-year term through June 30, 2018, to the Great Falls Housing Authority Board.

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

Motion carried 4-0.

8. **REAPPOINTMENTS, TOURISM BUSINESS IMPROVEMENT DISTRICT BOARD OF TRUSTEES.**

Commissioner Jones moved, seconded by Commissioner Bronson, that the City Commission reappoint Sandra Johnson-Thares and Malissa Hollan to the Tourism Business Improvement District Board of Trustees for four-year terms through June 30, 2017.

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

Motion carried 4-0.

9. **PRELIMINARY PLAT, GREAT BEAR SUBDIVISION NO. 2- PHASE 1.**

Interim Director of Planning and Community Development Criag Raymond reported that this is a request to approve the preliminary plat of Great Bear Subdivision No. 2 - Phase 1, located north of the ADF International project site and generally east of US Hwy 87. The preliminary plat applies to ±60 acres of land. Phase I will comprise of heavy industrial lots accessed from the proposed Great Bear Avenue (Lot 4) which shall be dedicated to the City of Great Falls as a condition of approval as a public right-of-way.

Additionally, the applicant, heirs and assigns shall provide for a dedication of a storm drainage easement that will traverse said plat which shall accommodate an existing drainage channel acceptable to the Public Works department.

At a public hearing held March 26, 2013, the Planning Advisory Board recommended the City Commission approve the preliminary plat for Great Bear Subdivision No. 2, Phase 1. Approval of the preliminary plat as proposed is consistent with the intent and purpose of the existing zoning of I-2 (Heavy Industrial).

Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission approve the Preliminary Plat of Great Bear Subdivision No. 2-Phase 1 and the accompanying Findings of Fact subject to fulfillment of conditions stipulated by the Planning Advisory Board.

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

Commissioner Bronson inquired and received confirmation from Interim Director Raymond that the dedicated right-of-way and easement cost concerns were discussed with the applicant.

Mayor Winters asked if there were any comments from the public. Hearing none, Mayor Winters called for the vote.

Motion carried 4-0.

10. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

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

PUBLIC HEARINGS

11. RESOLUTION 10019, BUDGET AMENDMENT RESOLUTION.

Fiscal Services Director Melissa Kinzler reported that Resolution 10019 identifies the funding sources of the first settlement payment of \$2.5 million with Southern Montana G&T and the payment of the settlement. The City's auditors have reviewed the budget transfers. Director Kinzler recommended that the City Commission conduct a public hearing, consider any budget changes and adopt Resolution 10019.

Mayor Winters declared the public hearing open.

Speaking in opposition to Resolution 10019 were:

Aart Dolman, 3016 Central Avenue, opposes funding from the City of Great Falls, a public entity, to Electric City Power (ECP), a non-profit entity, for the settlement payment. He suggested the customers that left ECP be held accountable, and that the City Manager should have given the City Commission other plans to choose from.

Kathy Gessaman, 1006 36th Avenue NE, read a portion of a *Tribune* article of May 21st. She expressed concerns about depleting the City budget and fees being increased. She suggested a one-time property tax levy.

Ron Gessaman, 1006 36th Avenue NE, read a portion of the May 21st Commission meeting minutes and reviewed a list of funds involved. He opined that citizens will pay higher fees to provide for the settlement money. Mr. Gessaman relates five million dollars of ECP's debt, inclusive of the settlement payments, to this Commission. He referred to the lien releases in Item 5 on the agenda and inquired why ECP hasn't collected its \$186,000 owed by Barrett's Minerals or placed a lien against them. He further commented the PSC suggested to him that the City make contact with the School District regarding its \$44.15 contract with respect to the City's future electricity supply.

Larry Rezendes, CPA, 2208 1st Avenue North, commented that his concern is the plan that is being

proposed doesn't forecast any collection from customers of ECP that elected not to fulfill their obligations. He proposed the City pursue those customers for their pro-rata portion of the \$2.5 million settlement monies. He further proposed potential recovery from existing and prior City Commissions for malfeasance. He reported that he spoke with his own attorney about the City appointing independent counsel to investigate and take legal action against wrongdoing.

No one spoke in support of Resolution 10019.

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 Resolution 10019.

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

Commissioner Burow commented that collecting from customers has always been on the Commissioner's minds, but this Commission's first priority was to extricate itself from ECP and Southern's bankruptcy and save on ongoing losses. He also addressed comments made regarding investigating themselves, the cost to the taxpayers, breaking contracts and recovery from ECP customers. He feels the settlement is the best finality at the least cost to the taxpayers. Although speakers offered free legal advice, the Commission followed the advice of it retained counsel in this case.

Commissioner Bronson added that this Commission and staff have come up with the best possible way of resolving the dilemmas the City has been in. Most, if not all of the suggestions made tonight to do something different in order to resolve the litigation with Southern, are absolutely and completely impractical. A payment is due now to resolve the litigation, not wait with the prospect that the City might be able to get a recovery against customers, or might be able to get a recovery from former staff or current or former Commissioners. The bottom line is, in order to resolve the litigation and get away from Southern now, the City has to agree to a settlement that provides the money upfront. That is why this Commission directed staff to look at options that made the most sense with the resources available to resolve this. He commended staff for diligently looking at every fund to support this without having to go to the taxpayers and asking for additional funds. That is what Resolution 10019 accomplishes.

Commissioner Bronson also addressed comments made regarding the mediated settlement and the parties involved to come to this resolution, as well as placing liens on property. With regard to comments made about going after former staff or current or former Commissioners, Commissioner Bronson commented that public employees and public officials are immune by state law from lawsuits against them for the actions that they take in the course and scope of their activities. The Montana Supreme Court has suggested there is also an additional qualified immunity for public officials.

Commissioner Jones commented the second payment of \$750,000 is due in December. This Commission has, for quite some time, discussed contacting customers that left ECP inappropriately and will continue to look at that to try to bring that to a resolve.

Mayor Winters added that since this Commission came on board in January, 2010, a primary goal

has been to exit the energy business. This Commission is at the cusp of doing that.

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

Motion carried 4-0.

OLD BUSINESS

NEW BUSINESS

ORDINANCES/RESOLUTIONS

12. **ORDINANCE 3108, ASSIGN CITY ZONING TO SKYLINE HEIGHTS APARTMENTS AND THE CITY WATER TOWER PROPERTY.**

Interim Planning and Community Development Director Craig Raymond reported that this is a request to accept Ordinance 3108 on first reading and schedule a public hearing for July 2, 2013, to consider Resolution 10020 annexing the subject property, and Ordinance 3108 assigning zoning to same. The subject property is vacant. The property owner intends to construct a multifamily apartment building on the property that will be accessed from 14th St NE and 36th Ave NE. Annexation into the City would allow the property owner access to water and sewer services. Additionally, the City of Great Falls is party to this annexation and zoning request in order to annex and apply zoning to the existing City water tower located near the intersection of 36th Ave NE and Bootlegger Trail.

At a public hearing held on May 14, 2013, the Planning Advisory Board/Zoning Commission recommended that the City Commission approve annexation and assign PUD zoning with an underlying R-5 zoning to the Skyline Heights Apartment property, and Public Lands and Institutional to the City-owned property.

Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission accept Ordinance 3108 on first reading and set a public hearing for July 2, 2013.

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

Commissioner Bronson reiterated that the only action the Commission is taking tonight is to set the public hearing for July 2, 2013.

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

Spencer Adams, 3501 11th Street NE, noted that he has a vested interest in this matter as his property abuts the subject property. Mr. Adams suggested the public hearing be set another day in July due to people being out of town for the 4th of July holiday.

City Manager Doyon noted that the other option is to supply written comments in advance of the public hearing date.

Damon Carroll, 215 Russell Ranch Lane, announced that he was the applicant and has been working on this for six months. He requested that the Commission keep the public hearing date

scheduled for July 2nd.

Fran Albrecht, 1012 35th Avenue NE, commented that she started a petition and has obtained over 30 signatures from homeowners on 35th Avenue NE. She explained why she and her husband chose to buy property and reside in this area. Ms. Albrecht also spoke in opposition to the July 2nd public hearing date due to the 4th of July holiday.

Ron Gessaman, 1006 36th Avenue NE, read from the agenda report that PUD is a special type of zoning district that is proposed by the developer to account for a desired mix of uses. Mr. Gessaman doesn't believe there is a mix of uses in this case, or that a good plan has been presented justifying why this project should move forward with PUD zoning.

Robin Sainsbury, 1029 35th Avenue NE, asked if area residents will be notified about the public hearing so they will know to submit written comments if they are unable to come to the meeting on July 2nd.

Commissioner Bronson commented that the Commission will not make a decision about this request based on how many people speak for or against it. State laws and local ordinances set forth what the Commission has to look at in order to make a decision whether to approve the applicant's request or not. Written comments should be submitted to the City Clerk's Office.

Manager Doyon added that standard language in the public hearing advertisement provides for written comments to be submitted.

Bill Albrecht, 1012 35th Avenue NE, commented that he is a business owner and is not against business. But, in this case, he feels the project is being pushed through.

Manager Doyon recommended the Commission table action until the next meeting and then set the public hearing for the subsequent meeting.

Commissioner Bronson moved, seconded by Commissioner Burow, that the City Commission table Ordinance 3108.

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

Commissioner Jones inquired if this action would move the public hearing off the July 2nd date.

Commissioner Bronson commented that on July 2nd this matter would come back before the Commission to set a public hearing.

Mayor Winters called for the vote.

Amended Motion carried 4-0.

13. **ORDINANCE 3109, AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS, ENCOMPASSING AMENDMENTS RELATED TO THE COST OF NOTICE FOR ACTION REQUIRING PUBLIC NOTICE AND REVISING PROCEDURES FOR THE SUBMISSION OF SUBDIVISION APPLICATIONS.**

Interim Planning and Community Development Director Craig Raymond reported that this is a request to accept Ordinance 3109 on first reading and set a public hearing for July 2, 2013, to consider amendments to Title 17 of City Code related to the cost of notice for actions requiring public notice and revising procedures for the submission of subdivision applications. The catalyst for these proposed changes is the increasing costs to the City for the publication of official notices of public hearings. At times, depending on project evolution, the City is required to publish additional notices of public hearings if the scope of project or other unforeseen situations arise during the processing of an application; or, at times, the applicant chooses to delay the application for whatever reason.

Also considered in Ordinance 3109 are the legislatively mandated updates pertaining to subdivision application procedures.

Commissioner Jones moved, seconded by Commissioner Bronson, that the City Commission accept Ordinance 3109 on first reading and set a public hearing for July 2, 2013.

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

Commissioner Burow inquired about publishing all public notices in the *Consumers Press* at a reduced rate compared to the *Tribune*.

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

Kathy Gessaman, 1006 36th Avenue NE, agreed with Commissioner Burow and added that public notices could also be posted on the City's website to reduce costs.

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

Motion carried 4-0.

14. **ORDINANCE 3110, TO APPROVE THE USE OF EXISTING TAX INCREMENT FINANCING FUNDS FOR PROPOSED PUBLIC IMPROVEMENTS IN THE CENTRAL MONTANA AGRICULTURE AND TECHNOLOGY PARK.**

Interim Planning and Community Development Director Craig Raymond reported that this is a request to accept Ordinance 3110 on first reading and schedule a public hearing for July 2, 2013. Ordinance 3110 provides for the use of existing funds generated within the Central Montana Agriculture and Technology Park Tax Increment Financing District. The Central Montana Agriculture and Technology Park is generally located east of US Highway 87, north of the intersection with Bootlegger Trail.

On May 7, 2013, the City Commission approved Ordinance 3106 adopting a Comprehensive Development Plan including a Tax Increment Financing (TIF) provision for the Central Montana Agriculture and Technology Park which set the stage for use of funds as requested by Ordinance 3110.

On May 2, 2013, the City of Great Falls Public Works Department made formal application for use

of TIF funds within the Central Montana Agriculture and Technology Park Tax Increment Financing District. A private developer also applied for approval to utilize TIF funds. However, increment available was not sufficient to fund all applications. City staff supports those applications that would meet the most urgent and immediate needs and provide for the greatest impact to the most properties within the TIF District.

At its meeting on May 28, 2013, the Planning Advisory Board recommended that the City Commission approve the projects as requested in the Public Works application.

Commissioner Burow moved, seconded by Commissioner Jones, that the City Commission adopt Ordinance 3110 on first reading and set a public hearing for July 2, 2013.

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

Hearing none, Mayor Winters called for the vote.

Motion carried 4-0.

PETITIONS AND COMMUNICATIONS

15. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

- A. Larry Rezentes**, 2208 1st Avenue North, responded to comments made by Commissioners during Item 11 of this meeting's agenda.
- B. Ron Gessaman**, 1006 36th Avenue NE, in response to a comment made by Manager Doyon at last evening's ECP meeting, Mr. Gessaman discussed a timeline of events from the 2009 municipal election until the time Southern declared bankruptcy in October, 2011.
- C. Alma Winberry**, 423 15th Street South, commented that the public can see from the record money was taken out of various accounts to pay for ECP. Ms. Winberry doesn't credit the Commission for getting out of ECP. She feels they should have taken action three or more years ago. She feels the Commission's actions have created pressure on the citizens of the Great Falls.
- D. Aart Dolman**, 3016 Central Avenue, discussed Robert's Rules and asked that the Commission not harangue the public at future meetings.
- E. Nancy Knauff**, 2604 8th Avenue South, commented that there will always be opposition. She suggested that when the Mayor and Commissioners go home this evening, they ponder that they are sitting in those seats because they do have the support of the majority of people in the City and the people who know this Commission is doing a good job.
- F. Glen Krebs**, 600 23rd Street South, thanked the Commission and staff for their service to the community.
- G. John Hubbard**, 615 7th Avenue South, commented that officials should be indicted for misappropriation of public tax money for the ECP debt.

CITY MANAGER**16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

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

CITY COMMISSION**17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Burow responded to several speakers' comments. He commented that he came on board to do the best he could for the people of Great Falls. Despite free legal advice from critics, the Commission chose to hire legal counsel and follow their recommendations to get out of the electric business.

He also reminded the public to vote in the upcoming municipal election, and that there are several private businesses in Great Falls that offer recycling.

18. COMMISSION INITIATIVES.

There were no Commission initiatives.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Burow moved, seconded by Commissioners Bronson and Jones, to adjourn the regular meeting of June 4, 2013, at 8:56 p.m.**

Motion carried 4-0.

Mayor Michael J. Winters

City Clerk Lisa Kunz

Minutes Approved: June 18, 2013