

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**April 24, 2006**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, April 24, 2006 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

***Members Present***

Mayor Smith indicated for the record that Commissioners Cartwright, Oitzinger, Peura, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Rebecca Ridenour representing the Helena Citizens Council.

***Pledge of Allegiance***

Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance.

***Minutes***

The minutes of the regular City Commission meeting of April 10, 2006 were approved as submitted.

***Proclamations***

PROCLAMATIONS:

A. Arbor Day

Mayor Smith read the Arbor Day proclamation and presented it to Parks & Recreation Director Randy Lilje. Director Lilje invited the Commission to attend the Arbor Day celebration on Friday, April 28, 2006 at noon at Hill Park. Commissioner Cartwright announced the annual Trash for Trees program would be held Saturday, April 29, 2006 in the Northgate Plaza parking lot.

B. Law Day

Mayor Smith read the Law Day proclamation and presented it to Mr. Bob Campbell. Mr. Campbell thanked Mayor Smith and the Commission for the proclamation. Commissioner Oitzinger thanked Mr. Campbell for his work on the Montana Constitution.

***Appointments***

APPOINTMENTS:

A. Veterans' Community Advisory Board

Mayor Smith asked for Commission concurrence on the following appointments:

**Veterans' Community Advisory Board** – Appointment of the following members: Carroll Jenkins, Dr. David Krainacker, Rick Nicholson, Jed C. Fitch, Mike McGuire, and Jim Smith.

Public comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Cartwright moved approval of the above listed appointments to the Veterans' Community Advisory Board.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Consent Agenda**

CONSENT AGENDA:

- A. Claims
- B. Agreement between the City of Helena and the Helena Parking Commission (HPC)

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Oitzinger moved approval of items A and B on the consent agenda.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Bid Award**

BID AWARD:

- A. Commercial grade rotary mower – Parks & Recreation

Staff Report

Parks & Recreation Director Randy Lilje reported bids were advertised for a new commercial grade rotary mower and opened on Thursday, April 6, 2006. Two bids were submitted, one from Midland Implement Co. and the other from TurfCare and Specialty Products, both companies are located in Billings, MT.

The low base bid was from Midland Implement, bidding a Toro Groundsmaster 580-D in the amount of \$68,226. TurfCare bid a Jacobsen HR-9016 in the amount of \$69,120. Both bids met the requirements of the bidding documents. In addition, staff is recommending award of a rotary broom attachment in the amount of \$6,300. The rotary broom was bid as an additive alternate. The total budget for the mower was \$76,000.

Director Lilje recommended approval of the bid award to Midland Implement Company, Inc. in the amount of \$74,526.

Commission comment

Commissioner Oitzinger referred to the bid amounts and asked Director Lilje if the city is statutorily bound to accept the lowest base bid? Director Lilje explained typically, the policy has been to take the base bid; however, after staff review of the bid documents, the Toro Groundmaster 580-D more closely matched the bid specifications.

Public comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Oitzinger moved to award the bid for a commercial grade rotary mower as specified with a rotary broom attachment to Midland Implement Company, Inc. in the amount of \$74,526.** Commissioner Peura seconded the motion. All vote aye, motion carried.

- B. 24" Yaw-Yaw Water Main Replacement - City Project #06-02

Staff Report

City Engineer Ryan Leland reported last fall while fixing a water main leak at the corner of Highway 12 and Williams Street another leak developed on an old section of the 24" Yaw-Yaw Transmission Main. Once the main was uncovered to fix the leak it was discovered that the old steel main is near failure due to extensive corrosion. This section of pipe is the last remaining section of the original transmission main from the Ten Mile Treatment Plant that has not been replaced.

The project was advertised and sealed bids were opened on April 4, 2006. Two contractors submitted bids and Helena Sand & Gravel submitted the low bid of \$129,956.50. Mr. Leland recommended award of the bid to Helena Sand & Gravel.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

**Commissioner Peura moved to award the base bid of the 24" Yaw-Yaw Water Main Replacement, City Project #06-2 to the lowest, responsible bidder, Helena Sand & Gravel in the amount of \$129,956.50.** Commissioner Pouliot seconded the motion. All vote aye, motion carried.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith spoke of attending the National Youth Service Day/Earth Day celebration at Memorial Park on Saturday, April 22, 2006.

Commissioner Peura concurred with Mayor Smith that Earth Day was a great celebration and spoke of Douglas La Follette who is the Wisconsin Secretary of State. Mr. La Follette spoke at the recent Earth Day celebration.

Commissioner Pouliot thanked City Manager Burton and staff for coordinating a recent bus tour with the Commission.

Commissioner Cartwright referred to upcoming elections and stated it might be good to send a reminder to political committees regarding the City of Helena's sign ordinance. He also encouraged citizens to attend a meeting being held at Carroll College on Tuesday, April 25, 2006 regarding the war in Iraq.

**Report of the City Attorney**

REPORT OF THE CITY ATTORNEY

No report was given.

**Report of the City Manager**

REPORT OF THE CITY MANAGER

City Manager Burton asked Human Resources Director Salty Payne to update the Commission on union negotiations between the city and the Helena Police Department (HPD), Local Union #2280.

Director Payne gave an overview of the union negotiations.

Mayor Smith asked when the next meeting between the union and city would be? Director Payne stated it is tentatively scheduled for May 10, 2006.

**Report from the Helena Citizens Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Rebecca Ridenour commented the first session of City Government 101 was well attended and very informational. She reminded the Commission of the Meth Awareness Town Hall Meeting, scheduled for May 9, 2006 at the Civic Center. Also, following the town hall meeting, the HCC will be focusing on organizing city-wide cleanup days.

**FY2007 Preliminary Budget**

PRESENTATION OF CITY MANAGER'S FISCAL YEAR 2007 PRELIMINARY BUDGET.

Staff Report

City Manager Burton presented the Fiscal Year 2007 Preliminary Budget. Included in the presentation was an overview of the Resolution of Commission Intent for FY2007, which was approved on April 10, 2006.

He noted Commission budget work sessions have been scheduled as follows:

Wednesday	May 10, 2006	3:00 to 6:00pm	Room 326
Monday	May 15, 2006	3:00 to 6:00pm	Room 326
Wednesday	May 31, 2006	3:00 to 6:00pm	Room 326
Wednesday	June 7, 2006	3:00 to 6:00pm	Room 326

Commission comment                    Commissioner Peura invited the public to attend the budget work sessions. Mayor Smith asked that the schedule be posted on the city web page.

**Chapter 5, Title 6**

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 6 OF THE HELENA CITY CODE REGARDING WATER AND WASTEWATER SERVICE AREAS.

Staff Report

City Attorney David Nielsen reported under §6-5-2, Helena City Code, the water and wastewater service areas are the areas within the boundaries of the city that are currently served by city water and sewer, and areas presently served outside the city limits. If an owner of property outside the city desires to connect to city water or wastewater, the owner must apply for enlargement of the service area. The water and wastewater service areas are only enlarged by either annexation to the city or Commission approval after a denial of an annexation request. Under this requirement, an owner must apply for annexation and be denied annexation before the service areas can be enlarged to provide the services.

The draft ordinance changes the process for request of enlargement of service areas by eliminating the requirement that an owner must first apply for and be denied annexation before the Commission can consider enlargement of the service areas outside the city's boundaries. As an alternative process, it allows consideration of enlargement of the service areas when there is an annexation district created as provided in §7-2-4625, MCA, or by agreement for deferral of annexation. The owner can apply for enlargement of the service areas by applying in the alternative for annexation or deferral of annexation. If the property is contiguous to the service area boundaries for both water and wastewater, the property must be annexed. If the property is not contiguous, then the City Commission can determine whether to annex or agree to defer annexation. The ordinance eliminates the requirement that only property contiguous to the applicable service area can be included in that service area. It provides minimum provisions that an agreement must have for annexation deferral or inclusion in an annexation district. Under this ordinance proposal, the city manager has the authority to initially screen applications and determine whether they have merit and should be submitted to the Commission for consideration.

City Attorney Nielsen noted the amendment simplifies the process of application for owners of property outside the city who want either city water or wastewater services by allowing for the application to be in the alternative, rather than the current two-step process. It clarifies the city manager's role in placing requests for service area enlargement on the Commission's agenda. It standardizes and sets minimum provisions for deferral agreements. He added that he has no recommendation of either approval or disapproval for the adoption of the ordinance.

Public comment

Mayor Smith called for public comment, none was received.

Commission comment

Commissioner Cartwright stated the proposed ordinance needs to be passed; however, because of reasons outside the city limits he would support tabling the ordinance. He noted he believes the ordinance makes it somewhat easier for property to annex into the city, and expressed his concern that the requirement that service areas be contiguous to boundaries of existing service areas has been removed from the ordinance. He spoke about groundwater conditions in the valley and stated Lewis and Clark County needs to take some kind of action before the city extends its services to help the community.

Commissioner Peura asked if amending the ordinance makes it any easier to get city services, from a policy point of view? City Manager Burton explained the process becomes more predictable and definable; passage of the ordinance would in no way suggest a right to annex into the city or receive services. He noted all city standards and requirements would still apply. Commissioner Peura asked if the Commission's authority on annexation or expansion of sewer or water services would be changed? City Manager Burton stated no, any draft development agreement would need to have Commission consideration and the Commission retains full authority. City Attorney Nielsen noted with passage of the ordinance, annexation of property that is contiguous to both water and sewer services would be mandated.

Commissioner Peura asked City Manager Burton to address how this process would work if a small subdivision wanted to use city water and sewer for health reasons. City Manager Burton referred to Woodlawn Park/Dunbar Subdivision and explained there is federal grant money available for the sewer project and they are currently competing for federal funding for potable water. If the Commission approves the proposed ordinance then, according to policy, the city and county attorney offices would draft a petition for annexation that would include the various conditions for receiving city services and outline when and how to annex. The agreement would then come forward for Commission consideration. City Manager Burton referred to comments that the city has an aggressive annexation posture, and explained to date there have been no examples of this by the city. He reiterated the city does not force annexation on neighborhoods that do not request annexation.

Commissioner Pouliot asked for clarification of if the requirement that property must be contiguous has been removed from the ordinance. City Attorney Nielsen explained in the old ordinance, property contiguous to both water and sewer had no choice but to annex if they wanted to use city services. That requirement has been removed and replaced in a stronger form. Also, in the past when the city has allowed connections to large transmission lines, the service area was artificially extended to the lines. With the contiguity requirement removed, if there is interest to connect to a line, the area does not have to technically be in a service area to allow the connection. Commissioner Pouliot indicated he would support the ordinance amendment.

Commissioner Cartwright reiterated his concern that passing this amendment would not support the county's efforts to clean up these areas.

**Motion**

**Commissioner Cartwright moved to table first passage of an ordinance amending Chapter 5 of Title 6 of the Helena City Code regarding enlargement of water and wastewater service areas to the call of the City Manager.** Commissioner Peura seconded the motion.

**Discussion**

Commissioner Peura asked what the consequences of tabling the ordinance could be. City Manager Burton stated it could be held off on for now but there is some immediacy to set the policy in relation to the Woodlawn/Dunbar retrofit because of grant funding requirements.

Commissioner Cartwright asked City Attorney Nielsen if section 6-5-4A would apply to the Woodlawn-Dunbar area. City Attorney Nielsen concurred and stated it would apply but the advantage of having the policy as a law is that it gives the city the legal authority to require certain elements otherwise they become negotiable.

Commissioner Peura indicated he would not vote in support of the tabling motion.

Mayor Smith referred to grants the county is applying for to fund the retrofit of Woodlawn-Dunbar and asked how the improvements would be funded if grants are not awarded. City Manager Burton stated he would not bring forward a development agreement without a guarantee that the improvements could be paid for prior to annexation. The city ratepayer has no obligation to invest into their infrastructure. Also, if 51% of the neighborhood does not want to proceed with the installation of improvements a development agreement will not be prepared. Mayor Smith indicated he would not support the tabling motion as it is encouraging that the county is moving toward valley wide zoning, and he has confidence that County Commission will do what is right for the county.

**Vote**

Motion failed 1-4 with Commissioners Pouliot, Oitzinger, Peura and Mayor Smith voting no.

**Motion**

**Commissioner Cartwright moved to strike section 6-5-3B from the ordinance.** Commissioner Pouliot seconded the motion.

**Discussion**

Commissioner Cartwright recommended the section be removed because city standards are required in order to avoid future environmental impacts and financial costs to the city; he can't imagine a grant award being large enough to warrant waiving the requirement.

Commissioner Pouliot asked what would happen if the subject section was removed from the ordinance. City Manager Burton explained it was written into the ordinance when Fort Harrison hooked into city services. The language exists because the city did not want to annex Fort Harrison and provide typical city services like fire and police protection because Fort Harrison does not pay taxes, which help support the services throughout the community. A similar situation could occur with state agencies currently located in the valley, removing this section could affect future annexation of those properties. City Attorney Nielsen added the intent of the section is that land that has no tax base, such as Federal or State owned property, can waive annexation requirements and just pay for their services. Commissioner Cartwright stated he is concerned that the ordinance tells citizens of the valley that it is important to build your development to city standards but if you are a state agency that can provide the city with enough money the requirement can be waived. He expressed his concern that the city will

get requests to have the requirements waived at the convenience of the agency and not for substantive social grounds.

**Vote** Motion failed 1-4 with Commissioners Pouliot, Oitzinger, Peura and Mayor Smith voting no.

**Motion** **Commissioner Peura moved approval for first passage of an ordinance amending Chapter 5 of Title 6 of the Helena City Code regarding enlargement of water and wastewater service areas and set a public hearing date for May 8, 2006.** Commissioner Pouliot seconded the motion.

**Discussion** Commissioner Cartwright referred to page 5, item D of the ordinance and asked if all fourteen items are legally allowed? City Attorney Nielsen stated yes.

**Vote** Motion carried 4-1 with Commissioner Cartwright voting no. **Ordinance #3055**

**Comment** Commissioner Peura asked City Manager Burton to add an update on county septic system problems, zoning and joint development standards, to the May 4, 2006 Joint Work Session agenda. City Manager Burton noted the May meeting is a joint budget work session but he would ask Chief Administrative Officer Alles to provide a brief update.

***Sidewalk Program*** CONSIDER A RESOLUTION OF INTENTION SUPERSEDING RESOLUTION NO. 12075, RETAINING PROCEDURES, AND REVISING THE INTEREST RATE FOR SIDEWALKS, CURBS, GUTTERS, AND ALLEY APPROACHES IN THE CITY OF HELENA, MONTANA.

**Staff Report** Administrative Services Director Tim Magee reported on November 5, 1990, through Resolution #10259, the City of Helena established the first year of the current sidewalk program. The program's administrative policies and procedures evolved as the program was continued from year to year. The original 8% interest rate for the program was never adjusted, and has become a detraction from the program.

On January 26, 2004, through resolution #12075, the city formally established the procedures for the improvement program for sidewalks, curbs, gutters and alley approaches and set the interest rate at prime + 1%. Prime + 1% has equated to 5% for 2004, 6.25% for 2005, and 8.25% for 2006. An 8.25% interest rate for the program will again discourage program participation.

Staff is proposing to increase the programs annual budget from \$35,000 to \$70,000, and to amend the program resolution to establish a 0% interest rate. Staff would continue authorizing the ongoing program under the existing policies and procedures. Approval of the proposed resolution would fully document the Sidewalk Program policies and procedures, and establish an interest rate that would encourage people to participate in the program resulting in faster and greater improvement of sidewalks in the city.

Commission comment Mayor Smith commented that the sidewalk program is very beneficial and an important part of the Non-motorized Transportation Plan. Commissioner Oitzinger noted the program includes brick sidewalks. Commissioner Cartwright added commercial businesses may also take advantage of the sidewalk program.

Public comment Mayor Smith called for public comment, none was received.

**Motion** Commissioner Pouliot moved approval for a resolution of intention superseding Resolution No. 12075, retaining procedures, and revising the interest rate for sidewalks, curbs, gutters, and alley approaches in the City of Helena, Montana and set a public hearing for May 8, 2006. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19332**

**MDT Agreement** CONSIDER AN AGREEMENT WITH MONTANA DEPARTMENT OF TRANSPORTATION FOR STORM DRAINAGE OWNERSHIP, OPERATION AND MAINTENANCE.

Staff Report Assistant Public Works Director Phil Hauck reported the South Helena Interchange project design is scheduled for bid letting in June. Final plans and contract documents are being prepared for publication. Utility relocation work associated with the project is already underway. The Montana Department of Transportation (MDT) has requested that the city agree to ownership, operation and maintenance of storm drainage facilities in the right-of-way (ROW) of Colonial Drive. MDT proposes to own, operate and maintain storm drainage facilities in the adjacent interstate ROW. An agreement in this regard is important because the city and state's storm drainage facilities are connected and both entities will have separate permit responsibilities under future NPDES discharge permits issued by the Montana Department of Environmental Quality.

City staff has negotiated an agreement for consideration which will allow for ownership, operation and maintenance of the drainage facilities under Colonial Drive and which will limit the city's liability for correction of any defective work associated with the MDT construction contract. Assistant Director Hauck recommended approval of the storm drainage agreement and summarized it will clearly define the ownership limits of storm drainage facilities in the vicinity of the new South Helena Interchange.

Public comment Mayor Smith called for public comment, none was received.

**Motion** Commissioner Cartwright moved approval of a City of Helena/State of Montana Storm Drain Agreement for the South Helena Interchange Project and authorized the City Manager to sign the agreement. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

**Buy/Sell Agreement** CONSIDER A BUY-SELL AGREEMENT FOR THE RIGHT-OF-WAY PURCHASE ON THE PROPOSED BENTON AVENUE EXTENSION.

Staff Report City Engineer Ryan Leland reported the 2005 Helena Area Transportation Plan and the Street Department Capital Improvement Plan both identify the extension of Benton Avenue north of Custer

Avenue. Recent developments along this route have dedicated ROW and constructed much of Benton Avenue. However, ROW through the lots immediately north of Benton has not been dedicated or acquired. Staff has been negotiating with the two property owners where ROW is needed. The owner of the undeveloped parcel at 404 Custer Avenue has agreed to allow the city to purchase 30 feet of ROW along the west boundary of the property. At some time in the future the owner intends to build a rental home or duplex on the property.

Staff purchased an appraisal that estimated the lot value at \$40,000. The owner worked with a realtor to determine a value of \$50,000 and has offered that the value of the 30-foot dedication be \$15,000. Given the ROW dedication will take 5,250 square feet of the 17,000 square foot lot, or about 30% of the parcel, staff believes the owner's offer is fair and reasonable.

Concurrently, staff is also negotiating 30 feet of ROW from the adjacent lot to the west. At this point in time we have not developed agreeable terms with the owner but are hopeful that a negotiated solution will come about soon.

Mr. Leland recommended approval of the buy/sell agreement, as it will advance plans for the extension of Benton Avenue.

Commission comment

Commissioner Peura asked if the extension of Benton would include sidewalks? City Engineer Leland stated yes. Mr. Leland also explained the extension will allow the installation of an irrigation line in the area that will serve the golf course.

Commissioner Peura asked if the \$15,000 expenditure was included in the existing budget. City Engineer Leland confirmed it was already in the budget and was included as part of the total cost of the project.

Public comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Pouliot moved approval of a buy/sell agreement for the west 30 feet of Tract A of the Stump Tracts in the City of Helena, Montana.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Public Hearings**

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION AMENDING RESOLUTION NO. 12054 THAT CREATED SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 207 IN PARTS OF THE CRYSTAL SPRINGS SUBDIVISION AND AMENDING RESOLUTION NO. 19216 THAT AMENDED RESOLUTION NO. 12054, TO INCLUDE PHASE III IN SILD NO. 207 IN THE CRYSTAL SPRINGS SUBDIVISION IN THE CITY OF HELENA, MONTANA.

Staff Report

Administrative Services Director Tim Magee reported Resolution of Intention No. 19327; amending Resolution Nos. 12054 and 19216 was passed the City Commission on March 27, 2006.

The property owners have submitted a petition to create a SILD in Phase III of the Crystal Springs Subdivision. This proposed district is contiguous to SILD No. 207 Phases I and II. It appears to be in the best interest of the City of Helena and the affected property owners to amend Resolution No. 19216 and include all the property described in Exhibit "B" attached to the resolution.

The proposed facilities will consist of seven additional units, with underground wiring, fiberglass or metal poles for 14 foot mounting heights, and glass enclosed cut-off luminaries with 100-watt high pressure sodium vapor lamps. The estimated cost of maintenance, electrical energy, and administration for the first year is \$2,586.56. This amount includes an additional assessment to be charged by the city to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Director Magee recommended approval of the resolution and stated with the amendment, seven additional lights would be installed in the Crystal Springs Subdivision, Phase III.

**Public Testimony**

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

There being no persons wishing to address the Commission, Mayor Smith closed the public hearing.

**Motion**

**Commissioner Cartwright moved approval for the resolution amending Resolution Nos. 12054 and 19216 to include Phase III in Special Improvement Lighting District No. 207 in the Crystal Springs Subdivision.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19333**

**Public Communications**

**PUBLIC COMMUNICATIONS**

George McCauley, 926 5<sup>th</sup> Avenue, thanked the Commission and city staff for putting on the City Government 101 program.

Marshall Gingery, 2522 Primrose Lane, spoke in support of the proposed amendment to the sidewalk program.

**Meetings of Interest**

**MEETINGS OF INTEREST**

The next Administrative Meeting is Wednesday, May 3, 2006 in the Civic Center lobby and the next Commission Meeting is Monday, May 8, 2006. Additional meetings include the Joint City/County Budget Work Session on Thursday, May 4, 2006 and the first Commission Budget Work Session on Wednesday, May 10, 2006.

Commissioner Peura added the Montana Nutrition and Physical Activity Program would be hosting a conference in Helena June 1-2, 2006 at the Colonial Inn regarding walkable communities.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 8:20p.m.

\_\_\_\_\_  
Mayor James E. Smith

ATTEST:

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Clerk of the Commission