

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, Fred Burow and Bob Kelly. Also present were the City Manager and Deputy City Manager; City Attorney; Directors of Fiscal Services, Planning and Community Development, and Public Works; Police Investigations Captain; and the City Clerk.

**PROCLAMATIONS:** Mayor Winters read proclamations for Bike to Work Week, National Preservation Month, and Police Week.

**\*\* 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**, Chair NC 3, updated the Commission on agenda items that were discussed at the Council's May meeting. She announced that the Council will adjourn for two months after its June meeting.

#### **CONSENT AGENDA**

2. Minutes, April 15, 2014, Commission meeting.
3. Total Expenditures of \$7,129,189 for the period of April 10-30, 2014, to include claims over \$5000, in the amount of \$6,780,765.
4. Contracts list.
5. Grants list.
6. Set public hearing for June 3, 2014, on Resolution 10069, Conditional Use Permit to allow the Re-establishment and Expansion of a Non-confirming Type-1 Casino.
7. Set public hearing for May 20, 2014, on Resolution 10075, Fees for Engineering Division Inspections, Reviews, and Services.

8. Award contract in the amount of \$1,083,300 to TMI Coatings, Inc. for the Ella Avenue Water Tower Reconditioning (Base Bid A), and a contract in the amount of \$1,105,096 to Classic Protective Coatings, Inc. for the Skyline Water Tower Reconditioning (Base Bid B), and a contract in the amount of \$195,765 to Shearer & Associates, Inc. for the 33<sup>rd</sup> Street Surge Tank Demolition and Replacement (Base Bid C). **OF 1625.1**
9. Approve Professional Services Agreement with Thomas Dean & Hoskins, Inc. for engineering services for the Hill 57 Pump Upgrades in the amount of \$185,186. **OF 1625.3**
10. Award contract in the amount of \$188,768 to United Materials of Great Falls, Inc. for the Lower West Hill Storm Drain. **OF 1649**
11. Approve Change Order No. 1 in the amount of \$5,485.34 and Final Payment in the amount of \$51,901.87 to United Materials, of Great Falls, Inc., and payment in the amount of \$524.26 to the State Miscellaneous Tax Division for the 6<sup>th</sup> Street NE Curb & Gutter Extension. **OF 1653.5**
12. Approve Final Payment in the amount of \$9,042.40 to Great Falls Sand & Gravel, Inc. and \$90.42 to the State Miscellaneous Tax Division for the 7<sup>th</sup> Avenue South (10<sup>th</sup> Street South to 12<sup>th</sup> Street South) Street Improvements. **OF 1653.2**
13. Approve Final Payment in the amount of \$81,921.36 to Planned and Engineered Construction, Inc. and \$827.49 to the State Miscellaneous Tax Division for the Sanitary Sewer Main Trenchless Rehabilitation, Phase 17. **OF 1566.4**

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

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

**Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE, referred to Item 6 and expressed concerns about the location of the proposed casino being within 600 feet of a church. She was disappointed that Neighborhood Council 3 wasn't made aware of the Montana Department of Revenue's deadline for public comments on this project.

**Derek Oestreicher**, legal counsel for Corpus Christi Church, objected to the proposal for a conditional use permit to re-establish and rebuild the River City Casino. Mr. Oestreicher commented that because the casino is proposed to be built 560 feet from the church, and he doesn't believe the construction of the casino can be completed by the deadline, are violations of City Code and reasons he doesn't believe there is a need to set Item 6 for a public hearing.

**Gregg Smith**, legal counsel for applicant, responded to comments made regarding Item 6. Mr. Smith explained that, with regard to the 600 foot rule, the applicant is not asking for a code variance, but a conditional use permit that is allowed at this location. As far as the construction deadline, Mr. Smith concluded that once the application was submitted and vested, they would be allowed to proceed through the process.

Commissioner Bronson commented that when it comes to issues regarding zoning, annexation or

conditional use permits, it is his interpretation of State law that not affording applicants a full hearing on their application would be a violation of their due process rights.

Motion carried 5-0.

### **BOARDS & COMMISSIONS**

#### **14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

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

### **PUBLIC HEARINGS**

### **OLD BUSINESS**

#### **15. ANNUAL ACTION PLAN INCLUDING USE OF 2014/2015 CDBG & HOME FUNDS.**

Planning and Community Development Director Craig Raymond reported that this item is regarding the 2014/2015 Annual Action Plan pertaining to the proposed use of Community Development Block Grant (CDBG) and HOME Investment Partnership program funds. This is the final action on the allocation of 2014/2015 CDBG and HOME funding.

Prior City Commission actions on this item were:

- The Community Needs Hearing was held on December 17, 2013;
- City Staff provided the City Commission with a status report on CDBG funding and funding recommendations at the January 7, 2014, Work Session;
- Funding allocations were established by the Commission on January 21, 2014;
- The Public Hearing was set on March 18, 2014 (after CDC reviewed applications, heard presentations from applicants for CDBG funds, prioritized needs and made final recommendations); and
- The Public Hearing was held on April 15, 2014;

Now that the required 30-day public comment period is closed, Director Raymond reported that final action is now required to approve the use of funds as outlined in the Proposed Funding List.

**Commissioner Kelly moved, seconded by Commissioner Burow, that the City Commission adopt the Annual Action Plan including the use of the 2014/2015 Community Development Block Grant (CDBG) funds and 2014/2015 HOME Program funds as recommended.**

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 36<sup>th</sup> Avenue NE, pointed out that Code Enforcement, Rehabilitation Specialist and CDBG Program Administration make up 32% of the funds that he feels should come out of the general fund or Planning and Community Development Department's budget.

City Manager Greg Doyon responded that it is not a program that the City could provide funding for out of the general fund. The City functions that it does support are eligible and ultimately do

serve the population that the program targets.

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

Motion carried 5-0.

16. **RESOLUTION 10072, A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, ESTABLISHING TIME LIMITS AND PROTOCOL FOR CONDUCT DURING PUBLIC MEETINGS.**

City Attorney Sara Sexe reported that before the Commission is Resolution 10072 regarding establishing time limits and protocol for conduct during public meetings. The Commission tabled Resolution 10072 at its April 15<sup>th</sup> meeting for further work on the proposed resolution. She considered the public comments provided during that meeting and worked with Commissioner Bronson on additional language that has been updated in Resolution 10072 for the Commission's consideration. She noted that Commissioner Bronson also provided an alternate paragraph 4 for Commission consideration. The Montana Supreme Court has indicated that viewpoint neutral, time, place and manner restrictions to public comment are appropriate under the law, specifically referencing three and five minute limitations.

Attorney Sexe clarified that points of order can only come from members of the deliberative body. A member under Robert's Rules of Order is defined as a person who has the right to make motions, debate and vote on motions. She further reported the established time limits of several other Montana cities.

**Commissioner Bronson moved, seconded by Commissioner Kelly, that the City Commission remove Resolution 10072 from the table, and adopt Resolution 10072 as amended with the alternate paragraph 4 which would set no specific time limits for public hearings and public comment on agenda items.**

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

Commissioner Bronson noted his opposition to setting a time limit for public comment on agenda items. He expressed concern that by putting an arbitrary time limit on those portions of the meeting would create more problems than they are worth, particularly with regard to controversial items such as zoning and annexation matters. He discussed other options available to the presiding officer and commission with regard to time limits.

Commissioner Burow commented that the five minute and three minute time limits as presented should be adequate time for most people to make a point. Further, the resolution sets forth that the presiding officer can extend a person's time, or allocate a certain amount of time at the beginning of a meeting.

Commissioner Jones commented he was pleased with what staff presented, and the time limit examples of other first and second class cities in Montana.

Mayor Winters commented that the meetings would be more efficient if the five and three minute time limits were in place.

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

**Richard Liebert**, 289 Boston Coulee Road, spoke in support of the language set forth by Commissioner Bronson, as well as citizen use of AV and multi-media equipment during public comment periods.

**Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE, spoke in support of alternate paragraph 4, and allowing citizen use of AV equipment during public comment periods. She warned against arbitrarily allowing some people extra time to speak and not others.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, referenced portions of the August 7, 2007, minutes regarding amending Resolution 9634 from the three minute time limit to five minutes. He suggested proper decorum should work both ways. He further spoke in opposition to paragraphs 2, 4, 9, 3 and 5 of Resolution 10072.

**John Hubbard**, 615 7<sup>th</sup> Avenue South, commented that he believes this item infringes on freedom of speech and 1<sup>st</sup> Amendment rights.

**Sandra DiMauro**, 4215 7<sup>th</sup> Avenue North, commented that the Commission has an obligation to be fair and less critical of the public.

Written comments in opposition to Resolution 10072 were received from: **Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE; **Sandra DiMauro**, 4215 7<sup>th</sup> Avenue North; **Kathy Gessaman**, 1006 36<sup>th</sup> Avenue NE; **Michael Enk**, P.O. Box 1408; **Michael Lewis**, P.O. Box 2832; **Richard Liebert**, 289 Boston Coulee Road; and, **Dr. Starshine**, 1200 32<sup>nd</sup> Street South #23.

Mayor Winters asked staff to clarify some of the comments made.

City Clerk Lisa Kunz noted the responses of several City Clerks regarding citizen use of AV equipment.

City Attorney Sara Sexe noted the time limit research of several first and second class cities in Montana.

Attorney Sexe reiterated that the proposed resolution that is before the Commission and Commissioner Bronson's proposal are consistent and allowed under Montana law. Montana statutes allow the Commission to determine its own rules and order of business, which includes Robert's Rules of Order that has been adopted.

Mayor Winters asked if there was any further discussion amongst the Commission.

Commissioner Kelly commented that he can't endorse a policy that seeks to curtail speech just because a few times it is annoying and unpleasant to hear. He suggested that the peers in the community that listen to the meetings and don't have the responsibilities of the Commission are the ones to correct that situation. He agrees with Commissioner Bronson's proposed use of open time on agenda items and, although not at this time, exploring the possibility of public use of AV equipment in an orderly way.

Commissioner Jones supports the resolution as drafted by City Attorney Sexe.

Mayor Winters commented that setting a time limit of five minutes is not limiting the rights of people. People can address this Commission.

Mayor Winters called for the vote.

Motion failed 2-3 (Mayor Winters and Commissioners Burow and Jones dissenting).

**Commissioner Burow moved, seconded by Commissioner Jones, to remove Resolution 10072 from the table, and adopt Resolution 10072.**

After further discussion, Mayor Winters called for the vote.

Motion carried 3-2 (Commissioners Bronson and Kelly dissenting).

### **NEW BUSINESS**

### **ORDINANCES/RESOLUTIONS**

17. **RESOLUTION 10056, A RESOLUTION ESTABLISHING A FRIENDSHIP CITY RELATIONSHIP WITH THE CITY OF LETHBRIDGE.**

Deputy City Manager Jennifer Reichelt reported that this item is a request for the City Commission to adopt Resolution 10056 which would establish a Friendship City Relationship with the City of Lethbridge.

The City of Great Falls and the City of Lethbridge are interested in entering into a Friendship City Relationship. Becoming a Friendship City is a way for communities to initiate relationships on a municipal government to municipal government basis with international cities on a less formal basis than those through an official sister city relationship.

The main goal of establishing a Friendship City Relationship is to develop open lines of communication between our two cities and lay a foundation of goodwill and exchange for future generations.

In January of this year representatives from the Advisory Commission on International Relationships provided a report to the City Commission and asked for consideration of entering into a Friendship City Relationship with Lethbridge.

Since that time Mayor Winters and City staff has had communications with both the Twinning Society and the Lethbridge Mayor's Office. Adoption of Resolution 10056 will begin the steps in developing Friendship City Relationships. The Lethbridge Council will be considering the same in June.

**Commissioner Kelly moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 10056.**

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

Commissioner Burow inquired if there were associated costs.

Deputy Manager Reichelt responded that there are no initial costs in becoming a Friendship City as opposed to becoming a member of Sister City International. At this point in time there are no expectations of expending funds and it is not included in the budget.

Mayor Winters noted that Mayor Spearman of Lethbridge expressed interest in hosting occasional international meetings for the benefit of both communities.

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

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, suggested the City not expend money to travel back and forth to Lethbridge, but to correspond electronically.

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

Motion carried 5-0.

### **PETITIONS AND COMMUNICATIONS**

#### **18. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

- A. Richard Liebert**, 289 Boston Coulee Road, read an open letter on behalf of Citizens for Clean Energy regarding energy efficiency. He thanked Commissioners Bronson and Kelly for their dissenting opinion on Item 16. Mr. Liebert read a quote out of the book titled Biography of the First Amendment with reference to Supreme Court Justice Oliver Wendell Holmes. With regard to citizen use of AV equipment, he noted that the Mayor's Office has procedures to handle the audio visual material/submissions for the City of Missoula. Mr. Liebert suggested not replacing the Park and Recreation Director position and that the Natatorium be sponsored by a private corporation.
- B. Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, discussed the February 19, 2008, minutes pertaining to the co-gen facility at the Wastewater Treatment Plant, methane gas being more toxic to the environment than CO<sub>2</sub>, and his opposition to the MBOI pass through loan for ADF International in Agenda Item 3.
- C. John Hubbard**, 615 7<sup>th</sup> Avenue South, discussed the school levy, recession, global warming, Yellowstone National Park, lawsuit against his former employer and his disappointment in the judicial system.

### **CITY MANAGER**

#### **19. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon reported that he is continuing to explore partnerships with Malmstrom Air Force Base. Several areas that would be beneficial to both is enhanced radio communication for mission requirements and cost avoidance, integrated public works services, joint water

testing, maximizing park and recreation services, repurposing available Base real estate for revenue, airmen support and a training coop.

Manager Doyon also reported that his budget directions to department heads were to maintain the budget as adopted last year with a few exceptions. His proposed budget will be presented to the Commission in July.

Deputy City Manager Jennifer Reichelt thanked Marty Basta for his 35 years of service to the City of Great Falls and wished him well in his retirement. She announced a public reception is scheduled for May 16, 2014, from 4 – 5:30 p.m. at Gibson Park.

### **CITY COMMISSION**

#### **20. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

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

#### **21. COMMISSION INITIATIVES.**

Commissioner Burow suggested staff be directed to explore the possibility of discontinuing the agenda setting meetings, and instead have approval of the agenda at the regular Commission meeting.

Manager Doyon will research and respond to the initiative.

### **ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Bronson moved, seconded by Commissioner Kelly, to adjourn the regular meeting of May 6, 2014, at 8:58 p.m.**

Motion carried 5-0.

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Mayor Michael J. Winters

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City Clerk Lisa Kunz

Minutes Approved: May 20, 2014