

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; City Attorney; Directors of Fiscal Services, Library, Planning and Community Development and Public Works; Human Resources Manager; Fire Marshal; Police Chief; and the City Clerk.

PROCLAMATIONS: Mayor Winters read proclamations for National Recovery Month and National Preparedness Month.

**** 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.

Kathy Gessaman, NC 3, welcomed everyone to attend the council's meeting scheduled for September 5th at Riverview School. On the agenda is a transportation plan update, as well as City Commission and Mayoral candidates.

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 Great Falls a better community. She read John Sturgeon's nomination letter and presented the "Good Neighbor Award" to Ron and Kathy Gessaman.

CONSENT AGENDA

2. Minutes, August 20, 2013, Commission meeting.
3. Total expenditures of \$2,942,453 for the period of August 7-28, 2013, to include claims over \$5,000, in the amount of \$2,630,617.
4. Contracts list.
5. Set public hearing for September 17, 2013, to consider the Interlocal Agreement and recommended use of the 2013 Byrne Justice Assistance Grant (JAG) Program funds.
6. Set public hearing for October 1, 2013, for the Minor Plat of Great Bear No. 2 Subdivision – Phase II.

7. Approve labor agreement with the Montana Public Employees' Association.
8. Approve labor agreement with the City of Great Falls Public Employees Crafts Council.
9. Approve Memorandum of Understanding with Cascade County for sanitary sewer main installation in northernmost avenue right-of-way of First Broadway Addition to North Great Falls for the CMATP Sanitary Sewer Extension. **OF 1658.1**

Commissioner Jones moved, seconded by Commissioner Kelly, that the City Commission approve the Consent Agenda as read.

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

Commissioner Burow requested Item 4C be pulled for separate discussion and vote. Item 4C is an agreement between the Mansfield Center for the Performing Arts and the Great Falls Youth Orchestra for rehearsal room usage free of charge in exchange for an annual scholarship in the name of the City of Great Falls. It was his understanding rooms were no longer let free of charge.

City Manager Greg Doyon suggested tabling said agreement until next meeting for an explanation from Park and Recreation.

Manager Doyon provided an overview of the Labor Agreements set forth as Items 7 and 8.

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

Richard Liebert, 289 Boston Coulee Road, inquired about the expenditure for a sanitation truck set forth in Item 3.

Public Works Director Jim Rearden responded that the vehicle was awarded by the City Commission on October 16, 2012. It takes nine months to order and receive delivery of a sanitation vehicle. It was originally received in July, but did not meet specifications. His department has now accepted the unit. The trade-in vehicle was a 1997 Volvo with 168,000 miles.

Mr. Liebert inquired the status of refinancing the First Interstate Bank loan for the Highwood Generating Station, and he inquired what efforts have been made to collect from Montana Refinery, General Mills and Barrett Minerals.

Manager Doyon responded that he and Director Kinzler met with someone in the municipal bond market to look at the financing. That information has not yet been presented to the Commission. The City has not heard back from Barrett Minerals.

Commissioner Jones added that discussions are ongoing with counsel in Billings. The three companies have not been approached as of this time.

Mr. Liebert commented that he disagrees with staff's decision to not allow him use of PowerPoint during Commission meetings, and he suggested the addition of wifi for the public's use.

Manager Doyon clarified that it is not staff's decision what goes on the agenda. It is the

Commission's decision. The information Mr. Liebert submitted was forwarded to the Commission for their review. If the Commission wanted to hear about a truck presentation that is reflective of purchasing processes in the Army, they would have asked that it be added to an agenda.

With regard to ECP issues, Manager Doyon asked Mr. Liebert what an appropriate amount would be to spend on legal expenses to sue Barrett Minerals. Mr. Liebert responded that he doesn't care if it is one dollar spent to get one dollar back, it is the principle of the matter.

There being no further comments, Mayor Winters requested a motion with regard to Item 4C.

Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission remove Item 4C from the Consent Agenda for consideration and vote at the next Commission meeting.

Motion carried 5-0.

With the exception of Item 4C, Mayor Winters called for the vote with regard to the main motion.

Motion carried 5-0.

BOARDS & COMMISSIONS

10. APPOINTMENT, BOARD OF ADJUSTMENT/APPEALS.

Commissioner Jones moved, seconded by Commissioner Bronson, that the City Commission appoint Dale Nelson to the Board of Adjustment/Appeals for a three-year term beginning October 1, 2013, through September 30, 2016.

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, inquired if Mr. Nelson and the current members met the qualifications of serving on this board. Commissioner Bronson reviewed the qualifications of Mr. Nelson.

Mr. Gessaman suggested the applications be made available on-line.

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

Motion carried 5-0.

11. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

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

PUBLIC HEARINGS**12. FINAL PLAT AND DEVELOPMENT AGREEMENT FOR GREAT BEAR NO. 2 SUBDIVISION – PHASE I, BEING LOTS 4 & 5, BLOCK 1, OF THE INTERNATIONAL MALTING COMPANY, LLC ADDITION.**

Planning and Community Development Director Craig Raymond reported that this is a public hearing to consider approval of the final plat of Great Bear No. 2 Subdivision - Phase 1 located north of the ADF International project site and generally east of US Highway 87.

The final 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 is depicted on the final plat to be dedicated to the City of Great Falls as a condition of final approval as a public right-of-way.

At its meeting on July 9, 2013, the Planning Advisory Board recommended the City Commission approve the final plat for Great Bear No. 2 Subdivision - Phase 1.

Mayor Winters declared the public hearing open.

Speaking in support of the Final Plat and Development Agreement for Great Bear No. 2 Subdivision – Phase I was **Joleen Bach**, Great Falls Development Authority, 300 Central Avenue.

No one spoke in opposition to the Final Plat and Development Agreement for Great Bear No. 2 Subdivision – Phase I.

Mayor Winters closed the public hearing and asked the will of the Commission.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission approve the Final Plat and Development Agreement pertaining to Great Bear No. 2 Subdivision – Phase I.

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

Motion carried 5-0.

13. WEST RIDGE ADDITION, PHASE VI, LOCATED IN SE¼ OF SECTION 26, TOWNSHIP 21 NORTH, RANGE 3 EAST, PMM.**A. RESOLUTION 10033, ANNEXES SAID PROPERTY AND FINAL PLAT AND ANNEXATION AGREEMENT.****B. ORDINANCE 3111, ASSIGNS CITY ZONING OF R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT.**

Planning and Community Development Director Craig Raymond reported that this is the public hearing to consider Resolution 10033 and Ordinance 3111 which, if approved, will provide for the annexation of West Ridge Addition Phase VI and apply City zoning to same. The applicant is also

seeking approval of the Annexation Agreement and Final Plat of West Ridge Addition Phase VI. Previous actions for West Ridge Addition Phase VI include:

- On April 9, 2013, following a public hearing, the Planning Advisory Board recommended approval of the preliminary plat and the Zoning Commission approved of assigning R-3 Single Family-High Density District zoning to the subject property upon annexation.
- On May 7, 2013, the City Commission approved the preliminary plat for West Ridge Addition Phase VI with certain conditions.

The ±7.99 acre subject property is located generally west of 2nd Street Northeast and north of 38th Avenue Northeast. The developer is requesting approval of the Annexation Agreement, Final Plat, City zoning and annexation of West Ridge Addition, Phase VI. The proposed subdivision consists of 24 single-family residential lots.

Mayor Winters declared the public hearing open.

No one spoke in support of or in opposition to Resolution 10033 and Ordinance 3111.

Mayor Winters closed the public hearing and asked the will of the Commission.

Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 10033 and approve the Final Plat and Annexation Agreement all pertaining to West Ridge Addition, Phase VI.

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

Commissioner Burow inquired if drainage issues have been addressed.

Public Works Director Jim Rearden responded that there is a Master Plan for the entire area and there are plans for improvements. Each lot will pay a set portion of funding to accomplish the work.

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

Motion carried 5-0.

Commissioner Bronson moved, seconded by Commissioners Burow and Kelly, that the City Commission adopt Ordinance 3111.

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

Motion carried 5-0.

14. **ORDINANCE 3113, AMENDING TITLE 13, CHAPTER 12 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS PERTAINING TO THE INDUSTRIAL PRETREATMENT PROGRAM.**

Public Works Director Jim Rearden reported that adoption of Ordinance 3113 will amend Title 13 of the Official Code of the City of Great Falls (OCCGF), and specifically the sanitary sewer code relating to the industrial pretreatment program. The amendment required by the U.S. Environmental Protection Agency (EPA) to comply with federal regulations was to update the OCCGF by changing the definition of “existing source.” Approval of the amendment will allow the City to meet EPA’s deadline of September 15, 2013.

Mayor Winters declared the public hearing open.

No one spoke in support of or in opposition to Ordinance 3113.

Mayor Winters closed the public hearing and asked the will of the Commission.

Commissioner Kelly moved, seconded by Commissioners Burow and Jones, that the City Commission adopt Ordinance 3113.

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

Motion carried 5-0.

OLD BUSINESS

15. RESOLUTION 10020, ORDINANCE 3108 AND ANNEXATION AGREEMENT, ALL PERTAINING TO SKYLINE HEIGHTS APARTMENTS.

Planning and Community Development Director Craig Raymond reported that on August 6, 2013, the City Commission conducted a public hearing on Resolution 10020 and Ordinance 3108 to consider annexation and zoning of certain property pertaining to the Skyline Heights Apartment project.

Subsequent to the closing of the public hearing, and during the deliberation process, the City Commission determined that more information was needed in order to fully consider relevant facts. At that time the City Commission tabled further deliberation until September 3, 2013.

Subsequent to the August 6th meeting, staff met with property owner Damon Carroll in order to coordinate fact-finding efforts and establish what information would be required in order to satisfy the City Commission's request for additional information. During this meeting, the applicant Damon Carroll respectfully requested that the City Commission grant additional time in order for his engineer to complete the requested tasks. Additional time would also grant City staff time to review the engineering results and provide a recommendation to the City Commission.

Commissioner Burow moved, seconded by Commissioner Bronson, that the City Commission remove from table and postpone action on consideration of Resolution 10020, Ordinance 3108, and the Annexation Agreement until October 1, 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. **BID DEPOSIT AGREEMENT FOR SALE OF CITY-OWNED PROPERTY: MED-TECH LOT 3E, PARCEL 1079544, 2100 21ST AVENUE SOUTH.**

City Manager Greg Doyon reported that the Commission approved the sale of Med-Tech Lot 3E to Bresnan Communications on July 17, 2012. Thereafter, Bresnan went through a sale to Charter Communications and asked if the City would entertain the idea of entering into a Bid Deposit Agreement that would allow them to complete the purchase by December 31, 2013. If the parties cannot enter into an acceptable Purchase and Sale Agreement by December 31, 2013, the City will retain \$5,000 of the bid deposit, which would have been forfeited in its entirety if Bresnan did not acquire the subject property.

Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission approve the Bid Deposit Agreement regarding the sale of property at 2100 21st Avenue South (Parcel 1079544) to Bresnan Communications, LLC and authorize the City Manager to execute an acceptable Purchase and Sale Agreement and other necessary documents.

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.

NEW BUSINESS

ORDINANCES/RESOLUTIONS

17. **ORDINANCE 3112, AMENDING TITLE 15, CHAPTER 50 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS PERTAINING TO THE ADOPTED FIRE CODE.**

Fire Marshal Dirk Johnson reported that § 7-33-4208, MCA, sets forth that “The governing body of an incorporated city or town may adopt technical fire codes, in whole or in part, by reference under the procedure provided in § 7-5-4202, MCA.” The City has previously adopted the International Fire Code for two important reasons. First, the State of Montana has adopted the 2012 IFC. Second, the City’s Planning and Community Development Department have adopted and enforce the other International Codes. This makes the adopted fire code fully adaptable to the other codes that the City of Great Falls utilizes as the building standard.

Additionally the proposed ordinance indentifies local revisions to the 2012 IFC that were based on changes the State Fire Marshal had made when the State adopted this code and section 23.12.601 of the Administrative Rules of Montana. The portions of the code that were not adopted may have been addressed in State law or in Great Falls City ordinances.

Commissioner Kelly moved, seconded by Commissioner Jones, that the City Commission accept Ordinance 3112 on first reading and set a public hearing for September 17, 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.

18. ORDINANCE 3114, TO ASSIGN CITY ZONING TO THE AMENDED PLAT OF LOT 2, MEDICAL TECH PARK MINOR SUBDIVISION, IN THE SE¼ SECTION 18, T20N, R4E, P.M.M. (TALUS APARTMENTS).

Planning and Community Development Director Craig Raymond reported that this is a request to accept Ordinance 3114 on first reading and schedule a public hearing for October 1, 2013, in order to consider the application of City zoning to Lot 2 of the Medical Tech Park Minor Subdivision. The subject property is vacant and is directly south of the existing Centene commercial office building. The property owner intends to construct a multifamily apartment building on the property. Annexation into the City would allow the property owner access to water and sewer services.

Commissioner Bronson moved, seconded by Commissioners Jones and Kelly, that the City Commission accept Ordinance 3114 on first reading and set a public hearing for October 1, 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.

19. RESOLUTION 10034 TO LEVY AND ASSESS PROPERTIES WITHIN THE BUSINESS IMPROVEMENT DISTRICT.

Fiscal Services Director Melissa Kinzler reported that on July 16, 2013, the Business Improvement District (BID) presented its proposed work plan and budget and recommended a method of levying an assessment on the properties within the district that best ensures that assessment on each lot or parcel is equitable in proportion to the benefits to be received for fiscal year 2013/2014. After conducting a public hearing on August 6, 2013, the Commission approved the BID's 2014 work plan and budget. This is the final action required to levy an assessment on the BID properties within the district. The assessment for fiscal year 2014 will generate \$201,225.09 in assessment revenue.

Commissioner Kelly moved, seconded by Commissioner Jones, that the City Commission adopt Resolution 10034.

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.

20. RESOLUTION 10035 TO LEVY AND ASSESS PROPERTIES WITHIN THE TOURISM BUSINESS IMPROVEMENT DISTRICT.

Fiscal Services Director Melissa Kinzler reported that on July 16, 2013, the Tourism Business Improvement District (TBID) presented its proposed work plan and budget for fiscal year

2013/2014 to the City Commission. After conducting a public hearing on August 6, 2013, the Commission approved the TBID's 2014 work plan and budget. This is the final action required to levy an assessment on the properties within the district. The assessment for fiscal year 2014 will generate \$415,626 in assessment revenue.

Commissioner Jones moved, seconded by Commissioner Kelly, that the City Commission adopt Resolution 10035.

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

Karen Venetz, Administrative and Marketing Director, thanked the City for its commitment to the Tourism Business Improvement District.

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

Motion carried 5-0.

21. **RESOLUTION 10036, TO LEVY AND ASSESS THE COST OF REMOVAL AND DISPOSAL OF NUISANCE WEEDS IN THE CITY OF GREAT FALLS FROM JUNE 1, 2012, TO MAY 31, 2013.**

Fiscal Services Director Melissa Kinzler reported that each year nuisance weed violations are reported to the Public Works Department. 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. 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 and charged at a rate of \$200 per hour. Photographs are taken before cutting to verify violations and again when the work is done.

Notices of weed violations were mailed to 2,853 property owners between June, 2012, and May, 2013. Of those notices sent out, 75 properties were cut by City crews. There are 31 remaining property owners to assess for non-payment for a total amount of \$16,700. Any payments made prior to the processing of the tax file will be applied accordingly to avoid placing an assessment on the property owner's tax bill.

Commissioner Kelly moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 10036.

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.

PETITIONS AND COMMUNICATIONS

22. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

- A. Alma Winberry**, 423 15th Street South, read a statement she authored regarding multiple issues she has spoke about in the past few months.
- B. John Hubbard**, 615 7th Avenue South, commented that the installation of handicap curbs from 10th Avenue South to 1st Avenue South seems like an abuse of tax money because he believes they were already done.

Public Works Director Jim Rearden commented that handicap ramp projects are State projects that are federally funded. If they are on City routes there is a 13% match.

Mr. Hubbard also discussed misappropriation of tax money, accountability in government, and recent state and national news reports.

- C. Ron Gessaman**, 1006 36th Avenue NE, suggested that the animal shelter update scheduled for the October 1, 2013, work session be televised. Mr. Gessaman read a records request he submitted, and commented this Commission broke the law with regard to Ordinance 2925. He concluded that citizens are losing their patience waiting for the City's collection efforts against ECP customers - Montana Refinery, now Calumet, General Mills and Barrett Minerals.

Commissioner Jones responded that things are progressing. He hopes a response is forthcoming from Barrett Minerals. The other customers will be approached in time.

Mayor Winters added that consideration should be given to the amount of money and litigation the City would have been involved in had it not paid its bills.

CITY MANAGER**23. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Deputy City Manager Jennifer Reichelt reported that staff is exploring the costs of public wifi in the Commission Chambers. She also announced that the "Drool in the Pool" event is Saturday at the Electric City Water Park.

Director Rearden further clarified that some of the handicap ramps are being replaced because they did not meet current federal requirements. The handicap ramps have to be ADA compliant before the City can use state and federal preservation money to repair the streets.

CITY COMMISSION**24. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Winters noted a letter received from attorney Doug James.

Commissioner Jones commented that there are a number of resolutions and ordinances that need to be repealed that allowed the City to get involved with Southern Montana in the first place. But, that

there are many other things to focus on in regards to SME. There is a time and place to get things done and there is a plan in effect to do that.

City Attorney Sara Sexe noted that she is in the process of reviewing the ordinances and resolutions with regard to Electric City Power to determine at what stage they can be repealed to finally close the issue.

25. COMMISSION INITIATIVES.

Commissioner Bronson noted the BID's written request to City Attorney Sexe regarding anti-loitering and panhandling ordinances. He commented that there are constitutional issues that arise when trying to pass such ordinances. City Attorney Sexe is researching the issue. After review of the research and different options, he suggested that, if these ordinances or variations of them would be appropriate to address safety concerns, the Commission do so.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Jones moved, seconded by Commissioner Bronson, to adjourn the regular meeting of September 3, 2013, at 8:29 p.m.**

Motion carried 5-0.

Mayor Michael J. Winters

City Clerk Lisa Kunz

Minutes Approved: September 17, 2013