

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**August 8, 2011**  
**6:00 P.M.**

**Time & Place** A regular City Commission meeting was held on Monday, August 8, 2011 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, Ellison, Elsaesser and Thweatt were present. City Manager Ron Alles, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present.

**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 July 25, 2011 were approved as submitted.

**Consent Agenda** CONSENT AGENDA:

- A. Claims
- B. Installation of a stop sign at the intersection of North and 18th streets
- C. Removal of two stop signs at the intersection of Butte Avenue and Sanders Street
- D. Final passage of Ordinance No. 3145 amending City of Helena Ordinance No. 2359 and amending the official zoning map, for a pre-zone designation to a B-2 (General Commercial) District  
**Ordinance #3145**
- E. FY2011 USDOT-HMEP Training Grant for the HazMat Technician Training Course in the amount of \$38,052.00
- F. FY 2012 Memorandum of Understanding for the East Valley Bus Service
- G. FY2012 Section 5311(F) Intercity Operating Grant for increased Rimrock operations
- H. A resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the sale of that property (vehicles and miscellaneous equipment)  
**Resolution #19857**
- I. A resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property (Fire Department equipment)  
**Resolution #19858**
- J. Void checks numbered 99544, 101277, 103174, 103724, and 104770
- K. Utility bill insert - Angel Fund

**Public Comment** Mayor Smith asked for public comment, none was received.

**Discussion** Commissioner Cartwright referred to item C and thanked the Public Works Department for their work on the traffic circle located at the intersection of Butte Avenue and Sanders Street.

**Motion** **Commissioner Ellison moved approval of items A through K on the consent agenda.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

**Bid Awards** BID AWARDS:

A. 2011 CHIP & SEAL PROJECT, CITY PROJECT #11-5

**Staff Report**

City Engineer Ryan Leland reported the 2011 Chip and Seal project will add a new wear surface and pavement sealer by applying a single application of asphalt material followed by spreading a 3/8-inch gravel chip. The city opened bids for this project on July 26, 2011 and only one bid was received. Pavement Maintenance Solutions of Columbia Falls was the lowest responsible bidder for Schedule A – South West City Streets; Schedule B – South Central City Streets; Schedule C – South Central City Streets; Schedule D – Northeast City Streets; Schedule E – South Benton Avenue and Schedule F – LeGrande Cannon Boulevard for a grand total of \$298,521.60. This is the unit price of \$1.56 per square yard. Last year's unit price was \$1.50 per square yard.

Engineer Leland recommend awarding Schedules A, B, C, D, E and F of 2011 Chip Seal project to the lowest, responsible bidder, Pavement Maintenance Solutions of Columbia Falls in the amount of \$298,521.60.

**Public Comment**

Mayor Smith called for public comment, none was received.

**Discussion**

Commissioner Cartwright asked if any of the streets in the 2011 Chip & Seal Project will need re-striping or ADA repairs. Mr. Leland explained the budget will only allow for maintenance, not any ADA upgrades or repairs. Commissioner Cartwright referred to the Complete Streets Resolution and encouraged staff to include any planned ADA upgrades, re-striping or bulb-out installation while doing chip/seal projects as it provides a tight seal afterward.

Commissioner Ellison asked for the timeframe of the projects being awarded tonight. Mr. Leland noted he did not have specific start dates for the projects but they are all slated to be completed this year; construction should begin by the end of August or in September.

**Motion** **Commissioner Thweatt moved to award Schedules A, B, C, D, E and F of 2011 Chip Seal project to the lowest, responsible bidder, Pavement Maintenance Solutions of Columbia Falls in the amount of \$298,521.60.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

B. THREE PARK SIDEWALKS, CITY PROJECT #10-12

**Staff Report**

City Engineer Ryan Leland reported the Three Park Sidewalks project is a CTEP project that will install new sidewalk around Janet Park, Beltview Park and Pioneer Park. The local match for the CTEP funding will be a combination of City Park funding and in-kind match for the design and construction inspection by the City's Engineering Division. The city opened five bids for this project on July 21, 2011. Tabbert Construction of Helena was the lowest responsible bidder with a bid of \$70,253.75.

Engineer Leland recommended awarding the Three Park Sidewalks, Project #10-12 to the lowest responsible bidder, Tabbert Construction in the amount of \$70,253.75.

Public Comment

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Ellison moved to award the Three Park Sidewalks, City Project #10-12 to the lowest responsible bidder, Tabbert Construction in the amount of \$70,253.75.** Commissioner Thweatt seconded the motion. All voted aye, motion carried.

C. BENTON AVENUE, BEHIND THE CITY/COUNTY BUILDING,  
CITY PROJECT #06-09

Staff Report

City Engineer Ryan Leland reported Benton Avenue behind the City/County Building is deteriorating and in need of asphalt repair. The sidewalk behind the building is also cracked and has trip hazards. The project is funded with several sources: Lewis and Clark County CTEP, the City/County Building Fund, City of Helena Gas Tax, and Storm Water Utility. The project will consist of installation of new sidewalks along the east side of the street with the street being milled and overlaid. The street will be changed to a one-way gong north and back-in, angle parking will be installed on the east side along with three bulb-outs.

The city opened two bids for this project on June 14, 2011. Helena Sand and Gravel of Helena was the lowest responsible bidder for Schedules A and C with a bid of \$137,750.

Engineer Leland recommended awarding the Benton Avenue Reconstruction, City Project #06-09, Schedules A and C, to the lowest responsible bidder, Helena Sand and Gravel in the amount of \$137,750.

Discussion

Commissioner Thweatt asked if it were to be decided that all of the sidewalk along Benton Avenue does not need to be replaced; would the city have the option to deduct those repairs from the project after the bid is awarded? Mr. Leland stated yes.

Commissioner Cartwright asked for more information on the replacement of the sidewalk on Benton Avenue. Mr. Leland explained staff is still discussing what areas will be replaced. He cautioned against piece-mealing the sidewalk repairs as they can cause trip hazards if they settle unevenly after construction. Commissioner Cartwright spoke in support of the proposal to install "back-in" parking.

Public Comment

Mayor Smith called for public comment.

Joan Postin, Helena; expressed concern for the proposed "back-in" parking on Benton Avenue. She noted "back-in" parking once existed on Cruse Avenue and encouraged the Commission to research why it is not currently in use.

**Motion**

**Commissioner Thweatt moved to award the Benton Avenue Reconstruction, City Project #06-09, Schedules A and C, to the lowest responsible bidder, Helena Sand and Gravel in the amount of \$137,750.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

D. BROADWAY CROSSING AT THE WALKING MALL, CITY PROJECT #09-25

Staff Report

City Engineer Ryan Leland reported a complaint on the City of Helena's ADA ramps was filed and reviewed by the US Department of Federal Highways and the finding of that review required the City to upgrade the crossing of Broadway at the Walking Mall to current ADA standards. This project will fulfill that requirement. The project is funded with City CTEP funds and will consist of a raised crossing. The crossing will be brought up to the height of the curb.

The City opened three bids for the Broadway ADA Ramps project on June 1, 2011. Tabbert Construction of Helena was the lowest responsible bidder with a bid of \$91,970.25. Two lower bids were received. The apparent low bidder, Diamond Construction, rescinded their bid because of a mistake on one of the unit prices and the second lowest bid, by Pioneer Mountain Subcontractors, could not be considered because they failed to acknowledge the two addenda on the project.

Mr. Leland recommended awarding the Broadway Crossing Project bid to Tabbert Construction, the lowest responsible bidder, for the amount of \$91,970.25.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Ellison moved to award the Broadway Crossing City Project #09-25 to the lowest, responsible bidder, Tabbert Construction, in the amount of \$90,970.25.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser spoke in support of items on the Consent Agenda and the Bid Awards approved tonight.

Commissioner Cartwright referred to the NSP grant awarded to Rocky Mountain Development Council (RMDC) to construct low income housing on the Caird Property. He noted the project is unlikely to come before the City Commission for review and posed the following discussion points/questions related to the grant award and project.

- "Malfunction Junction" is one of the busiest intersections in the city; what will the health impact be on people living at that intersection, especially seniors and children?
- Helena Avenue is the gateway to the 6<sup>th</sup> Ward; what impact would low income housing at Caird have on future investments in that area?
- The apartments are reported to cost approximately \$210,000-\$215,000 (clean-up costs are extra). This is above what houses in Helena are selling for recently and probably pretty close to the average for single family houses compared to one or two bedroom apartments. Is RMDC's project the most economical use of taxpayer dollars to provide low income housing?
- When the project was proposed last time RMDC said if they could not attract commercial development they would build housing right up to Montana Avenue. How certain is the current proposal to build commercial buildings on Montana Avenue?

- The proposal two years ago called for not just senior housing but family housing as well, what is the mix this time?
- RMDC, the City of Helena, The College of Technology, and some of the neighbors, were involved in a collaborative process to coordinate master plans. RMDC's announcement of the grant award came as a surprise to some of those parties. What impact will this project have on the future of long-range planning in the 6<sup>th</sup> Ward neighborhood?

Commissioner Cartwright commented he believes this project does address what are very real needs in the community, with a fairly large number of federal taxpayer dollars. He expressed worry that this is the same combination that resulted in the excessive destruction of downtown Helena during urban renewal and stated he hopes that the thinking behind this project is not the same as the thinking behind urban renewal.

Commissioner Cartwright thanked staff for their work on the Volunteer Appreciation Event held on August 4, 2011.

Commissioner Thweatt announced there are several positions open on numerous City boards and committees and encouraged citizens to apply. He noted the City/County Planning Board, which has four vacancies, continues to work on implementing zoning in Lewis & Clark County, and spoke to the importance of that issue.

Commissioner Ellison spoke of attending the Volunteer Event and recognized the efforts of all citizens who volunteer their time serving on City and County boards/committees.

***Report of the City Attorney***

**REPORT OF THE CITY ATTORNEY**

City Attorney Nielsen referred to two past lawsuits against the City of Helena regarding how street maintenance assessments are calculated; one appeal has been voluntarily withdrawn and in the other a summary judgment has been issued in favor of the City.

City Attorney Nielsen also updated the Commission on ongoing litigation against the city related to Ten Mile Creek water rights.

***Report of the City Manager***

**REPORT OF THE CITY MANAGER**

City Manager Alles announced he received notification the Federal Highway Administration (FHWA) has accepted the City of Helena's ADA compliance plan.

***Report from the Helena Citizens Council***

**REPORT FROM THE HELENA CITIZENS COUNCIL**

No report was given.

***Regular Items***

**REGULAR ITEMS:**

- A. CONSIDER A SIDEWALK DEFERRAL FOR LOTS 1 & 8 IN BLOCK 38 IN THE CITY PARK ADDITION; GENERALLY LOCATED AT DOUGLAS AND WILKINSON STREETS

**Staff Report**

City Engineer Ryan Leland reported the property in Block 38 of the City Park Addition, Lots 1 and 8 are currently undeveloped and were recently annexed into the city. The current owners would like to build. The property is adjacent to Douglas Street and Wilkinson Street, which

are undeveloped. There is a development agreement in place deferring paving, curbs and gutters until such time as a project or SID takes place. The owners have signed a waiver of right to protest an SID.

The owner of the property is requesting that the sidewalks be deferred until Douglas Street and/or Wilkinson Street are constructed to city standards.

Engineer Leland noted staff has no recommendation on the proposal.

#### Discussion

Commissioner Cartwright asked if the applicant would install sidewalks on whichever street is paved first or if they desire to defer sidewalk installation until both streets are paved. Mr. Leland explained the applicant will be required to install sidewalks on Douglas or Wilkinson Street, whichever one is paved first, at the time the street is improved.

Commissioner Cartwright expressed concern with property owners landscaping and/or building in the easement designated for future sidewalks. Mr. Leland stated those issues will be discussed during the building review process and the applicant will not be allowed to encroach on the easement.

Commissioner Elsaesser asked if it is more likely this area will be brought up to City standards because it's commercial instead of residential. Mr. Leland explained staff is closely monitoring the amount of SID waivers in the area to ensure it can be paved as soon as possible. Commissioner Elsaesser asked if the Commission could legally require the applicant to install sidewalks if adjoining sidewalks were installed. City Attorney Nielsen stated yes.

#### Public Comment

Mayor Smith asked for public comment, none was received.

#### Motion

**Commissioner Ellison moved approval of a sidewalk deferral for property located in Lots 1 & 8 in Block 38 in the City Park Addition; generally located at Douglas and Wilkinson Streets, until such time the streets are constructed to city standards.**

Commissioner Thweatt seconded the motion.

#### Friendly Amendment

**Commissioner Elsaesser moved to add the following language after the word "standards": until such time the streets are constructed to City standards or sidewalks on adjacent properties are installed.** The amendment was declined.

#### Vote

Motion carried 4-1, with Commissioner Elsaesser voting no.

#### Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION TO CLARIFY AND SET THE FEES CHARGED BY THE HELENA CIVIC CENTER FOR MULTIPLE PERFORMANCES AND LONG-TERM USE

#### Staff Report

Community Facilities Director Gery Carpenter reported the current civic center fee schedule was adopted in July 2010. This spring the City Attorney's Office suggested clarification of the fee schedule and inclusion of information used in actual practice, but not specified in the document. After review and discussion by Civic Center staff and Civic Center Board approval at their July 14, 2011 meeting, the proposed amendment is ready for Commission consideration.

The amendment will clarify the fee schedule for the Civic Center for the 2011-2012 event season. The proposed document includes a series rate charged to auditorium promoters who use the facility for four or more events from September through June. It also includes a proposed summer room rental rate for auditorium events at the Civic Center scheduled for July and August.

Director Carpenter recommended approval of the amendment as the yearly review of the schedule allows for clarification to the fee schedule, while allowing the Civic Center to keep at market value with the other area facilities. Building rental fees will remain the same as last year. She noted increased use of the building will increase energy use, which will be reimbursed by auditorium event users.

**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.

**Discussion**

Commissioner Elsaesser asked for the rationale behind the cap of 500 patrons during the summer months. Director Carpenter explained the room must be reconfigured to be cooled; the reconfiguration results in the limit of 500 seats.

Commissioner Cartwright recommended the ballroom be allowed for rent in the summer "as is" even though cooling is not an option. Director Carpenter explained the ballroom is available for rent in the summer, provided it doesn't conflict with the annual renovation/project schedule. Commissioner Cartwright encouraged staff to provide more advertising to let the public know the room is available as long as the renovation/project schedule allows.

**Motion**

**Commissioner Elsaesser moved approval of a resolution clarifying and setting the fees charged by the Helena Civic Center.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Resolution #19859**

***Public Communications***

**PUBLIC COMMUNICATIONS**

No public communications were given.

***Meetings of Interest***

**MEETINGS OF INTEREST**

The next Administrative Meeting is August 17, 2011 and the next Commission Meeting is August 23, 2011.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:00 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission