

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, Bob Kelly and Fred Burow. Also present were the City Manager and Deputy City Manager; Interim City Attorney; Directors of Fiscal Services, Park and Recreation, Planning and Community Development, and Public Works; Interim Director of Planning and Community Development; Police Chief; and the City Clerk.

PROCLAMATIONS: Mayor Winters read proclamations for Animal Cruelty Awareness Month and Arbor Day.

PRESENTATION: On behalf of NeighborWorks Great Falls, Carrie Koppy presented Planning and Community Development Director Mike Haynes with a plaque in great appreciation for his critical role in completion of the Great Falls Downtown Master Plan.

**** 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, NEIGHBORHOOD COUNCIL 7.

Mayor Winters performed the swearing in ceremony for Michael J. Shell, representative of Neighborhood Council 7.

2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

There were no miscellaneous reports and announcements from representatives of neighborhood councils.

CONSENT AGENDA

- 3.** Minutes, April 2, 2013, Commission meeting.
- 4.** Total expenditures of \$1,816,820 for the period of March 28 through April 10, 2013, to include claims over \$5,000, in the amount of \$1,506,246.
- 5.** Contracts list.
- 6.** Lien release list.
- 7.** Set public hearing for May 7, 2013, on Resolution 10017, Conditional Use Permit for a two-family residence to be established in the existing structure addressed as 624 3rd Avenue North.

8. Approve revised Application and Process for Tax Increment Financing Funds.
9. Approve sale of surplus equipment.
10. Award construction contract in the amount of \$189,765 to Kuglin Construction for the 2013 Street Drainage Improvements. **OF 1653.3**

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

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

Motion carried 5-0.

BOARDS & COMMISSIONS

11. **APPOINTMENTS, ADVISORY COMMISSION ON INTERNATIONAL RELATIONSHIPS.**

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission appoint Dean Koffler and Sandra Erickson and reappoint Janet McLeod and Kay Silk to the Advisory Commission on International Relationships for three-year terms through March 31, 2016.

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

Motion carried 5-0.

12. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

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

PUBLIC HEARINGS

13. **2013/2014 CDBG AND HOME ANNUAL ACTION PLAN.**

Planning and Community Development Director Mike Haynes reported that this is the public hearing on the Annual Action Plan for allocation of 2013/2014 CDBG and HOME funding. The recommendations on Public Service Activities funding are those of the Community Development Council (or CDC) after hearing requests for funds from all eligible applicants and then meeting to prioritize funding requests. CDBG funding recommendations for Affordable Housing and Public Facility Improvements and HOME funding recommendations are those of the Planning and Community Development Department in consultation with the City Manager and Department Heads.

Public hearing notices were published in the *Great Falls Tribune* on April 7, April 10 and April 14, 2013, and in the *Consumer Press* on April 11, 2013.

Specific funding recommendations were outlined in detail at the City Commission work session held on March 19, 2013.

The requested action is to conduct the public hearing and schedule action on the Final Annual Action Plan for May 7, 2013.

Mayor Winters declared the public hearing open.

Speaking in favor of the 2013/2014 CDBG and HOME Annual Action Plan were:

Mike Dalton, Executive Director of Sunburst Unlimited, introduced his Board members. Mr. Dalton commented that Sunburst Unlimited applied for grant monies to buy gardening tools and a watering system for Westside Orchard Garden. Their efforts will reduce food insecurities in this community. Sunburst's commitment to the City is offering positions and training to unemployed citizens to work in the garden; the harvest, or proceeds of the garden, will go to the Great Falls Community Food Bank; and, the Boys and Girls Club will participate in summer camp activities.

Nancy Wilson, Program Manager for Meals on Wheels, introduced **Deva Anne Pinski**, who has delivered meals in the community for the past two years. She sees firsthand that the need is great and that sometimes it is the only meal a person has in a day. She asked that the Commission keep the Meals on Wheels program in mind when disbursing funds.

No one spoke in opposition to the 2013/2014 CDBG and HOME Annual Action Plan.

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

Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission close the public hearing and schedule action on the Final Annual Action Plan for May 7, 2013.

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

Commissioner Bronson expressed concerns with the direction this process has taken in comparison to prior years with regard to public input and vetting. He commented that a number of City applications had no public discussion as of yet. The Commission will be facing some difficult decisions in the next few weeks on how to allocate the available funds. He would like to get some answers on a couple of those applications to make informed decisions.

With regard to the application submitted by the Downtown Development Partnership for the use of funds for feasibility studies on historic buildings, Commissioner Bronson inquired the status of the Partnership's 501(c)(3) application with the IRS.

Joan Redeen, Downtown Development Partnership (DDP), responded that the application is due to be submitted by April 30th to the IRS, and that she would need to check on paperwork regarding whether or not the Partnership has received non-profit designation from the Montana Department of Revenue.

Commissioner Bronson commented that, based on his understanding of HUD regulations, if a grant was made for the purpose of a feasibility study on an historic building with a housing component,

the entity has a two-year timeframe to complete the study, have construction underway and have people in the building. He inquired if the DDP could meet those timelines. On behalf of Sheila Rice, Chair of the Board, Ms. Redeen commented that the DDP is aware of the concerns and will draw up the guidelines for the studies to make sure developers can meet the HUD guidelines which are that at least one housing unit be created within two years of the feasibility study.

Commissioner Bronson further expressed concerns regarding the DDP not having guidelines currently in place, and the upcoming retirement of the Historic Preservation Officer and not having that level of expertise or resources in place in the review process which may cause delays or problems with the timeframes. He would like to avoid a situation of HUD clawing back funds for not being in compliance.

Ms. Redeen responded that the DDP has taken those concerns into consideration. She is comfortable knowing Ken Sievert is continuing on the Historic Preservation Advisory Commission and he will be DDP's resource for input on the guidelines and application review process.

Carrie Kopyy, NeighborWorks Great Falls, commented in response to Commissioner Bronson's inquiry that the DDP finances and structure has been submitted to the Secretary of State's Office. DDP is awaiting the ranking it will receive from the State, and the 501(c)(3) paperwork has been completed. As a grant writer at NeighborWorks, Ms. Kopyy commented that addressing foreclosed buildings, structural significance and other issues that are a component of blight are acceptable under HUD regulations. On behalf of NeighborWorks and Habitat for Humanity, Ms. Kopyy expressed appreciation to the Commission for restoring housing to the CDBG application this year.

Commissioner Bronson concluded that not every developer has the housing component in mind. The way it is framed now, they would not be eligible for those funds. Even if someone is interested in looking at the housing component, it is not always feasible or practical in every situation. He wants to be careful allocated monies with those considerations.

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

Motion carried 5-0.

14. RESOLUTION 10012, ESTABLISHING WATER, SEWER AND STORM DRAIN UTILITY SERVICE RATES EFFECTIVE MAY 1, 2013.

Public Works Director Jim Rearden provided a PowerPoint presentation summarizing the 2013 utility rate analysis and the current needs. The proposed rates were presented at the March 5, 2013, Work Session, public notices and individual customer notices were published and mailed, the public hearing is being held tonight, and the proposed new rates, if approved, would take effect May 1, 2013. State and Federal discharge permit requirements and upgrades at the Wastewater Treatment Plant will cost approximately \$21 million dollars and must meet the compliance schedule of December, 2014, for disinfection improvements and ammonia/metal compliance, and December, 2015, for flow monitoring improvements. The proposed rates will include a 5% or \$1.36 per month average increase for water, a 10% or \$2.08 average per month increase for sewer, no increase for storm drain, for a total of \$3.44 average per month increase. Even with the proposed rate increase, Great Falls still has the lowest combined water and sewer rates of the seven largest cities in Montana.

Mayor Winters declared the public hearing open.

No one spoke in support of Resolution 10012.

Speaking in opposition to Resolution 10012 were:

John Hubbard, 615 7th Avenue South, asked why the upgrades weren't taken care of before.

Director Rearden explained that the wastewater discharge permit issued in December, 2010, outlined requirements and deadlines the City had to comply with to meet the new regulatory requirements.

Mr. Hubbard expressed that people on fixed incomes cannot afford rate increases.

Ron Gessaman, 1006 36th Avenue NE, inquired what the total amount of money the rate increases will result in.

Director Rearden responded that the 5% in the water fund would amount to \$470,000 in additional revenue on an annual basis, and 10% in the wastewater fund would amount to about \$700,000 in additional revenue on an annual basis.

Mr. Gessaman opined that most of the increase is not warranted due to sources of revenue available that the City is not utilizing. He commented that Malt Europe is charged less than other commercial customers, and money would have been saved if Veolia and the City had elected to leave ECP and had been successful negotiating a lower electricity rate. Mr. Gessaman objected to the proposed rate increases.

Director Rearden commented that Malt Europe's rates were based on a cost of service study that is standard in the industry for large industrial users.

Written comments in opposition to Resolution 10012 were received from **Arlene Blessing**, 719 47th Street South, **Virginia Barhight**, 1804 1st Avenue North, and **Carole LaMont**, 1215 2nd Avenue North.

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

Commissioner Jones moved, seconded by Commissioner Kelly, that the City Commission adopt Resolution 10012 Establishing Water, Sewer and Storm Drain Utility Service Rates to include increases of 5%, 10% and 0% respectively to become effective May 1, 2013.

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

With regard to Malt Europe, Commissioner Burow asked for clarification regarding Director Rearden's "standard in the industry" comment.

Director Rearden responded that it is based on the impact on the system due to the volume of wastewater and the time of day it is sent. That is the basis for the cost of service study. He added that Malt Europe uses domestic water from the City and gets the rest of its water from Giant Springs

through Fish, Wildlife and Parks.

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

Motion carried 4-1 (Mayor Winters dissenting).

OLD BUSINESS

NEW BUSINESS

ORDINANCES/RESOLUTIONS

15. ORDINANCE 3107, ASSIGNING CITY ZONING TO 4201 FLOOD ROAD.

Planning and Community Development Director Mike Haynes reported that this item is a request to accept Ordinance 3107 on first reading and set a public hearing for May 7, 2013, to consider annexation of a ±8.9 acre property at 4201 Flood Road with zoning of R-1 (Single-Family Suburban). The property owner intends to construct a single-family home on the property that will be accessed from Ferguson Drive to the north. Annexation into the City would allow the property owner access to water and sewer services.

At a public hearing held on March 26, 2013, the Planning Advisory Board/Zoning Commission recommended that the City Commission approve annexation and assigning R-1 zoning to the subject property.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission accept Ordinance 3107 on first reading and set a public hearing for May 7, 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 5-0.

16. ORDINANCE 3104, REZONE PROPERTY OWNED BY CALUMET MONTANA REFINING COMPANY GENERALLY LOCATED SOUTH OF 3RD STREET NW AND NORTH OF 17TH AVENUE NE.

Planning and Community Development Director Mike Haynes reported that this item is a request to accept Ordinance 3104 on first reading and to set a public hearing for May 7, 2013, to consider Ordinance 3104 that would rezone ±15.05 acres of property owned by Calumet Montana Refining Company (formerly MRC) from C-2 (General Commercial) to PUD (Planned Unit Development) with an underlying I-2 zoning. That subject property contains the former Westgate Mall building and the associated parking areas that were designated Lot 5 on the amended plat approved by the City Commission on January 15, 2013, but not yet recorded. At that meeting, the City Commission approved the amended plat and rezoning of several properties owned by Calumet and Gendco to I-2 (Heavy Industrial) but remanded rezoning of proposed Lot 5 back to the Zoning Commission to consider a PUD (Planned Unit Development) with underlying I-2 zoning to allow the City more control over use and future development.

At a public hearing held on March 12, 2013, the Zoning Commission recommended that the subject property be zoned PUD.

Key conditions of the PUD Ordinance are:

1. The subject property can contain no petroleum processing units. Calumet would be able to use the former mall building for storage of industrial materials and could use the property in future for uses associated with refining such as receiving, storage and shipping of petroleum products.
2. Maximum height limits are established on the site - 35 feet for materials and equipment warehousing and 60 feet for any storage structures.
3. And of course, if development occurs Calumet has committed to the improvements previously discussed, including the screen wall and landscape buffer, separating and screening the PUD-zoned area from the areas of the Calumet property remaining commercial and a 10-foot wide section of paved trail to be constructed on the Calumet property generally adjacent to 17th Avenue NE, providing a much needed bike and pedestrian connection from Smelter Avenue to the Rivers Edge Trail.

Commissioner Bronson moved, seconded by Commissioners Burow and Jones, that the City Commission accept Ordinance 3104 on first reading and set a public hearing for May 7, 2013.

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

Ron Gessaman, 1006 36th Avenue NE, noted that the agenda report indicates the Planning Advisory Board voted 4-1 for this recommendation, but there are nine people on the board. He commented that the agenda report and development agreement indicate the owner shall provide a wall on the north side of the property, and inquired about the east and west sides of the property that about non-industrial use. He further pointed out what he considered inconsistencies in the agenda report and supporting documents regarding fiscal impact.

Director Haynes commented that the wall will be constructed between proposed Lot 5 and those Calumet properties that will remain C-2 along 3rd Street NW. Rezoning of the property will have no impact on taxes. But, if development occurs, there may be an increase in services and taxes.

Roxene Cook, 525 18th Avenue NE, commented she is a property/business owner on the east side of designated Lot 5. She feels if Calumet's tanks are behind her building it will impact her business greatly and affect her property value. Ms. Cook also expressed concerns regarding her property should a fire occur.

John Hubbard, 615 7th Avenue South, commented if a fire occurred "we would be blown to the dark side of the moon."

Written correspondence in support of Ordinance 3104 was received from **Diana Anderson** via

Citizen Request 23479, and in opposition from **Jason Lehmann**, 2800 4th Avenue South. There being no one else to address the Commission, Mayor Winters called for the vote.

Motion carried 5-0.

PETITIONS AND COMMUNICATIONS

17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

- A. Ron Gessaman**, 1006 36th Avenue NE, discussed two handouts of what he calculated could have been saved if the City were buying electricity at the same cost as the School District. He also referred to the 2012 CAFR and noted that monies were loaned from the golf program and the water and sewer funds to the electric fund that seemed unreasonable to him.

Commissioner Burow commented that if the City broke its contract per Mr. Gessaman's suggestions, the repercussions would cost the City more than Mr. Gessaman's calculations in savings. He concluded that the Commission is aware of the problem and has been diligently working on it.

Mayor Winters cautioned Mr. Hubbard to refrain from attacks on the family involving his accident. He then emphasized that this portion of the meeting is for public comment on any matter that is not on the agenda and that is within the jurisdiction of the City Commission.

- B. John Hubbard**, 615 7th Avenue South, discussed holding politicians accountable, and that citizens should not have to pay for ECP's losses.

CITY MANAGER

18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon noted that on the advice of counsel ECP customers were recently sent letters notifying them that they were not relieved of their contracts. In response to Mr. Gessaman's comments, Manager Doyon reminded the Commission that, going back to the initial District Court action, the City was almost placed in receivership. The City testified it would continue to pay its bills and wasn't placed in receivership. He was thankful because Southern filed for bankruptcy shortly thereafter.

Manager Doyon thanked Director Haynes for his work, collaboration and accomplishments in Great Falls. He was appreciative of his service and time in Great Falls and wished him well.

Deputy City Manager Jennifer Reichelt echoed Manager Doyon's comments and wished Director Haynes well in his next journey.

Park and Recreation Director Marty Basta announced that the Dog Park is temporarily closed for turf repair.

Public Works Director Jim Rearden noted that his department staff is still out sanding streets due to the weather.

Planning and Community Development Director Mike Haynes thanked the Commission and City

staff.

CITY COMMISSION

19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

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

20. COMMISSION INITIATIVES.

There were no Commission initiatives.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Bronson moved, seconded by Commissioner Jones, to adjourn the regular meeting of April 16, 2013, at 8:44 p.m.**

Motion carried 5-0.

Mayor Michael J. Winters

City Clerk Lisa Kunz

Minutes Approved: May 7, 2013