



City Commission Meeting Agenda
2 Park Drive South, Great Falls, MT
Virtual Meeting by Zoom
November 16, 2021
7:00 PM

Due to the COVID-19 health concerns, the format of the City Commission meeting will be held in a virtual video-conferencing environment. All City Commission members and City staff will attend the meeting via a remote location, using a virtual meeting method.

In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation.

To attend and participate in the virtual meeting utilizing Zoom, attendees must register in advance for the Commission Meeting at: https://us02web.zoom.us/webinar/register/WN_V3Qe2D2MQdiEyeP4d3bvtw

For all other Participation options, Please see **Public Participation Guide for City Commission Meetings**.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL / STAFF INTRODUCTIONS

AGENDA APPROVAL

CONFLICT DISCLOSURE / EX PARTE COMMUNICATIONS

PROCLAMATIONS

Small Business Saturday and National Apprenticeship Week.

COMMUNITY HEALTH INITIATIVES

1. Community Health Update from CCHD Board Member, Amanda Ball - City Appointed Representative.

PETITIONS AND COMMUNICATIONS

2. Miscellaneous reports and announcements.

(Public comment on any matter that is not on the agenda of the meeting and that is within the jurisdiction of the City Commission. Please keep your remarks to a maximum of 3 minutes. When at the podium, state your name and either your address or whether you are a city resident for the record.)

NEIGHBORHOOD COUNCILS

3. Miscellaneous reports and announcements from Neighborhood Councils.

BOARDS AND COMMISSIONS

4. Miscellaneous reports and announcements from Boards and Commissions.

CITY MANAGER

5. Miscellaneous reports and announcements from City Manager.

CONSENT AGENDA

The Consent Agenda is made up of routine day-to-day items that require Commission action. Items may be pulled from the Consent Agenda for separate discussion/vote by any Commissioner.

6. Minutes, November 2, 2021, City Commission Meeting.
7. Total Expenditures of \$2,569,081 for the period of October 16, 2021 through November 3, 2021, to include claims over \$25,000, in the amount of \$1,776,185.
8. Contracts List.
9. Award a contract in the amount of \$68,743.99 to Doctor Lawn Landscape Services, Inc. for the Southwest Side Street Reconstruction –Tree Removal project, and authorize the City Manager to execute the contract documents.

Action: Approve Consent Agenda as presented or remove items for separate discussion and/or vote by any Commission member.

PUBLIC HEARINGS

OLD BUSINESS

10. Amendment to 1975 Agreement Establishing City-County Health Department to Designate Interim HB 121 “Governing Body” Entity and Appointment of Member of City Commission to Serve as *Ex Officio* Non-Voting Member of HB 121 “Governing Body” Entity. *Action: Approve or not approve the amendment and appoint or not appoint a member to serve as Ex Officio Non-Voting Member. (Presented by Jeff Hindoien)*

NEW BUSINESS

ORDINANCES / RESOLUTIONS

11. Ordinance 3233, Amending Title 5 of the Official Code of the City of Great Falls (OCCGF) Pertaining to False Alarms and Alarm Agent Licensing. *Action: Accept or not accept Ord. 3233 on first reading and set or not set the public hearing for December 7, 2021. (Presented by Mike McIntosh)*
12. Ordinance 3237, Amending Title 15 of the Official Code of the City of Great Falls (OCCGF) Pertaining to the Fire Code. *Action: Accept or not accept Ord. 3237 on first reading and set or not set the public hearing for December 7, 2021. (Presented by Mike McIntosh)*

CITY COMMISSION

13. City Commission Vacancy Appointment. *Action: Appoint or not appoint Eric Hinebauch to fill the current vacancy on the City Commission until the next regular election.*
14. Miscellaneous reports and announcements from the City Commission.
15. Commission Initiatives.

ADJOURNMENT

Commission meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. City Commission meetings are re-aired on cable channel 190 the following Wednesday morning at 10 am, and the following Tuesday evening at 7 pm.

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Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL/STAFF INTRODUCTIONS: City Commission members participated electronically via Zoom webinar: Bob Kelly, Tracy Houck, Mary Sheehy Moe, Owen Robinson and Rick Tryon. City staff participated electronically via Zoom webinar: City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Park and Recreation Director Steve Herrig; Planning and Community Development Director Craig Raymond; Public Works Director Paul Skubinna; Police Chief Jeff Newton; and, City Attorney Jeff Hindoen. City Clerk Lisa Kunz was present in the Commission Chambers.

Due to the COVID-19 health concerns, the format of the City Commission meeting was held in a virtual video-conferencing environment. To honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation. To attend and participate in the virtual meeting utilizing Zoom, attendees must register in advance for the Commission Meeting at: https://us02web.zoom.us/webinar/register/WN_-zH54ZIHTY6bJdYzBFcWxQ

For all other participation options, please see **Public Participation Guide for City Commission Meetings**.

AGENDA APPROVAL: There were no proposed changes to the agenda by the City Manager or City Commission. The agenda was approved as presented.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: None.

PROCLAMATIONS: Family Court Awareness Month (November 2021) and Resolution of Commendation and Appreciation to Michael J. Winters for his dedication and service that contributed in so many ways to the betterment of others, our community, and our state.

MILITARY UPDATES

1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM MALMSTROM AIR FORCE BASE.

Colonel Anita Fuegate Opperman thanked Michael Winters for his service to the country and to the Veterans Memorial. She updated the Commission on the following:

- General Lutton, 20th Air Force Commander, visited Malmstrom recently during a wrap-up of an Olympic Flag exercise.
- General and Mrs. Cotton were recently welcomed back to Malmstrom.
- Global Thunder exercise is being conducted this week with US Strategic Command.

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- Due to ongoing construction to add anti-terrorism measures, the 2nd Avenue gate will not be open until after November 15.
- Ninety-six percent of active duty service members have been vaccinated, and they have started vaccinating Air Force civilians. Covid booster shots are available for those beneficiaries with base access.
- Malmstrom is celebrating Native American Heritage Month.

PETITIONS AND COMMUNICATIONS

2. Participating via Zoom was:

Brett Doney, Great Falls Development Authority (GFDA), announced that GFDA is hosting the Concorde Group consultants this week to conduct a housing market demand assessment across all price ranges in both home ownership and rental in the City and Cascade County. He hopes to have the study in hand by early December.

NEIGHBORHOOD COUNCILS

3. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Robinson commented that at every Commission meeting there is an opportunity for Neighborhood Council representatives to bring information directly to the Commission. He urged those representatives to use this opportunity to report to the Commission things that are going on in the City that Commission members may not otherwise hear.

Allison Tangen, Neighborhood Council 6 Chair, reported that the neighborhood council boundaries are: the northern boundary is 10th Avenue South, the southern boundary is the City limit line, the eastern is 20th Street South, and the western is the Missouri River. She highlighted activities that occurred within the last year: the Upper River Road renovation project received a lot of positive feedback from neighbors that are heavy utilizers of that road; and, renovations to Sunnyside Park included the Free Little Library being moved to a better location with lighting and re-painting the lines at the Basketball Court. The next big project the Council is looking into is a Neighborhood Watch Program.

Ms. Tangen further reported that the Council is in full support of the work the Council of Councils and Legal Department are doing regarding nuisance properties that will make significant difference to the quality and enjoyment of the neighborhood as well as reducing property crime.

Commissioner Moe inquired if the Council receives complaints about junky yards.

Ms. Tangen responded in the affirmative and reiterated the Council's support of the work of the Council of Councils and Legal Department regarding nuisance properties.

Commissioner Tryon encouraged Ms. Tangen to keep the Commission updated on the Council's efforts regarding the Neighborhood Watch Program.

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Ms. Tangen responded that the Neighborhood Watch Program needs to have a formal component as well as an informal component of neighbors looking out for suspicious activity, utilizing the Complaint form or contacting the Police Department. The Council is also utilizing the Sunnyside Neighborhood Watch Facebook group, and emphasizing the Police Department's SCRAM Program.

BOARDS AND COMMISSIONS**4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

None.

CITY MANAGER**5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon announced that leaf pick-up commenced yesterday in the Boulevard District and will run through November 16th. The scheduling is contingent on weather conditions, equipment failures, personnel availability and unforeseen emergencies. Typically, the service will run from 7:00 a.m. – 3:00 p.m. He urged residents to place leaf piles within the boulevard closest to the street and to keep the leaf piles a foot away from any hard objects. Additional information can be located on the Park and Recreation webpage.

The Public Works Department closed an underground refueling station at Fire Station 1 and reopened a new, aboveground station at the Park and Recreation facility.

A roofing project is underway on the Sunrise Apartments. The Housing Authority is hoping to complete three buildings by winter.

He attended a recent groundbreaking for the Touro Medical College that is located south of Benefis and north of Central Catholic School. The project will have significant community impact. The project itself has a tight timeframe due to the accreditation process in order to get the facility constructed. Staff is working diligently with that group to make sure that all of the permitting and development requirements are met in a timely manner to meet critical timelines.

Manager Doyon expressed kudos to Public Works employees Mike Linn and Nick Scribner for their quick actions in putting out a fire. They noticed smoke coming from a metal container that was starting to catch an adjacent house on fire. The homeowner noticed that something was wrong when he returned home and discovered there had been a fire. He looked at his security camera and saw what occurred. He made contact with Public Works expressing his gratitude for their quick action. He also advised that there was somebody sleeping in the basement at the time of the fire. Not only did their actions prevent property damage it could have even saved a life.

He, Chuck Anderson and Tom Micuda attended the housing study Brett Doney discussed earlier. A comment was made that there was a general lack of interest to do in-fill and multi-family housing development. There was talk about potential incentives that, in the future, may be brought

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back to the Commission for consideration in terms of making modest reductions in water and sewer hookups to accelerate some of the redevelopment in certain areas.

CONSENT AGENDA.

6. Minutes, October 19, 2021, City Commission Meeting.
7. Total Expenditures of \$3,215,197 for the period of September 19, 2021 through October 20, 2021, to include claims over \$25,000, in the amount of \$2,593,433.
8. Contracts List.
9. Approve the final payment for Encino Drive/Grande Vista 2 Street Repairs Phase 2 project in the amount of \$73,654.37 to MRTE, Inc., and \$743.98 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1680.1**
10. Approve the final payment for the Longfellow ADA Upgrades in the amount of \$59,592.06 to MRTE, Inc., and \$601.94 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1715.7**
11. Approve Final Payment for the S.S. Trenchless Rehabilitation Phase 23, in the amount of \$757,019.34 to Planned and Engineered Construction (PEC), Inc. and \$7,646.66 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **1675.4**
12. Set a public hearing for December 7, 2021, to receive public comment on the needs within the community related to the use of HOME-ARP funds.

Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission approve the Consent Agenda as presented.

Mayor Kelly asked if there were any comments from the public or discussion amongst the Commissioners.

Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

PUBLIC HEARINGS

13. **ORDINANCE 3238, A REQUEST FROM TY HABEL WITH TC GLASS AND NORTHERN HYDRAULICS TO REZONE 14.7 ACRES ADDRESSED AS 1300 RIVER DRIVE NORTH FROM LIGHT INDUSTRIAL AND MIXED-USE TRANSITIONAL TO PLANNED UNIT DEVELOPMENT.**

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

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Planning and Community Development Director Craig Raymond reported that, for the last several months, City staff have been in discussions with the Great Falls Development Authority and the TC Glass company about the former Wausau Building Supply site located at 1300 River Drive North. TC Glass currently has a retail business operation located within the current city limits. Additionally, TC Glass has a glass production facility located outside the city limits at 2300 Vaughn Road. The production facility building on Vaughn Road is too small to accommodate all of the glass product storage needs for TC Glass so they are looking for a property they can grow into.

The property located at 1300 River Drive North used to be the business location for Wausau Building Supply. There is an existing 105,000 square foot building on the property that has been vacant for the last several years. The building and surrounding property have been on the market for some time, but the large size of the building makes it difficult to be used by a single business. TC Glass approached City staff with an interest in using a portion of the existing building to consolidate its entire sales, office, and production operation. However, in order to move forward with its purchase of the property, the applicant has brought forward this rezoning request to be able to share the building with a wider range of industrial tenants.

The second applicant for the request, Northern Hydraulics, wishes to purchase 3.8 acres of the subject property with the thought that they may eventually construct a new building at this location. Northern Hydraulics has a business location in Black Eagle that sells and repairs hydraulic components.

The entire western site and most of the eastern site are currently zoned Light Industrial (I1). A portion of the eastern site along 14th Street is zoned Mixed-Use Transitional (M-2). The applicants' request to create a Planned Unit Development is being driven by several factors: 1) eliminate the split-zoning situation on the eastern tract, and 2) give the applicants the ability to market the sites to both light industrial and limited heavy industrial users. The applicants requested the flexibility to market the sites, particularly the remaining portion of the Wausau Supply Building, for businesses that manufacture products made from raw materials. Normally, this would require the applicants to rezone the property to Heavy Industrial (I-2). However, the applicants are sensitive to the concern that other permitted land use activities in the Heavy Industrial zoning district might raise concerns from surrounding property owners. To alleviate potential concerns, the applicants' PUD zoning request for the property allows them to submit their own list of permitted land uses and development standards. This information, which is included in the agenda report, will use the underlying I-1 zoning district. The only substantive land use added is the proposed allowance for limited Heavy Industrial businesses. This allows the City to specifically prohibit the following land uses that would otherwise be allowed in an I-2 district:

- Fuel Tank Farm
- Telecommunication facilities
- Junkyards
- Motor Vehicle Graveyards
- Motor Vehicle Wrecking Facilities

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Applicants' choice to bring forward a PUD request is preferable to staff than rezoning the property to I-2. The question for the City Commission is whether to allow the Heavy Industrial land use request to create more flexibility for the applicants to potentially add another business that would manufacture raw materials.

The proposed zone change was brought to Neighborhood Council #7 on September 13, 2021. After much discussion, the council voted unanimously to recommend approval of the zone change. The Zoning Commission also recommended in favor of the proposed change on September 28, 2021.

Spencer Woith, applicants' representative, reported that TC Glass is a third generation company in Great Falls that has continued to grow. They bring in materials to fabricate all of the windows in Great Falls to be shipped out. Moving into this space provides them the flexibility to grow. The PUD designation provides protection so that "the use of raw materials" wording is eliminated from the requirements and provides flexibility. Applicants will still need to comply with environmental codes regardless of the zoning designation.

Mayor Kelly asked if the Commission members had any questions. Hearing none, Mayor Kelly asked if there were any comments from the public in support of Ordinance 3238.

Appearing via Zoom was:

Brett Doney, Great Falls Development Authority, reported that it has been a difficult deal to put together and it is not easy to finance a fast growth company these days. GFDA made a \$1.3 million dollar loan commitment and will not charge payments until the company can afford to make payments. This is a good compromise and re-use of the property.

No one spoke in opposition to Ordinance 3238.

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

Commissioner Tryon moved, seconded by Commissioner Houck, that the City Commission adopt Ordinance 3238 and accompanying Findings of Fact/Basis of Decision subject to the Conditions of Approval being fulfilled by the applicants.

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

Commissioner Robinson noted historical use of the property since 1915-1916 that included a pea seed factory, and an airplane and farm tractors being built in the facility. His company, Lumber Yard Supply, took it over. In January 2002 they experienced a huge fire. It took 11 months to build the new facility that Wausau now has. In 2015, he accepted an offer to buy his company. Wausau slowly moved their facility south and the facility became vacant. He is very pleased that there is now an opportunity to use that property. TC Glass has a great reputation and is growing.

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Commissioner Tryon expressed appreciation to TC Glass and developers involved in the project, as well as the Planning and Community Development Department. He commented it is an example from an environment of “You can’t do that here” to “How can we help you do that here.”

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

Motion carried 5-0.

14. ORDINANCE 3239, TO AMEND THE OFFICIAL CODE OF THE CITY OF GREAT FALLS – 17.32.150 (DRIVEWAYS).

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that the impetus behind the proposed amendment to the Driveway chapter of the Land Development Code was two-fold: first, a series of permit requests to construct street accessed driveways on properties located within the older neighborhoods that also have alley access brought to light a problematic provision within the Driveway chapter of the City’s Land Development Code. The current provision of the code states the following: “For those properties which are served by an alley, no new driveways or expansions of existing driveways accessing the street are allowed unless authorized by both the City Engineer and the Director of Planning and Community Development.” There are legitimate reasons why city codes restricts the ability of property owners to have street-accessed driveways when they already have alley access to parking areas and detached garages. These reasons include: 1) preventing conflicts between vehicles backing out of driveways and vehicles using city streets, 2) keeping the sidewalk network as intact as possible reducing vehicle/pedestrian conflicts, and 3) maintaining greenspace in the front yards and boulevards of older neighborhoods.

The current code provision for alley accessed lots is problematic because it both prohibits street accessed driveways in one passage, but then allows City staff to essentially override the code in the next passage. What is further problematic is that the provision does not provide any decision-making criteria to assist City staff in potentially overriding the prohibition on street-accessed driveways. A better way to write code is to simply allow it, or allow it but only under certain known conditions which can be written in code, or just not allow it.

Secondly, there is an increasing over-use of the city street system for storage of private, large vehicles and an increase in the number of passenger cars and trucks being stored on the street. Most of these streets were not designed to have large vehicles on the shoulder. There is a current effort to deal with large vehicles on the street initiated by numerous citizen complaints. Staff has already brought forth solutions that first and foremost would help people deal with their toys and vehicles on their own private property. The Commission already passed an ordinance that provided significant increases in garage size allowances. Now we bring this proposed change that will also make it easier to store personal belongings on private property, which hopefully will help avoid enforcement and prosecution of nuisances.

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Mayor Kelly asked if the Commission members had any questions. Hearing none, Mayor Kelly asked if there were any comments from the public in support of Ordinance 3239.

Appearing via Zoom was:

Spencer Woith, made a general comment that alley loaded driveways are a good segway to look into the opportunity for additional places to create affordable housing. Addressing alley loaded garages and lots for access off the streets is something that needs to be looked at in more detail going forward.

No one spoke in opposition to Ordinance 3239.

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

Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission adopt Ordinance 3239.

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

Commissioner Robinson noted that this is another example of staff finding solutions and the Planning Department's move in the right direction that is good for Great Falls.

Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

OLD BUSINESS

15. REQUEST FOR PROPOSALS FOR CONSTRUCTION OF INDOOR AQUATICS AND RECREATION CENTER. OF 1770

Park and Recreation Director Steve Herrig reported that this item is consideration of bids for the facility itself. Staff recommends the award of a construction contract to Swank Enterprises in the total amount of \$18,349,000 for a base bid of \$17,995,000 and alternate #19 in the amount of \$354,000 for the construction of the Indoor Aquatics and Recreation Center. The facility is roughly 45,000 square feet and will consist of two pools, gymnasium, offices, child watch, and fitness area located in Lions Park. The impact that it would have on the community will be tremendous, not only for the citizens of Great Falls but for the military community as it will take care of their military training missions for both Malmstrom and the Air Guard. It was identified in the 2016 Master Plan that the Commission adopted in November 2016.

The Invitation to Bid was advertised four times on August 23, September 12 & 26, and October 3, 2021. Bids were opened on October 13, 2021. The base bids range from \$17,995,000 to \$19,670,000. The base bids with all of the alternates range from \$20,472,200 to \$22,195,000. Swank Enterprises submitted the low bid on both the base and the cumulative of alternates together.

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Alternate #19 is the large flume slide that goes in the leisure pool. It is the assessment of City staff and the design team that the flume slide will be an integral component in terms of getting family and community engagement to use the facility and recreate in the pool for general open use and parties.

Staff is recommending award even though it will exceed the current project budget. Under Montana law, they could engage with the low bidder to negotiate a more competitive proposal as long as it didn't exceed seven percent of the total bid proposed. However, because this proposal is part of a Federal Department of Defense grant award, staff cannot negotiate in that same manner.

If the Commission awards the agreement, the City can work with Swank Enterprises to develop a deductive change order reflecting value engineering and other ways to get back within budget. Once that is accomplished, staff would come back before the Commission for formal approval. There will be a quick turnaround because subs are holding prices, but staff does not know how long they will hold those prices for. The materials market is unstable. Building materials overall have significantly increased over the last 12 months and there are delays in getting material.

To address the budget shortfall, staff will also work with a group to explore fund raising and sponsorship opportunities that may help fund some of the other alternatives.

City Manager Greg Doyon added that this recommendation is a little bit different from what staff would normally do in terms of the situation where the bid exceeds where the target was desired. The risk is if the Commission awards the bid tonight staff will rely on the conversations that will ensue with Swank after the contract is awarded in hopes that Swank understands the situation the City is in. Whatever is amended will come back before the Commission. The other risk is if the award was delayed or something happened with materials, some of the amenities in the facility may need to be changed. Director Herrig has been exploring opportunities for fund raising for some of the areas they may fall short in. There are some options being explored that will be conversed with the Commission to see if the Commission wants to exercise as options.

Commissioner Moe moved, seconded by Commissioner Houck, that the City Commission award a contract to Swank Enterprises in the amount of \$17,995,000 for the Base Bid and \$354,000 for Alternate #19 for the Indoor Aquatics and Recreation Center, for a total contract amount of \$18,349,000 and authorize the City Manager to execute the construction contract documents.

Mayor Kelly asked if there were comments from the public.

Appearing via Zoom was **Brett Doney**, Great Falls Development Authority, commented that he is delighted with this bid and suggested moving forward on it.

Written communication was received from **Jimmy Fulton**, City resident, noting the project budget, contracts already executed, and the requested award amount being more than the remaining project funds. He inquired if the Wing Commander at Malmstrom was notified that Alternative No. 4 was not included in the award recommendation, and the City's intention to pay for the additional costs.

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

Commissioner Tryon inquired if \$470,000 worth of alternatives would be cut from the project if the extra funds were not available through negotiations with Swank or fund raising efforts.

Manager Doyon responded that the awkwardness of this is that in any other process the City would be able to negotiate with the low bidder up front to alleviate some concerns. The City does not have that ability in this case because of the grant award from the DOD. If the Commission awards the contract tonight, staff will immediately sit down with Swank to try to value engineer the proposal again. If it gets to a point that the project is going to be substantially altered, that may run into some issues with the actual grant award. At that point, staff would need to talk with OLDCC. He is hoping at this point that some of the materials or design features can be adjusted substantially enough to address the concerns with the overage in the bids. OLDCC has been clear that any overruns are the responsibility of the City. The extreme option the Commission has is to terminate the grant. The City would still be responsible for the monies committed to the architect and to the project so far. As he understands it, the City has the ability to terminate the agreement if the City is not able to find another way to address the cost or make the reductions necessary.

Rather than negotiating with Swank or relying on fundraisers, Commissioner Tryon wants to know what other mechanisms/options there may be for the City to fund the overage.

Mayor Kelly commented that the Park Maintenance District is another funding mechanism available to the City. He summarized the inquiries as to what degree can the City implement the Park Maintenance District funds to cover some of the overage going forward.

Director Herrig commented that the City is coming into year four of park district projects. Without changing the assessment whatsoever, the City could push year four projects to year five. That would free up close to half a million dollars and would allow the City to catch up on all of the park district projects that staff is currently working on. That money would then be available to put towards this project for a one-year period.

Commissioner Robinson requested clarification regarding the award of the base bid with alternate #19 putting the project over budget.

Director Herrig responded that \$1.8 million for Architect & Engineering services comes out of the \$20 million. The base bid includes the facility being stubbed and ready when any of the alternates could come along.

Commissioner Houck inquired if donations or grants of funds could be run through the Park Foundation or some other appropriate mechanism and was responded to in the affirmative.

Mayor Kelly noted that he has been approached by people wanting to know about naming rights, room rights and equipment rights because they feel this is a pretty broad community event and want to participate much like they have done for the schools and other facilities around town.

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

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Motion carried 5-0.

NEW BUSINESS
ORDINANCES/RESOLUTIONS
CITY COMMISSION

16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Commissioner Tryon commented that last week City staff, public, Neighborhood Council delegates, Mayor Kelly and Commissioner Robinson attended a Council of Councils meeting in person in the Gibson Room. He inquired why it wasn't appropriate or deemed safe for the Commission to conduct in-person meetings.

Mayor Kelly responded that was not his meeting. The meetings that he is in charge of and can vote for pertaining to safety are with the agreement of a majority of the Commissioners. He distanced himself and wore a mask at the Council of Councils meeting, and he had a responsibility as a designate to attend.

Commissioner Tryon commented that Mayor Kelly is sending the wrong message to the public, and people will express a skepticism about the motives involved if he continues with that inconsistent message.

Commissioner Moe commented that the Commission runs this meeting. The Commission is responsible for what happens in this meeting. The Commission is not responsible for what happens at the Council of Councils meeting or meetings that other people run. The Commission does not intrude on the decision making of those bodies. Commission members decide whether to attend or not. The only thing the Commission is responsible for is what happens at Commission meetings, and the Commission has been very consistent about that.

17. COMMISSION INITIATIVES.

None.

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ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Moe moved, seconded by Mayor Kelly, to adjourn the regular meeting of November 2, 2021, at 8:29 p.m.**

Motion carried 5-0.

Mayor Bob Kelly

City Clerk Lisa Kunz

Minutes Approved: November 16, 2021



Commission Meeting Date: Nov. 16, 2021

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

ITEM: \$25,000 Report
Invoices and Claims in Excess of \$25,000

PRESENTED BY: Finance Director

ACTION REQUESTED: Approval with Consent Agenda

LISTING OF ALL ACCOUNTS PAYABLE CHECKS ISSUED AVAILABLE ONLINE AT
<http://greatfallsmt.net/finance/checkregister>

**TOTAL CHECKS ISSUED AND WIRE TRANSFERS MADE ARE NOTED BELOW WITH AN
ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$25,000:**

ACCOUNTS PAYABLE CHECK RUNS FROM NEW WORLD	OCT 22, 2021 - OCT 27, 2021	669,048.84
ACCOUNTS PAYABLE CHECK RUNS FROM MUNIS	OCT 21, 2021 - NOV 3, 2021	1,847,169.62
MUNICIPAL COURT ACCOUNT CHECK RUN FOR	OCT 16, 2021 - OCT 29, 2021	52,404.43
ASIFLEX	OCT 19, 2021.	458.12
TOTAL: \$		<u>2,569,081.01</u>

GENERAL FUND

OTHER ADMIN

MOODY'S INVESTORS SERVICES INC	RATING FOR PARK MAINTENANCE BOND	28,000.00
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SPECIAL REVENUE FUNDS

PARK DISTRICT

KUGLIN CONSTRUCTION	PR642010 PARK DISTRICT ODDFELLOWS RESTROOM	37,236.60
MRTE INC	GRANDE VISTA TRAIL/SIDEWALK PR642107	72,844.20

FEDERAL BLOCK GRANTS

ALLIANCE FOR YOUTH INC	YOUTH RESOURCE CENTER	26,960.00
HUGHES FIRE EQUIPMENT INC	VICTORY LINE AMBULANCE - HGAC CONTRACT #AM20NA19	95,284.00

DEBT SERVICE FUNDS

DOWNTOWN TID BONDS

TALISMAN CONSTRUCTION SERVICES	CIVIC CENTER FAÇADE	308,995.19
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ENTERPRISE FUNDS

SEWER

VEOLIA WATER NORTH AMERICA	MONTHLY WWTP OPERATION CONTRACT	270,718.10
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STORM DRAIN

SCHUMAKER TRUCKING & EXCAVATING	OF 1554.7 22ND AVE S DETENTION POND	142,555.35
CONTRACTORS INC	UPGRADE	

INTERNAL SERVICES FUNDS

INFORMATION TECHNOLOGY

ENVIRONMENTAL SYSTEMS RESEARCH	ANNUAL ESRI MAINTENANCE	55,000.00
INSTITUTE INC		

CENTRAL GARAGE

MOUNTAIN VIEW CO OP	DIESEL/GASOLINE 282,954 GALLONS @ \$2.80/ GALLON	26,419.28
MOUNTAIN VIEW CO OP	DIESEL/GASOLINE 282,954 GALLONS @ \$2.80/GALLON	46,716.35

TRUST AND AGENCY FUNDS

COURT TRUST MUNICIPAL COURT

CITY OF GREAT FALLS	FINES & FORFEITURES COLLECTIONS	42,870.93
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PAYROLL CLEARING

STATE TREASURER	MONTANA TAXES	48,406.00
FIREFIGHTER RETIREMENT	FIREFIGHTER RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	52,354.22
STATEWIDE POLICE RESERVE FUND	POLICE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	68,986.80
PUBLIC EMPLOYEE RETIREMENT	PUBLIC EMPLOYEE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	130,650.97
US BANK	FEDERAL TAXES, FICA & MEDICARE	206,055.79
LABORERS INTERNATIONAL UNION	EMPLOYEE CONTRIBUTIONS	25,981.70
MONTANA OE - CI TRUST FUND	EMPLOYEE CONTRIBUTIONS	26,114.64

UTILITY BILLS

NORTHWESTERN ENERGY	ACCT 05614938 OCT21 SLDR CHARGES	64,034.85
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CLAIMS OVER \$25,000 TOTAL:

\$	<u>1,776,184.97</u>
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CITY OF GREAT FALLS, MONTANA**COMMUNICATION TO THE CITY COMMISSION****DATE: November 16, 2021**

ITEM: CONTRACTS LIST
 Itemized listing of administratively approved contracts.
 (Listed contracts are available for inspection in the City Clerk's Office.)

PRESENTED BY: Lisa Kunz, City Clerk

ACTION REQUESTED: Ratification of Contracts through the Consent Agenda

MAYOR' S SIGNATURE: _____

CONTRACTS LIST

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	AMOUNT	PURPOSE
A	Planning & Community Development	Mountain Alarm	11/16/2021 – 12/31/2022	\$52,875.73 (approved Downtown TIF funds)	Public Works Construction Agreement to install a new Hikvision CCTV system in the North and South Parking Garages



Commission Meeting Date: November 16, 2021

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Construction Contract Award: Southwest Side Street Reconstruction – Tree Removal, O. F. 1432.2

From: Engineering Division

Initiated By: Public Works Department

Presented By: Paul Skubinna, Public Works Director

Action Requested: Consider Bids and Approve Contract

Suggested Motion:

1. Commissioner moves:

"I move the City Commission (award/not award) a contract in the amount of \$68,743.99 to Doctor Lawn Landscape Services, Inc. for the Southwest Side Street Reconstruction –Tree Removal project, and (authorize / not authorize) the City Manager to execute the contract documents."

2. Mayor requests a second to the motion, Commission discussion, public comment, and calls for the vote.

Staff Recommendation: Staff recommends awarding the contract to Doctor Lawn Landscape Services, Inc. in the amount of \$68,743.99. Doctor Lawn Landscape Services, Inc. has executed all the necessary documents.

Summary: The project consists of removing twelve boulevard trees in preparation of a street reconstruction project scheduled for the spring of 2022.

Background: The Utilities and Street divisions worked together to design a project to replace seven (7) blocks of water main (O. F. 1432.1) in the fall of 2021 and reconstruct four (4) blocks of the roadway in the spring of 2022. During the design phase of the street reconstruction and ADA compliant handicap ramps, located at the intersections, it was discovered that some boulevard trees needed to be removed in order to accommodate construction of the project.

Significant Impacts: During the course of the project, power lines for street lighting will need to be temporarily removed, residents will not be able to park in front of their residences, and traffic will need to be detoured around the affected locations.

Citizen and Stakeholder Participation: Public Works staff, Park and Recreation staff, and the Neighborhood Council Coordinator met with Neighborhood Council 2 and citizens, at their April 14th and May 12th meetings

to discuss the water main replacement and the planned street reconstruction project scheduled for the spring of 2022. Neighborhood Council members voted 3-0 in favor of the Street Reconstruction project. An exhibit showing the street reconstruction design and which trees need to be removed was relayed to Neighborhood Council 2 on October 14, 2021.

Workload Impacts: City Engineering staff designed the project and will perform construction inspection and contract administration duties.

Project Work Scope: After reviewing survey notes and onsite visits it was determined twelve (12) of the thirty seven (37) boulevard trees need to be removed and one (1) tree relocated out of the scope of the street reconstruction project.

Project locations include;

- 2nd Avenue Southwest from 3rd Street to 6th Street.
- 3rd Avenue Southwest from 5th Street to 6th Street.

This project's tentative start date is November 29, 2021 and will work into the winter of 2022 with completion no later than April 1, 2022.

Evaluation and Selection Process: This project was advertised on October 17, 2021 and October 24, 2021. There were three plan holders for this project and one bid was received and opened on November 3, 2021. Doctor Lawn Landscape Services, Inc. submitted the low bid of \$68,743.99, Doctor Lawn Landscape Services, Inc. is an established responsible local contractor and has done a number of projects within the City.

Conclusion: This tree removal contract is necessary in order to keep the street reconstruction project's design and construction schedule on track for the spring of 2022.

Fiscal Impact: The project has been selected and prioritized, and executed in accordance with the Public Works Capital Improvements Program and budgeted using BARS A Funds.

Alternatives: The City Commission could vote to deny award of the construction contract and re-bid the project at a later date, which would delay or possibly eliminate the street reconstruction project scheduled for the spring of 2022.

Attachments/Exhibits:

Bid tabulation

Project location maps

CITY OF GREAT FALLS
P.O. BOX 5021
GREAT FALLS, MT 59403

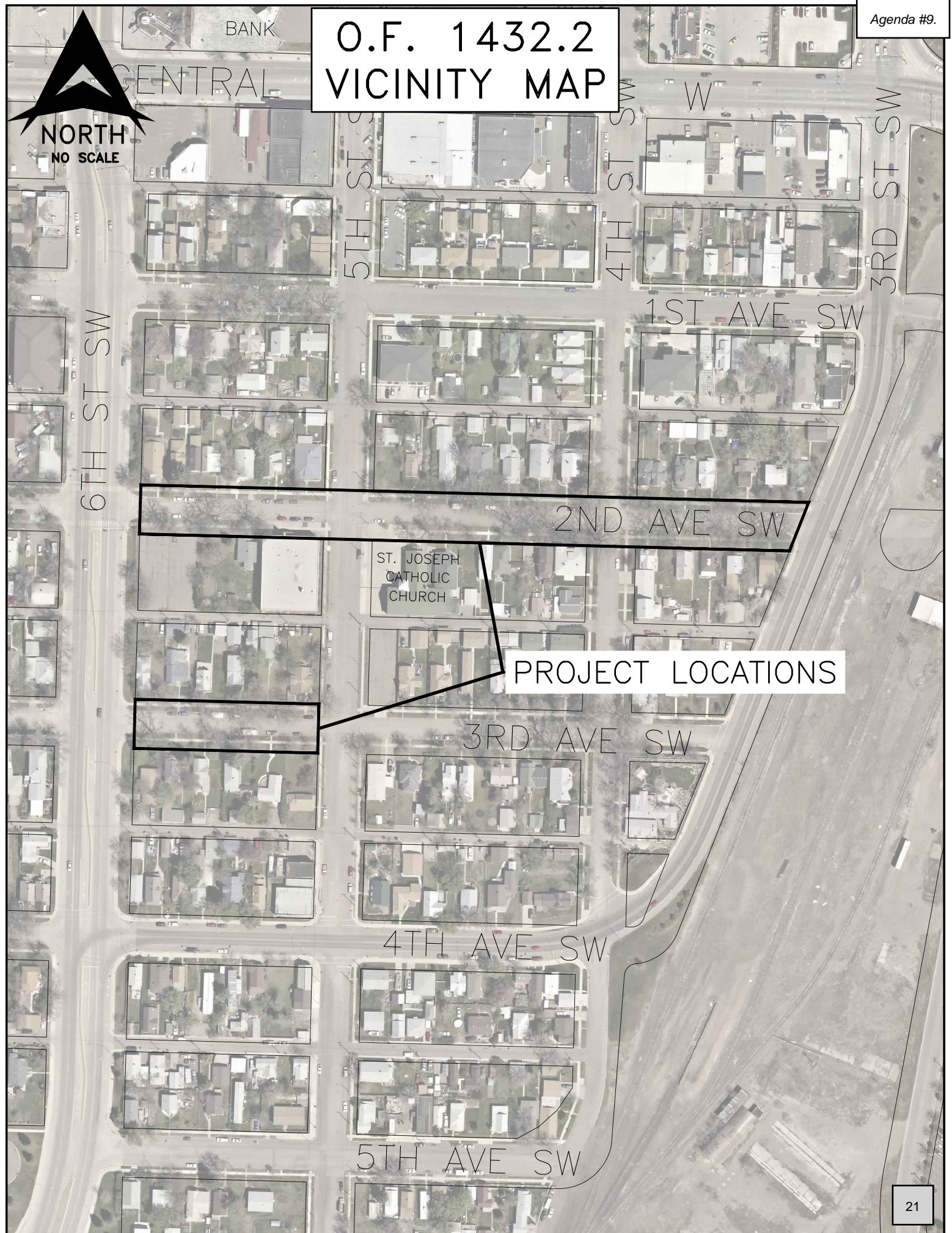
BID TABULATION SUMMARY

Southwest Side Street Reconstruction - Tree Removal
O.F. 1432.2

Project Number PW392101
Bids Taken at Civic Center
Date: November 3, 2021
Tabulated By: Rick Johnson

	Name & Address of Bidder	Acknowledge Addendum #1	Acknowledge Addendum #2	10% Bid Security	Certificate of Non-Segregated Facilities	Certificate of Compliance with Insurance Req.	Total Bid
1	Doctor Lawn PO Box 2926 Great Falls MT 59403	X	X	X	X	X	\$68,743.99
2	Dave's Tree Service 911 14th Street SW Great Falls MT 59404	N/A	N/A	N/A	N/A	N/A	N/A
3	Tree Amigos 173 Black Eagle Rd Great Falls MT 59404	N/A	N/A	N/A	N/A	N/A	N/A
4							
5							
6							
7							
8							
9							
10							

O.F. 1432.2 VICINITY MAP





Commission Meeting Date: November 16, 2021

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Amendment to 1975 Agreement Establishing City-County Health Department to Designate Interim HB 121 “Governing Body” Entity **AND**

Appointment of Member of City Commission to Serve as *Ex Officio* Non-Voting Member of HB 121 “Governing Body” Entity

From: Legal Department

Initiated By: Legal Department

Presented By: City Attorney

Action Requested: Approve Amendment to 1975 Agreement Establishing City-County Health Department to Designate Interim HB 121 “Governing Body” Entity

Appoint Member of City Commission to Serve as an *Ex Officio* Non-Voting Member of HB 121 “Governing Body” Entity

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/not approve) the proposed Amendment to the 1975 Agreement establishing the City-County Health Department to designate an Interim HB 121 “Governing Body” entity and authorize the City Manager to execute the Amendment document.”
2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

If the Commission APPROVES the proposed Amendment, then the following motion should be considered:

1. Commissioner moves:

“I move that _____ be (appointed/not appointed) to serve as an ex officio non-voting member of the interim HB 121 “Governing Body” entity.
 2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.
-

Background: In accordance with the provisions of Montana law governing local public health regulation, the City of Great Falls and Cascade County entered into an *Agreement* in 1975 to “unite in the organization of a City-County Health Department [CCHD]” to be administered by a City-County Board of Health [BOH]. The BOH consists of a County Commissioner and the Mayor (or his/her designee), along with at least five (5) additional members appointed by the mutual consent of the County Commission and the City Commission. The CCHD and BOH have since operated under the general structure of that *Agreement* since its inception in 1975.

In 2021, however, the Legislature passed HB 121, which amended the statutory provisions regarding local boards of health to include a new entity to be known as the “governing body.” The role of the new “governing body” entity includes, among other things, directly employing the local public health officer, adopting public health regulations as recommended by an appointed BOH and reviewing (and potentially amending or rescinding) any public health orders issued by a local BOH in response to a formal emergency or disaster declaration by the Governor. The Legislature specifically provided that the purpose of HB 121 is limited:

“It is a purpose of this chapter to address ongoing issues or conditions created during a declared state of emergency as a result of orders, directives or mandates issued by the governor as allowed under Title 10, chapter 3, for a state of emergency acting longer than 7 days. It is not a purpose of this chapter to hinder, slow or remove non-emergency-related powers granted to a local board of health.”

For a BOH operated solely by a county, HB 121 designates the Board of County Commissioners as the “governing body” entity. For a BOH operated solely by a city, HB 121 designates “the elected governing body of the city” as the “governing body” entity. However, in the case of a joint city-county BOH structure, HB 121 provides that the “governing body” will be “the entity identified as the governing body as established in the bylaws, interlocal agreement, or memorandum of understanding creating a city-county local board of health.”

The Cascade County Board of Commissioners and the City Commission met in a joint meeting on July 28, 2021 to discuss the impacts of HB 121 on the long-standing governance structure of the BOH and CCHD. In the wake of those discussions, the City and County exchanged proposals for the possible designation of the “governing body” entity, with the County proposing that the Board of Commissioners fill that role and the City proposing an entity that included a member of the City Commission along with the County Commissioners.

The inability of the parties to reach an agreement on the “governing body” issue is based, at least in part, on an underlying legal dispute as to what the membership of the “governing body” should consist of. Legal staff for both the City and County are continuing in their efforts to secure a resolution of that dispute, but in the meantime the County has advised the City that it is willing to agree to the designation of an interim entity to serve as the HB 121 “governing body” while the parties resolve whatever legal impediments remain to an agreement for a permanent designation.

That temporary agreement would take the form of a formal Amendment to the 1975 *Agreement* that creates the current CCHD and BOH structure. (See attached Exhibit “A”). The proposed Amendment document will add a new provision to the 1975 *Agreement* as follows:

11. That, in light of the requirements of HB 121 as enacted by the 2021 Legislature, and the County and the City hereby designate an entity consisting of the following members to serve as the “governing body” as referenced in HB 121:

- the three (3) members of the Board of Commissioners for Cascade County; and
- one (1) member of the Great Falls City Commission.

The member of the governing body entity from the Great Falls City Commission will serve as a non-voting *ex-officio* member of the governing body entity. The Parties agree that their designation of the governing body entity as described above is being made on a temporary and interim basis pending further efforts to resolve their current legal dispute and that the designation will expire and be of no further force and effect as of June 30, 2022.

The Legal Department believes that the proposed June 30, 2022 termination date should allow sufficient time to both (1) resolve the current legal dispute between the City and County as to the “governing body” issue and (2) develop a new and more modern *Interlocal Agreement* structure to update and replace the 1975 *Agreement*.

If the City Commission takes action to approve the proposed Amendment document, it should take the follow-on step of appointing one of its members to serve on the “governing body” entity as contemplated by the Amendment.

Alternatives: The Commission could choose not to approve the proposed Amendment document, which would leave the current CCHD-BOH structure in its present state, which is not in compliance with the new HB 121 requirement for the establishment of a “governing body” entity.

AMENDMENT TO AGREEMENT

WHEREAS, Cascade County (“County”) and the City of Great Falls (“City”) are parties to an *Agreement* dated March 4, 1975 under which they have agreed to unite in the organization and maintenance of the Cascade City-County Health Department (“CCHD”) and a City-County Board of Health (BOH);

WHEREAS, HB 121 as enacted by the 2021 Legislature has amended the statutory framework under which city-county local boards of health like the BOH are required to operate (§§ 50-1-101, *et seq.*, MCA);

WHEREAS, HB 121 requires, in the case of a city-county local board of health, that an entity be identified and established as the “governing body” in the bylaws, interlocal agreement, or memorandum of understanding creating the city-county local board of health;

WHEREAS, the County and the City presently disagree as to what the permanent composition of the “governing body” entity contemplated by HB 121 should consist of, but wish to designate a temporary and interim “governing body” entity to serve in that capacity pending further efforts to resolve their legal dispute;

WHEREAS, the County and the City agree that neither of them are waiving any rights or arguments with respect to that legal dispute by agreeing to amend the 1975 *Agreement* to designate a temporary and interim “governing body” entity;

NOW, THEREFORE, the Parties agree that their 1975 *Agreement* is hereby amended to include the following Paragraph 11:

11. That, in light of the requirements of HB 121 as enacted by the 2021 Legislature, the County and the City hereby designate an entity consisting of the following members to serve as the “governing body” as referenced in HB 121:
 - the three (3) members of the Board of Commissioners for Cascade County; and
 - one (1) member of the Great Falls City Commission.

The member of the governing body entity from the Great Falls City Commission will serve as a non-voting *ex-officio* member of the governing body entity. The Parties agree that their designation of the governing body entity as described above is being made on a temporary and interim basis pending further efforts to resolve their current legal dispute and that the designation will expire and be of no further force and effect as of June 30, 2022.

The Parties further agree that all other terms and conditions of their 1975 *Agreement* will remain in full force and effect.

//

DATED this ____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS
CASCADE COUNTY

Joe Briggs, Chairman

James L. Larson, Commissioner

Don Ryan, Commissioner

ATTEST:

On this ____ day of _____, 2021, I hereby attest the above-written signatures of the Board of Cascade County Commissioners.

(SEAL)

Rina Fontana Moore
Cascade County Clerk & Recorder

*APPROVED AS TO FORM:
Josh Racki, Cascade County Attorney

By: _____
Deputy County Attorney

*The County Attorney has provided advice and approval of the foregoing document language on behalf of the Board of Cascade County Commissioners, and not on behalf of other parties or entities. Review and approval of this document by the County Attorney was conducted solely from a legal perspective and for the exclusive benefit of Cascade County. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

DATED this _____ day of November, 2021.

CITY OF GREAT FALLS

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

*APPROVED AS TO FORM:

Jeffrey M. Hindoien, City Attorney

*By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.



Commission Meeting Date: November 16, 2021

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Ordinance 3233, “An Ordinance Amending Title 5 of the Official Code of the City of Great Falls (OCCGF) Pertaining to False Alarms and Alarm Agent Licensing”

From: Legal Department

Initiated By: Great Falls Fire Rescue

Presented By: Mike McIntosh, Fire Marshal

Action Requested: Accept Ordinance 3233 on first reading and set public hearing for December 7, 2021.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (accept / not accept) Ordinance 3233 on first reading and set the public hearing for December 7, 2021.”
2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

Staff Recommendation: Staff recommends that the Commission accept Ordinance 3233 on first reading and set a public hearing for Tuesday, December 7, 2021.

Background: Great Falls Fire Rescue has experienced an increase in false alarm calls in businesses in recent years. These false alarm calls cause expenditures of time, staff and other resources that are already limited. Our current municipal code structure, however, only authorizes the imposition of fines or penalties for inadvertent false alarm calls relating to unauthorized entry (i.e., burglar alarms) and does not extend to false alarms for fire or other hazardous conditions.

The proposed Ordinance would extend our current code structure to authorize the transmittal of written warning letters and ultimately the imposition of a fine for false alarms in the context of fire alarms or other hazardous conditions. The proposed changes would also (1) impose a fine after the second false alarm in a year [as opposed to after the third] and (2) increase the fine amount for a third or subsequent false alarm from \$50.00 to \$100.00. The proposed Ordinance change would also identify and incorporate the existing Montana statutory prohibition against the intentional activation of false alarms.

Finally, the proposed Ordinance also clarifies the existing need for Alarm Agents (i.e., those in the business of alarm service and repair) to secure a special business license from the City. At present, Alarm Agents are required to obtain an “Alarm Agent Permit”, but our code is not clear as to where or from

whom that permit should be secured. The Ordinance clarifies that by indicating that the license is to be secured from the Planning & Community Development Department. A resolution regarding the proposed fee for the Alarm Agent License will be presented to the Commission for consideration at the same time as second reading and the public hearing on this proposed Ordinance.

Fiscal Impact: The adoption of the proposed Ordinance would presumably lead to the collection of additional fee revenues, but the amount of that increase cannot be readily estimated.

Alternatives: The Commission could choose to not adopt the proposed Ordinance and preserve the status quo. Staff does not recommend this alternative. The Commission could also choose to table the item to a date certain to allow for possible amendments to the proposed Ordinance.

Concurrences:

City Manager's Office

Great Falls Fire Rescue

Great Falls Police Department

Planning and Community Development Department

Attachments/Exhibits:

Ordinance 3233

Ord. 3233 Exhibit "A"

ORDINANCE 3233

AN ORDINANCE AMENDING TITLE 5 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO FALSE ALARMS AND ALARM AGENT LICENSING.

* * * * *

WHEREAS, the City of Great Falls is authorized by its Charter and Montana law to establish laws to protect the health, safety and welfare of the citizens of Great Falls; and

WHEREAS, the City Commission has in the exercise of those powers previously established Title 5 of the OCCGF pertaining to alarms for unauthorized entry; and

WHEREAS, the Great Falls Fire Rescue has experienced an increase in false alarm calls from business alarm systems; and

WHEREAS, the OCCGF currently has provisions regarding false alarms for unauthorized entry and the Commission wishes to broaden these provisions to encompass fires and other hazardous conditions; and

WHEREAS, the Commission also recognizes the need for accurate documentation and licensure for those businesses involved in alarm services; and

WHEREAS, for those reasons, the City Commission wishes to amend Title 5 of the OCCGF to address these issues.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

Section 1. The provisions of OCCGF Title 5 are hereby amended as depicted by Exhibit "A" attached hereto and by reference incorporated herein with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 2. This ordinance shall be in full force and effect thirty (30) days after public hearing and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading November 16, 2021.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading and public hearing December 7, 2021.

Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT:

Jeffrey M. Hindoien, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3233 on the Great Falls Civic Center posting board and the Great Falls City website.

Lisa Kunz, City Clerk

(CITY SEAL)

Title 5

BUSINESS LICENSES, PERMITS, AND SAFETY INSPECTION CERTIFICATES¹

Chapter

5.1.010 Definitions.

The following words and phrases when used in this Title shall have the following meanings:

- A. "Buildings or Offices" shall mean all buildings, structures, rooms, offices, or portions thereof which are situated on a permanent structural foundation and permanently connected to City water and sewer service wherein a business or organization is located and which may be accessible to the public, employees, or members or located in such close proximity to other buildings, structures, rooms, offices, or portions thereof so as to constitute a public threat in the event of a Uniform Safety Code violation.
- B. "Business" shall mean any occupation, trade, profession, commercial activity, social activity, fraternal activity, or religious activity located or meeting regularly in buildings or offices, including multi-family dwelling units of four (4) or more units, together with all devices, machines, vehicles and appurtenances used therein. This includes sole proprietorships, partnerships, corporations, nonprofit corporations, religious organizations, social organizations and fraternal organizations.
- C. Unless specifically identified, in this Title, the term, "Certificate" shall include safety inspection certificates, home occupation certificates, or any other certificates or permits issued by the City of Great Falls' Planning and Community Development or Fire Rescue Departments.
- D. "Home Occupation" means a lawful business carried on by a resident of a dwelling as an accessory use within the same dwelling or an accessory building, which will not infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their homes.
- E. "Home Occupation Certificate" is a certificate, license, or permit issued by the Planning and Community Development Department under the terms and conditions of 5.2.020—5.2.040.
- F. "Non-Resident Vendor" is any person engaged or employed in the business of selling to consumers by going from consumer to consumer, either on the streets or to their places of residence or employment, and soliciting, selling, or taking orders for future delivery of any goods, wares, or merchandise.
 - 1. This definition applies to persons vending food or other merchandise from pushcarts, vehicles, trailers, or other readily mobile sources to customers within the City limits.

¹Editor's note(s)—Ord. No. 3168, § 1(Exh. A), adopted Nov. 7, 2017, repealed the former Tit. 5, and enacted a new Tit. 5 as set out herein. The former Tit. 5 pertained to similar subject matter and derived from Ord. 3139, 2016; Ord. 3125, 2014; Ord. 3117, 2014; Ord. 3057, 2010; Ord. 2993, 2008; Ord. 2865, 2003; Ord. 2764, 2000; Ord. 2745, 1998; Ord. 2743, 1998; Ord. 2675, 1995; Ord. 2674, 1995; Ord. 2672, 1995; Ord. 2509, 1988; Ord. 2487, 1987; Ord. 2483, 1987; Ord. 2344, 1983; Ord. 2008, 1977; Ord. 1874, 1975; Prior Codes 5.11.1; 5.11.3; 5.16.1.

2. This all-inclusive definition applies to vendors coming into Great Falls to provide any type of service (e.g. painters, contractors, tree trimmers, computer technicians, etc.), to residents within the City limits.
- G. "Nonprofit organization" is any group which does not distribute pecuniary gains, profits or dividends to its members, and/or for which pecuniary gain is not the objective of the organization. For the purposes of this Title, a nonprofit organization need not be recognized as tax exempt by the United States Internal Revenue Service and the Montana Department of Revenue.
- H. "Permanent Premises" means any buildings or structures, or any part of any buildings or structures, situated on a permanent structural foundation that meet the engineering requirements in the Uniform Building Code and are permanently connected to City water and sewer service. This definition excludes all accessory structures not intended to be occupied by employees and/or the public.
- I. "Person" is meant to include individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations; or any officers, agents, employees, or representatives thereof, in any capacity, acting either for him or herself, or for any other person, under designation, appointment, or otherwise pursuant to law.
- J. "Premises" means any office, property, retail space, structure or portion thereof occupied for business use, the facilities and appurtenances in the structure, and the grounds, areas and facilities held out for the use of business.
- K. "Safety Inspection Certificate" is a certificate for a business, or occupation, at a specific premises acknowledging inspection for Uniform Safety Codes, or other ordinances and regulations, enacted for the purpose of protecting health, safety, and welfare of the public. The certificate is not intended, and shall not be used, to regulate or infringe upon the conduct of a business or profession and is not intended, and shall not be used, to regulate, infringe or prohibit the practice of religion or religious beliefs.
- L. "Property Manager" means a "person" who rents or leases rental units, including but not limited to, multi-family dwellings, excluding hotels or motels.
- M. "Square footage" is the total number of square feet contained within the exterior walls of a building, suite, office, or premises used in, or available for, the business operation.
- N. "Temporary premises" means any buildings, structure, vehicles, or other mobile structures temporarily occupied for business which are without a foundation and permanent connection to City water and sewer service. A temporary premises can exist for no more than ninety (90) calendar days in any twelve-month period. Temporary premises do not include sales booths, concession stands etc., which are operated in conjunction with a community sponsored event which is authorized by the City.
- O. "Non-Resident Merchant" means any person who brings into temporary premises, a stock of goods, wares or articles of merchandise or notions or other articles of trade, and who solicits, sells, offers to sell, or exhibits for sale, such stock of goods, wares, articles of merchandise, notions, or other articles of trade.
- P. "Year" for specific Special Business Licenses and Safety Inspection Certificate purposes, means a period of time of twelve (12) months commencing each year on January 1 and ending December 31 of the same year.
- Q. "Non-Resident Service Contractor" is any person, not residing within the City limits of Great Falls, engaged or employed in the business of providing services for hire. This includes persons engaged in contract construction, painting and drywall, landscape installation and maintenance, janitorial, and service contractors of all kinds including computer technicians and copier maintenance.

- R. "Uniform Safety Codes" as used herein, shall mean the most recent version of the International Building Code, International Fire Code, International Property Maintenance Code, in whole or in part, which have been adopted by the City of Great Falls and referenced in OCCGF Titles 15, 16 and Title 17.

S. "Alarm Agent License" is a license issued by Planning and Community Development to a person, business, occupation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system (as defined in 5.3.6.010) or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed any alarm system in, or on, any building, structure, or facility.

(Ord. 3233, 2021; Ord. 3168, 2017).

Article 6 ~~FALSE~~ ALARMS AND ALARM SYSTEMS

Sections:

5.3.6.010 Definitions.

Unless otherwise specified, the following words and phrases when used in this article shall have the following meanings:

- A. "Alarm agent" means any person who is directly or indirectly employed by an alarm business, whose duties include any of the following: selling, maintaining, leasing, servicing, repairing, altering, replacing, moving or installing **any alarm system** on or in any building, structure or facility, ~~any alarm system~~.
- B. "Alarm business" means any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed any alarm system in, or on, any building, structure, or facility.
- C. "Alarm system" means any mechanical or electrical device which is designed, or used for:
- i. the detection of an unauthorized entry into **or fire or hazardous condition within** a building, structure, or facility; ~~and/or for~~
 - ii. alerting others of the commission of an unlawful act within a building, structure, or facility, ~~or both;~~
- and which emits a sound or transmits a signal or message when actuated. Devices that are not designed or used to register alarms that are audible, visible or perceptible outside of the protected building, structure, or facility are not included within this definition, nor are auxiliary devices installed by a telephone or telecommunication company to protect company systems which might be damaged or disrupted by the use of an alarm system. Alarm systems include, but are not limited to:
1. direct dial telephone devices; and
 2. audible alarms and proprietor alarms.
- D. "Audible alarm" means a device designed for the detection of unauthorized entry, **fire or hazardous conditions** on premises which generates an audible sound on the premises when it is actuated.
- E. "False alarm" means an alarm signal actuated by **error, mistake,** inadvertence, negligence, or unintentional act necessitating response by the **public safety personnel, including but not limited to** Great Falls Police Department, **Great Falls Fire Rescue, and/or ambulance services,** including alarms caused by the malfunction of the alarm system, except the following:
1. alarms caused by repair of telephone or communication equipment or lines;

- 2. alarms caused by earthquakes, flood, windstorm, thunder, and lightning;
 - 3. alarms caused by an attempted illegal entry or analogous causes of which there is visible evidence; and
 - 4. alarms caused by power outages.
- F. "Proprietor alarm" means an alarm which is not serviced by an alarm business.
- G. "Subscriber" means any person who purchases, leases, contracts for, or otherwise obtains an alarm system or for the servicing maintenance of an alarm system from an alarm business.

(Ord. 3233, 2021; Ord. 3168, 2017).

5.3.6.020 Audible alarm requirements.

- A. Every person maintaining an audible alarm shall notify the Police Department **and/or Great Falls Fire Rescue** with names and telephone numbers of the persons to be notified to render repairs of service, and secure the premises, during any hour of the day or night that the alarm is actuated.
- B. Whenever any change occurs relating to the required written information, the applicant shall give written notice thereof to the Great Falls Police Department **and/or Great Falls Fire Rescue** of such change.

(Ord. 3233, 2021; Ord. 3168, 2017).

5.3.6.030 Alarm Agent ~~permit~~ license required.

- A. All persons engaged in alarm business to repair, service, alter, replace, remove, design, sell, lease, maintain, or install alarm systems, shall obtain an Alarm Agent ~~permit~~ **license from Planning and Community Development** in accordance with the provisions of this title.
- B. The Alarm Agent ~~licensee~~ ~~permittee~~ shall have in their possession an Alarm Agent ~~license~~ ~~permit~~ while engaged in alarm related business or activities.

(Ord. 3233, 2021; Ord. 3168, 2017).

5.3.6.040 Exemptions.

- A. The provisions of this chapter are not applicable to audible alarms affixed to automobiles.
- B. The provisions of this chapter do not include a person who engages in the manufacture for sale of an alarm system from a fixed location, and who neither visits the location where the alarm system is to be installed nor designs the scheme for physical location and installation of the alarm system in a specific location.

(Ord. 3168, 2017).

5.3.6.050 Penalty.

A. Knowingly activating a false alarm when no unauthorized entry, fire or hazardous conditions exist is a violation of the provisions of Mont. Code Ann. 45-7-204, punishable by a fine not to exceed \$500 or imprisonment for a term not to exceed 6 months, or both.

~~A. B.~~ When an alarm system actuates the following number of false alarms in any calendar year, the business or system owner will be charged as follows **following will occur:**

-
- A. ——— i. False Alarms one (1) through ~~and two three (23)~~; **will result in written notice being provided to the owner, licensee, and/or other person responsible for the premises;**
- € ii. A ~~third fourth~~ or subsequent false alarm in a calendar year shall result in an assessed administrative fee of ~~one hundred fifty~~ dollars (~~\$10050.00~~) **imposed on the owner, licensee, and/or other person responsible for the premises.**
- C. **Any fee under this article that remains unpaid for 30 days or more is deemed delinquent and may be assessed against the premises as a special charge for current service or, in addition to any penalties listed in this Chapter, the City may refer any outstanding fees, pursuant to this Chapter, to collections by a collection agency authorized to conduct business in Montana.**
- D. **This penalty section shall not be applicable to:**
- _____ i. **alarm systems installed in buildings owned or occupied by the City of Great Falls; or**
- _____ ii. **residential fire alarms in one or two-family dwellings.**
- (Ord. 3233, 2021; Ord. 3168, 2017).



Commission Meeting Date: November 16, 2021

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Ordinance 3237, “An Ordinance Amending Title 15 of the Official Code of the City of Great Falls (OCCGF) Pertaining to the Fire Code.”

From: Legal Department

Initiated By: Great Falls Fire Rescue

Presented By: Mike McIntosh, Fire Marshal

Action Requested: Accept Ordinance 3237 on first reading and set public hearing for December 7, 2021.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (accept / not accept) Ordinance 3237 on first reading and set the public hearing for December 7, 2021.”
2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.

Staff Recommendation: Staff recommends that the Commission accept Ordinance 3237 on first reading and set a public hearing for December 7, 2021.

Background: The City of Great Falls has adopted the 2012 International Fire Code, which provides as follows with respect to inspections, testing and maintenance:

901.6 Inspection, testing and maintenance. Fire detection, alarm, and extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective. Nonrequired *fire protection systems* and equipment shall be inspected, tested and maintained or removed.

901.6.1 Standards. *Fire protection systems* shall be inspected, tested and maintained in accordance with the referenced standards.

901.6.2 Records. Records of all system inspections, tests and maintenance required by the referenced standards shall be maintained on the premises for a minimum of three years and shall be copied to the *fire code official* upon request.

As the State of Montana and the City of Great Falls transition towards the adoption of a newer version of the code, it has been discovered that the 2012 IFC language requiring the provision of inspection, testing and maintenance (ITM) records to Fire Code officials upon request authorities has been removed. For example, the 2018 IFC requires only that the ITM records be “maintained” with no language regarding their availability or transmission to Fire Code officials.

901.6.3 Records. Records of all system inspections, tests and maintenance required by the reference standards shall be maintained.

GFFR presently relies on its ability to request ITM reports to ensure that the City knows which systems are working as designed, and which systems are deficient. With the submission of these reports, GFFR is able to work with the business owner and the service providers to ensure that any necessary repairs are made to the life safety systems.

Currently, however, GFFR is only receiving ITM reports from roughly half of the service providers working within the City of Great Falls. There are still a significant number of service providers who are not transmitting ITM reporting to GFFR, many of whom may not be licensed to provide alarm services here in the City as required under Title 5 of the City Code. In the cases where GFFR is not receiving ITM reporting from those service providers, it is not in a position to assess whether the systems being serviced are fully operational or in need of repair.

The proposed Ordinance would enable GFFR to obtain the ITM records for all life safety systems within the City of Great Falls by (1) requiring that all ITM work be conducted by properly licensed alarm agents and (2) having the ITM reports generated by those providers submitted to the City’s third party reporting partner. This reporting partner would then work with GFFR, alarm agents, and business owners to ensure those life safety systems found deficient will obtain the repairs needed so that the life safety system will be operating as designed. This would increase overall compliance of alarm systems in Great Falls, and in turn enhance the safety and efficacy of these systems.

This proposed Ordinance would ultimately increase the compliance of deficient life safety systems within the City of Great Falls by ensuring that those vendors performing ITM work on life safety systems are properly licensed and are providing the appropriate documentation of their ITM work to GFFR in a timely fashion.

Fiscal Impact: The adoption of the proposed Ordinance would presumably lead to the collection of additional revenues, but the amount of that increase cannot be readily estimated.

Alternatives: The Commission could choose to not adopt the proposed Ordinance and preserve the status quo. Staff does not recommend this alternative. The Commission could also choose to table the item to a date certain to allow for possible amendments to the proposed Ordinance.

Concurrences: City Manager’s Office and Great Falls Police Department

Attachments/Exhibits:

Ordinance 3237

Ord. 3237 Exhibit “A”

ORDINANCE 3237

AN ORDINANCE AMENDING TITLE 15, CHAPTER 9, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO THE FIRE CODE.

* * * * *

WHEREAS, the City Commission established Title 15 of the OCCGF outlining provisions pertaining to and known as the Fire Code; and

WHEREAS, Title 15, Chapter 9, does not contain provisions pertaining to the procedure for conducting inspections, testing, maintenance, and maintaining records, of fire suppression systems throughout the City; and

WHEREAS, the Great Falls Fire Rescue Fire Prevention Bureau has been unable to consistently enforce the receipt of information and records regarding the testing of fire suppression systems in the City; and

WHEREAS, the City Commission wishes to amend the procedure for the conducting of inspections, testing, and maintenance of systems and reports of such; and

WHEREAS, the City Commission wishes to broaden the information and enforcement mechanisms available the Fire Prevention Bureau; and

WHEREAS, the City Commission wishes to create consistency and enforceability in procedures in the interests of furthering public safety.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF
THE CITY OF GREAT FALLS, MONTANA:**

Section 1. OCCGF Title 15, Chapter 9, pertaining to the Fire Code is hereby amended as depicted by Exhibit “A” attached hereto and by reference incorporated herein with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 2. This ordinance shall be in full force and effect thirty (30) days after public hearing and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading November 16, 2021.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading and public hearing December 7, 2021.

Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT:

Jeffrey M. Hindoiien, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3237 on the Great Falls Civic Center posting board and the Great Falls City website.

Lisa Kunz, City Clerk

(CITY SEAL)

15.9.050 Inspection, Testing, Maintenance and Records.

- A. All system inspections, tests and maintenance that are required by applicable IFC standards shall be performed by qualified individuals who are licensed to perform work in the City of Great Falls and written reports of such inspections, tests and maintenance shall be kept on the premises for a minimum of three years.
- B. All inspection, testing and maintenance reports shall be submitted to the City's online reporting vendor within the following time frame:
 - 1. No deficiencies found: within 10 days of the date the inspection, testing or maintenance took place;
 - 2. Deficiencies found: within 7 days of the date the inspection, testing or maintenance took place; or
 - 3. Critical issues found: Immediately following the inspection, testing or maintenance, along with immediate notification to the Fire Marshal.
- C. Inspections, tests and maintenance that do not comply with the provisions in this Chapter shall result in the inspected or serviced system being deemed non-compliant with the provisions of this Chapter.
- D. Non-compliance with this Chapter will be addressed as set forth in 15.9.060 and/or by Title 5, Chapter 2, Safety Inspections.

(Ord. 3237, 2021).

15.9.0560 Violation—penalty.

- A. Unless otherwise specified in this Chapter, any person who violates or fails to comply with any of the provisions of the IFC as adopted, or any of the provisions of this Chapter, ~~or fails to comply therewith~~ is guilty of a misdemeanor, punishable by a term not to exceed six (6) months in jail, a fine not to exceed five hundred dollars (\$500.00), or both.
- B. A property that contains a violation of the IFC, or any other violation of this Chapter, is hereby declared a Nuisance as defined by OCCGF Title 8, Chapter 49.

(Ord. 3237, 2021; Ord. 3189, 2018).



Commission Meeting Date: November 16, 2021

**CITY OF GREAT FALLS
COMMISSION AGENDA REPORT**

Item: Vacancy Appointment

From: Legal Department

Initiated By: City Commission

Presented By: City Commission

Action Requested: Appointment to Fill Vacancy on City Commission

Suggested Motion:

1. Commissioner moves:

 "I move that the City Commission (appoint/not appoint) Eric Hinebauch to fill the current vacancy on the City Commission until the next regular City election"
 2. Mayor requests a second to the motion, public comment, Commission discussion, and calls for the vote.
-

Background: Under both Montana law [§ 7-4-4111(3), MCA] and the City Charter [Article IV, Sec. 2], the office of City Commissioner becomes vacant upon the resignation of a sitting Commissioner. Former Commissioner Tracy Houck submitted her written resignation to the Mayor and City Manager on November 4, 2021, to be effective on Friday, November 5, 2021.

Article IV, Sec. 2 of the City Charter provides as follows:

When a vacancy occurs, the City Commission may, by majority vote of its remaining members, appoint a person, eligible to hold such office, to fill the vacancy of the City Commissioner or Mayor until the next regular City election. The person elected at the next regular City election shall serve the unexpired term of the office in which the vacancy occurred.

Under Montana law [§ 7-4-4112(1), MCA], the appointment to fill the vacancy must occur within thirty (30) days of the vacancy.

Several members of the City Commission have individually indicated a willingness to consider the appointment of the individual with the third-highest vote count in the election recently conducted by the City of Great Falls for the two (2) open seats on the City Commission. Candidates Susan Wolff and Joe McKenney had the two highest vote counts in that election and will now take office as members of the City Commission on the first Tuesday after January 1, 2022 in accordance with Article 1, Section IV of the City Charter.

The preliminary vote tallies for the remaining City Commission candidates were as follows:

■ Eric Hinebauch	4,212
■ Josh Copeland	3,875
■ Paige Turoski	3,009
■ Vanessa Hayden	1,615

Mr. Hinebauch has been contacted and has advised that he is willing to accept an appointment by the Commission to fill the vacancy created by former Commissioner Houck's resignation. If Mr. Hinebauch is appointed to fill the vacancy, he will serve in that position until the next regular City election, i.e., through December of 2023. Mr. Hinebauch would then be required to file and successfully run for election to the City Commission as a general candidate in the 2023 regular election in order to continue serving as a member of the City Commission after the present vacancy appointment.

Alternatives: In lieu of appointing Mr. Hinebauch to fill the vacancy based on his having received the third-highest number of votes in the recent City general election, the Commission could utilize a process of soliciting applications and conducting interviews of applicants in a manner similar to the one utilized in 2012 to fill the last vacancy. However, that process would need to be fully completed and the vacancy appointment made by no later than December 6, 2021.