

**MINUTES OF THE MEETING
OF THE
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
January 10, 2012**

CALL TO ORDER

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chairman Bill Roberts at 3:00 p.m. in the Commission Chambers of the Civic Center.

ROLL CALL & ATTENDANCE

Planning Board Members present:

Mr. Bill Roberts
Mr. Scot Davis
Mr. John Harding
Dr. Heidi Pasek
Ms. Cheryl Patton
Mr. Thor Swensson
Mr. Wyman Taylor
Mr. Nathan Weisenburger

Planning Board Members absent:

Mr. Marty Byrnes

Planning Staff Members present:

Mr. Mike Haynes, Planning & Community Development Director
Ms. Jana Cooper, Planner II
Mr. Andrew Finch, Senior Transportation Planner
Ms. Phyllis Tryon, Administrative Assistant

Others present:

Ms. Patricia Cadwell, Neighborhood Council and Youth Council Coordinator
Mr. Dave Dobbs, City Engineer

Mr. Haynes affirmed a quorum of the Board was present.

MINUTES

Chairman Roberts asked if there were any changes to be made to the minutes of the public hearing and regular meeting held on December 13, 2011. There were no changes and the minutes were received as submitted.

PUBLIC HEARING

6th Street Northeast Closure Located 6th Street Northeast south of 17th Avenue Northeast

PLANNING STAFF REPORT & RECOMMENDATION

Ms. Cooper presented the staff report on the proposed closure of a portion of 6th Street Northeast generally located south of 17th Avenue Northeast and north of the Burlington Northern-Santa Fe railroad tracks, hereinafter referred to as "subject ROW." She stated she was entering the staff report into the record. The proposed closure is being requested by the Montana Refining Company, owners of the land adjoining 6th Street Northeast.

The subject ROW is a dead-end street blocked to through traffic to the south by the Burlington Northern-Santa Fe railroad. It is a public right-of-way and is paved without curb or gutter. The City's Public Works Department does not have a need to retain the 6th Street NE segment to maintain adequate public traffic flows. The applicant is proposing to use the subject ROW as a connection between their existing properties.

Ms. Cooper explained that the City is allowed to approve the closure per Montana State Code section 7-14-4114. City water mains, sewer mains, and storm drains are located in 6th Street Northeast and must be protected from damage by any operations proposed by MRC. No permanent structures may be located within 10 feet of the centerline of any utility (railroad tracks are exempted). The City will maintain access to this portion of the street for fire access and utility access for inspection, maintenance, replacement and/or abandonment as the need arises.

Ms. Cooper stated that the transportation element of the City's Growth Policy establishes strategies and actions to implement sound traffic and roadway management. The City of Great Falls Public Works Department has established the only need for the subject ROW is for utility purposes. The subject ROW is not needed for future street development or general public transportation use.

Montana Refining Company presented the project to Neighborhood Council #3 on January 5, 2012. The Council voted in support of the project at that meeting. Ms. Cooper said there was a representative from that Council in attendance at this meeting who would be speaking on their views during the Public Comment portion. Staff received an email in opposition to the closure because of outstanding issues regarding Electric City Power (ECP) and Montana Refining Company, and Board members have been provided a copy of that email. Ms. Cooper stated that the proposed closure is not related to Montana Refining Company's dealings with ECP, and so cannot be held up for that reason.

Ms. Cooper noted that the staff report states that the new access shall be deeded property. However, it has been determined that only an easement is required.

Staff recommends approval of the proposed closure. Ms. Cooper concluded her review of the staff report and offered to answer any questions from the Board.

Ms. Patton asked for clarification on whether the City retains ownership of the land since the proposal is for a closure and the property is not being vacated. Ms. Cooper confirmed that the City retains ownership.

Mr. Harding asked about the necessity of an easement if the City retains ownership of the portion of street being closed. Ms. Cooper explained that the easement allows unobstructed access to property owned by the City.

PETITIONER'S PRESENTATION

Mr. Jeff Short, 1900 10th Street Northeast, representing Montana Refining Company, stated the company will gate the area being closed for security of tanks in the railroad siding area.

OPPONENTS

Ms. Kathleen Gessaman, 1006 36th Avenue Northeast, asked if the City would have access to a pipe storage building if the street portion was closed.

Mr. Dave Dobbs, City Engineer, said the railroad was leasing excess ROW in the area to both the City and the refinery. He said the refinery was providing an easement that gave the City access to the storage site.

Ms. Gessaman said she wasn't sure if the City would be able to get in and out of the property when the refinery stored tanker cars on their property. She said she wanted to look to the future and ensure a safe operation. She also said there was concern among neighbors in the area about the visibility of the storage tanks from West Bank Park.

Mr. Dobbs stated he felt the City had adequate access to the site with the new easement. Mr. Haynes stated that any future development at the site would have to come before this Board and also the City Commission.

Mr. Richard Liebert, 289 Boston Coulee Road, said he was not necessarily opposed to this closure. He said he is suggesting the closure be tabled as an issue of fairness. He then provided each Board member a copy of a letter from the City Manager. He said he appreciated the work of staff, and that the request was technically adequate, but he said he thought it a question of fairness for the Montana Refining Company (MRC) to be held accountable for breaking a contract with the City. He pointed out that MRC has not been relieved of its contract with ECP, and that by breaking its contract, the City's ECP is

short \$150,000. He noted this matter will come before the City Commission for a final decision. He suggested tabling this matter and getting further information.

Mr. Ron Gessaman, 1006 36th Avenue Northeast, said he was the negative vote on this proposal at the Neighborhood Council 3 meeting. He stated he was opposed to this closure because the report does not indicate what this closure facilitates, and he does not see the justification for the closure. He said that MRC intends to build two railroad spurs to store railcars containing fuels.

He said Elk's Riverside Park is directly in view of the property, and the storage would also be visible from West Bank Park. He said one of the spurs was to be constructed on land zoned as Public Land Institutional on the bottom side of the railroad track, and said that he didn't understand how a spur could be installed there unless there was some side agreement to change the zoning.

Mr. Gessaman stated he saw no benefits and lots of disadvantages to this proposal and that it was the first step along the path to redevelopment of West Gate Mall property. He said that as a resident of the Riverview area, he experiences a lot of problems associated with the refinery. He said he is not in favor of any expansion of this facility. He said he did not want to see something that appears to be an innocuous closure of a little piece of road result in something detrimental to the population of Riverview.

PUBLIC COMMENT

Mr. Marty Bannon, 7201 Fox Farm Road, said he appreciated the opportunity to speak and the hard work of staff. He said that he supports tabling this proposal. He stated he was not opposed to the closure, and in fact was a supporter of MRC, but that plans for the future of MRC are not known. He said the citizens want to see the plan before this incremental step is taken. He said that it is known there will be 60 railcars across the street, and it is possible that MRC will double in size. He is in favor of MRC doubling in size, but not at this location. He said the EPA would never approve it at its site today, but he said it was an historic refinery, it does a great job, it's a great part of Great Falls and he would like to see it expand, but not on the river. He said the river is something we can never get back and provides drinking water for a million people. He reiterated that he is not opposed to MRC expanding, but not on this site.

PROPONENTS

Mr. Brett Doney, 3048 Delmar Drive, with the Great Falls Development Authority, stated that the GFDA sees this road closure as a public safety issue because this industrial area with truck use is not a good mix for children on bikes or car traffic. He said MRC could better deal with Homeland Security issues with the road closed. He noted MRC built a nice wall instead of using chain link fencing for security on Smelter Avenue. He said if not for the tens of millions of dollars MRC has invested in the plant in the last few years, there would have been cuts in city services and they provide a good chunk of tax

revenue. This year, that tax revenue was \$570,000 in increased valuation as well as job creation. In addition, he said they invest in the community. He also said this closure was not the needle in the haystack leading to anything else but was a simple issue. He said ECP is a separate issue and he does not want to see us make villains of leading companies, the school district, the hospital, and the airport authority over ECP.

Johnathan Kenneway, 117 Riverview B, stated he was the official delegate from Neighborhood Council 3. He said the council voted 2-1, with one abstaining, in favor of this proposal.

BOARD DISCUSSION

Chairman Roberts called for Board discussion. Mr. Harding stated that the ECP issue has no bearing on this matter before the Board. He said the road leads to nowhere and closure probably provides more security to that property. He said the closure makes sense and he will vote for it. Ms. Patton said she agreed with Member Harding. She said she certainly takes into consideration the comments made by Mr. Liebert, but that those decisions will be made by the City Commission and have no bearing on the discussion today. She said she would be more concerned if this was a vacation, but since it is a closure, if at some point in time the City needs to reopen the roadway, it could be done. She said she supports this motion.

Chairman Roberts said the new 30 foot access off 17th Avenue Northeast improves the access rather than hindering it.

MOTION: That the Planning Advisory Board recommend the City Commission approve the request to close a portion of 6th Street Northeast right-of-way generally located south of 17th Avenue Northeast and north of the BNSF railroad tracks containing approximately 0.41 acres all within Gov. Lot 3, Section 1, Township 20 North, Range 3 East, P.M.M. Great Falls, Cascade County, Montana, subject to the following conditions:

1. A Development Agreement shall be prepared containing terms and conditions for the closure of 6th Street Northeast including but not limited to provisions for:
 - A. Access by City's Public Works Department as necessary for inspection, maintenance, replacement or abandonment of the existing utilities. Utilities shall be protected from damage caused by any activities by the applicant and no permanent structures may be located within 10 feet of the centerline of any utility (railroad tracks exempted). Refer to memo from Public Works dated 12/22/11 and attached to staff report.
 - B. Provide fire access for emergency vehicles and fire apparatus as necessary by the City's Fire Department.
 - C. All new fencing/gating proposed for site shall be reviewed and approved by the City's Public Works and Fire Department.

- D. Provide access to the City owned lot south of 17th Avenue Northeast that is agreeable to the City. This access shall be a minimum of 30 feet wide, paved to meet City needs and deeded to the City through the amended plat process. The existing railroad spur on the parcel owned by MRC shall be shortened to not block City access to its parcel at any time.
- E. If street segment is ever reopened, the applicant shall return the closed segment of 6th Street Northeast to its existing condition. Acceptance of the street to its original condition will be approved by Public Works.

Made by: Mr. Harding
Seconded: Ms. Patton

VOTE: There being no further discussion, and all being in favor, the motion carried.

Ms. Cooper advised the applicant of the next procedural steps. The recommendation of the Planning Advisory Board will be presented to the City Commission. The City Commission will approve or deny the closure. If approved, the applicant will submit any documents for review and then file those documents with the Cascade County Clerk and Recorder's Office.

The Public Hearing was closed.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

FFY 2012 Section 5303 Funding Agreements

Mr. Finch presented the staff report on FFY 2012 Section 5303 Funding Agreements. He stated he was entering the staff report into the record. He said the item being presented was two related agreements dealing with Section 5303 funding, which refers to a section of Federal law which requires the set aside and expenditure of Federal transportation monies made available to the transit administration for use on transit planning in local jurisdictions. The funds are received through the Montana Department of Transportation and in turn, are made available to the Great Falls Transit District. The City retains a small portion within the Planning staff for transit planning performed by staff.

In order to receive and pass through funds to the Great Falls Transit District, staff is required to enter into two agreements. One is with the Department of Transportation, outlining dollars provided and Federal requirements which need to be met. A subsequent agreement allows funds to pass through to the Great Falls Transit District.

The City will keep \$11,376 and pass \$95,402 on to the Transit District. The agreement covers Federal Fiscal Year 2012, which runs from October 1, 2011 through September 30, 2012.

Staff recommended that the Planning Advisory Board approves both agreements. Mr. Finch concluded his presentation and offered to answer any questions from the Board. There were no questions.

BOARD DISCUSSION

Chairman Roberts called for any discussion from the Board. There was no discussion.

MOTION: That the Planning Advisory Board approve the FFY 2012 Section 5303 agreements.

Made by: Dr. Pasek
Seconded: Mr. Swensson

INFORMATIONAL ITEMS NOT REQUIRING BOARD ACTION

Community Transportation Enhancement Program Update

Mr. Finch presented the staff report on the Community Transportation Enhancement Program (CTEP) Update. He stated he was entering the staff report into the record. Mr. Finch explained that staff manages, administers and works on implementation of the CTEP program. Mr. Finch gave background details of CTEP, explaining that in 1991, Congress required 10% of surface transportation funds that each state receives to be used to enhance the transportation network, such as roadside landscaping and sidewalks, or historic preservation projects immediately adjacent to roadways. The Montana Department of Transportation elected to allocate these funds to local governments on a per capita basis.

In 1993, the City and Cascade County jointly created a project solicitation and selection process. With the dissolution of the City-County Planning Board in 2005, the City continued the process of publicly soliciting projects and having the Planning Advisory Board review and recommend projects to be funded. At the county level, the County Commission chooses projects with no formal public solicitation.

The program has overseen more than 50 projects with more than \$8 million in expenditures and the process of selecting projects has remained the same for more than 18 years. The CTEP process has been reviewed from time to time for effectiveness. Recently, staff reviewed the process and noted that past projects have not always had clear ties to community goals identified in the City's adopted plans. In addition, the City has a responsibility to ensure scarce resources are expended on projects that have the greatest benefit or are targeted towards the greatest needs.

Staff has recommended in a memorandum to the City Commission that the project selection process no longer be an open solicitation to the general public and that the Planning Advisory Board no longer provide a formal ranking process. Instead, staff will

identify projects from existing plans that further the goals and objectives in those plans for a more focused, targeted and expedited process. Those projects would then be forwarded to the City Commission. The City Commission would hold a public hearing and receive public input on their selection process. Mr. Finch noted that there will have been copious public input on the plans themselves.

Expected benefits include accomplishing objectives, funding infrastructure investments that may not otherwise be made due to unavailable funding, speed project selection, tailor project types and locations for greatest community benefit, and leverage scarce local dollars with Federal funds.

Mr. Finch stated that community partnerships would continue. The City Commission has been informed by memorandum and has had no comments. Staff will provide the Commission with a proposed resolution outlining the revised process. If approved, staff will immediately begin to identify, scope and create cost estimates for new projects.

Mr. Finch stated this is an informational item and Board discussion is welcome. He added that if the Board would like to pass information on to the City Commission, that could certainly be a consideration. Mr. Finch concluded his presentation and offered to answer questions from the Board.

Mr. Harding stated he has been involved in CTEP project selection and enjoyed the process. He said the amount of funds was not even a million dollars per year even when the Planning Board was City-County. Mr. Finch clarified that funds amount to about \$380,000 annually. Mr. Harding asked for clarification on the terminology of the item, "Accomplish specific community objectives and implement community plans." Mr. Finch provided the example of the Downtown Master Plan, which recommends streetscape improvements, bike lanes, and consideration of changing one-ways. Mr. Harding said he was not in favor of removing the Planning Advisory Board from the selection process.

Mr. Haynes clarified that staff is not proposing to spend all the CTEP dollars downtown, but are saying that staff would be as strategic and targeted as possible with those limited funds to implement community plans. Chairman Roberts asked if the plan would be brought before this Board for review and approval. Mr. Finch said that right now the staff recommendation is to not include the Planning Advisory Board in the selection process. He said the City Commission can choose to recommend another process.

Ms. Patton asked if other City departments besides the Planning and Community Development Department would have the opportunity for input. Mr. Finch stated that the Public Works Department, Park & Recreation, and other departments would be closely involved in the process. Ms. Patton pointed out that the City Commission has not defined new goals and objectives since the mid-1990s. She stated she hopes the Commission would take on that project and set new reasonable goals and objectives so that the planning process is all encompassing. She said with tightening resources and

needs that the City can identify, the money can be spent on projects that have already been targeted. She also said she thought the revised CTEP process was a reasonable approach and will be interested in the City Commission's response. She said after having sat on this Board for a short time, she had been looking forward to being involved in the CTEP selection process. However, if this process works better for staff and the City as a whole, she is fine with it.

The discussion concluded.

COMMUNICATIONS

Upcoming Planning Board Projects

1. Shumaker annexation

Project Status:

- Stone Meadows – City Commission 1st Reading January 17, Public Hearing February 7

Meeting/Obligation Calendar, January 6, 2012 – January 20, 2012

A copy of the calendar is attached and incorporated herein by reference, and was received without comment.

Petitions & Applications Received

None

Good & Welfare

The next regularly scheduled meeting of the Planning Advisory Board/Zoning Commission is January 24, 2012. It does not appear there will be an agenda for that meeting, so the next regularly scheduled meeting is February 14.

PUBLIC COMMENT

Mr. Ron Gessaman, 1006 36th Avenue Northeast, stated that in his understanding, at any public meeting, the public is allowed to comment on any item on which the Board takes action. He said there was a Board vote on Section 5303 but there was no public comment taken. He said he believed that is a violation of law.


Ms. Kathleen Gessaman, 1006 36th Avenue Northeast, said she hopes the Planning Advisory Board members who wish to keep the CTEP process as it is will come to the City Commission meeting. She said she thought the new plan was a way to take the public out of the process. She said the City Commissioners are overworked, underpaid and do not have time to research all of this. She said the Planning Advisory Board's input would be very important and she hoped Board members would attend the City Commission meeting.

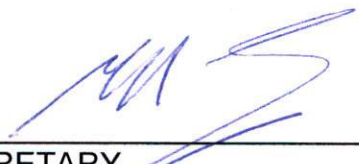
COMMENTS BY THE BOARD

There were no further comments by the Board.

ADJOURNMENT

The meeting was adjourned by Chairman Roberts at 4:06 p.m.


CHAIRMAN


SECRETARY