

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**October 3, 2011**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, October 3, 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, Thweatt and Elsaesser were present. City Manager Ron Alles, City Attorney David Nielsen and City Clerk Debbie Havens were also present. Representing the Helena Citizens Council was Lora Behlmer.

***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 September 26, 2011 were approved as submitted.

***Proclamation***

**PROCLAMATION**

**A. Fire Prevention Week**

Mayor Smith read the Fire Prevention Week proclamation and presented it to Fire Marshall Craig Trapp. Fire Marshall Trapp thanked Mayor Smith for the proclamation and then spoke on the importance of fire prevention and safety. He gave an overview of fire prevention week activities being held in the city and invited the Commission to attend the Fire Department's open house on Thursday, October 13<sup>th</sup>.

Commissioner Thweatt thanked the Fire Department for the quick response to the fire up Oro Fino Gulch on Saturday, October 1<sup>st</sup>. Fire Marshall Trapp acknowledged the mutual aid efforts of all fire departments that responded.

Commissioner Elsaesser referenced the city's ordinance disallowing cedar shingles and asked if the Fire Department has had any report on the impact of the ordinance. Fire Marshall Trapp explained the Building Department enforces the ordinance and noted he has not heard any negative feedback.

Mayor Smith referred to education given to 2<sup>nd</sup> grade students in the area and asked if any volunteer fire departments assist. Fire Marshall Trapp stated not at this time and noted the students come to Fire Station #1 so the city's firefighters remain ready to be dispatched if needed.

***Consent Agenda***

**CONSENT AGENDA:**

- A. Claims**
- B. Underground utility easement between City of Helena and 360networks (USA), Inc.**
- C. Acceptance of the 100% State of Montana funded Pass Through Grant for the Hazmat Team in the amount of \$44,167**
- D. Utility bill insert - United Way**
- E. Utility bill insert - Montana Shares**

Commissioner Elsaesser asked that item C be removed for further discussion.

City Manager Ron Alles recommended approval of the claims and the consent agenda.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Elsaesser moved approval of items A, B, D and E on the consent agenda.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Item C

C. Acceptance of the 100% State of Montana funded Pass Through Grant for the Hazmat Team in the amount of \$44,167

Commissioner Elsaesser asked for more information on the grant. Fire Chief Larson explained the grant funds sustain the interoperability of six regional teams, coordinate response with entities outside our local government jurisdiction and fund the maintenance and update of assigned state equipment used in Hazardous Materials response. This is the State of Montana's portion for the City of Helena being a part of the state-wide Hazmat team.

Commissioner Elsaesser recognized this as another example of mutual aid and commended the city's participation in the program.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Elsaesser moved approval of item C on the consent agenda.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

***Communications***

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Thweatt reported he has submitted an editorial article to the Independent Record (IR) regarding the distracted driving ordinance.

Commissioner Ellison spoke on the proposed distracted driving ordinance and clarified what is and isn't prohibited. He read the definition of "Mobile Electronic Device" under Section 8-2-1 and noted radios would be exempt from the ordinance; however, the Independent Record reported they would not be exempt. He stated he has contacted the IR to recommend they publish a correction to the article; they have assured him they will.

Commissioner Thweatt commented the IR editorial regarding the proposed ordinance stated citizens could contact the city to provide comment related to the ban and asked where on the city's web page they would find the appropriate contact information. City Clerk Debbie Havens explained all city web pages have staff contact information on them. For example, on the City Commission web page there is contact information for the City Commission members, City Clerk and Deputy City Clerk.

Commissioner Cartwright stated he has been making comments at the last few Commission Meetings regarding bankers and Wall Street and has sensed Mayor Smith has been perplexed by these comments as they are not related to city services. The problem is, Wall Street and the bankers have stolen this country's future and he feels it is necessary for at least somebody of some authority, even local government, to at least

mention that and that's why he has been making those comments. He apologized if it has been disruptive.

Mayor Smith stated he has been angered by Commissioner Cartwright's comments as he does not feel an elected official, in a public meeting, should be making broad, sweeping allegations about an entire profession or occupation. He expressed hope that the regulators, Inspector General, Securities and Exchange Commission, Federal Trade Commission, etcetera, would bring any banker that is guilty of breaking the law to the bar of justice, given and fair trial and that justice would be served. However, for any City Commissioner to make broad, accusatory statements about an entire profession or class of people is very inappropriate from the setting of a Commission Meeting. He noted he has been troubled deeply by Commissioner Cartwright's comments.

Commissioner Cartwright stated Mayor Smith's position is not unreasonable. Because he has made these comments during the "Comments from Commissioners" section of the agenda he has tried not to get into lengthy details that would take up the Commission's time so he has had to generalize but you can see most of the story in the mainstream media. The bottom line is when one group ends up with all the money, if you're playing poker you suspect the game.

Commissioner Elsaesser thanked Commissioner Ellison for working with the IR to correct the details of their article. He spoke of the process for commenting on the proposed distracted driving ordinance and encouraged the public to provide input.

***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 Alles explained when staff receives public comment it is always forwarded to the entire Commission. He encouraged citizens to call city offices if they have difficulty with the city's website.

Manager Alles announced the City of Helena Employee Appreciation Luncheon will be held October 4<sup>th</sup> at 11:30 a.m. at the Civic Center and invited the Commission to attend.

He reported the Helena Fire Department has received the Life Safety Achievement Award for 2010 by the Residential Fire Safety Institute and gave an overview of the award.

City Manager Alles reported Howard Skjervem with Northwestern Energy had sent the Commission an email to provide an update on Northwestern Energy's efforts to educate and encourage citizens to participate in the Regional Smart Grid Demonstration Project. Anyone interested in the program should call 406-497-2210; the deadline to sign up is October 11th.

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

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Lora Behlmer reported the HCC last met on Wednesday, August 28, 2011. The HCC is focusing on getting write-in candidates for the November 8<sup>th</sup> election. At this time, there are approximately 14 people who have filed for election to the council and there are 28 positions.

The next HCC meeting is October 26, 2011 at 7:00 p.m. in City/County Building- Room 326.

**Public Hearings**

**PUBLIC HEARINGS:**

- A. CONSIDER A RESOLUTION AMENDING RESOLUTIONS #11467, #12014 AND #19160 FOR A CONDITIONAL USE PERMIT (CUP) FOR A PRE-RELEASE CENTER, TO ALLOW 12 ADDITIONAL BEDS, LOCATED IN THE CLM-T-26 (COMMERCIAL-LIGHT MANUFACTURING TRANSITIONAL) DISTRICT AT 805 COLLEEN STREET

**Staff Report**

City Planner Kathy Macefield reported on Tuesday, September 13, 2011 the Helena Zoning Commission unanimously (4:0) vote recommended APPROVAL for a resolution amending Resolution #11467 that granted a Conditional Use Permit (CUP) for a pre-release center, to allow 12 additional beds (for a total of 110 beds), located in the CLM-T-26 (Commercial-Light Manufacturing Transitional) District for property legally described as Lots 2-3, Block 4, Intercity Commercial Subdivision, Helena, Montana; generally located at 805 Colleen Street between Highway 12 East and the railroad tracks. No public comment has been received about this proposal.

The pre-release center was originally approved by Resolution #11467 in 1999 for 40 beds. This resolution was amended in 2003 by Resolution #12014 to allow an additional 20 beds. Resolution #11467 was again amended in 2004 by Resolution #19160 to allow 38 more beds. The center currently has 98 beds. If the proposed increase is approved, the center would have a total of 110 beds. No new construction is proposed.

Ms. Macefield recommended approval of the resolution as it is consistent with the CUP criteria. She noted allowing the increased number of beds within an existing facility that will not be expanded represents an efficient use of resources with minimal effects on the transportation system.

**Discussion**

Commissioner Cartwright asked if the proposal changes the conditions of the original CUP. Ms. Macefield stated no, other than adding 12 beds.

Commissioner Elsaesser asked if the funding for the expansion would change the authority of the board to accept or reject applicants. Mayor Smith stated the addition of 12 beds will not change the screening committee or its activities.

**Public Testimony**

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

Mike Rupert, Chief Executive Officer of Boyd Andrew; thanked Community Development Department staff for their professionalism while working on the proposal. He reported the Department of Corrections has offered to increase Boyd Andrew's contract for the Pre-Release Center from 100 beds to 105 beds with the stipulation that two of the beds would be earmarked for sex offenders. Mr. Rupert explained the center is asking for 110 beds in the CUP as it is the maximum amount of persons that can fit in the existing building and will ensure this is the last time the existing CUP will need to be amended to allow for more occupancy. He then reviewed the make-up of the screening committee and explained the committee operates on consensus; it must be reached when deciding who will be accepted.

Helena Police Department (HPD) Chief Troy McGee spoke in support of the proposal and commented the Helena Pre-Release Center is benefit to the community. Chief McGee stated he sits on the screening committee and realizes the importance of who is admitted to the center. He noted he has been adamant about not allowing sex offenders in the past because of Commission and community concern; however, he now believes it would be appropriate to accept two offenders at the facility. The staff at the center is very capable to work with sex offenders and they will receive counseling.

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

Comment

Commissioner Ellison disclosed that he has been involved in discussions about the proposal prior to it being brought forward to the City Commission for consideration as he sits on the screening committee.

City Attorney Nielsen confirmed Commissioner Ellison's disclosure regarding discussion about the proposal was adequate.

Motion

**Commissioner Thweatt moved approval of a resolution amending Resolutions #11467, #12014 and #19160 for a Conditional Use Permit (CUP) for a pre-release center to allow 12 additional beds (for a total of 110 beds), located in the CLM-T-26 (Commercial-Light Manufacturing Transitional) District for property legally described in the resolution.** Commissioner Elsaesser seconded the motion.

Comment

Commissioner Elsaesser thanked Mr. Ruppert and Chief McGee for their testimony. Commissioner Cartwright stated the original conditions required preference be given to those applicants who were from the tri-county area and spoke in support of that requirement.

Mayor Smith stated he believes the city of Helena has had an excellent relationship with the Helena Pre-Release Center and the screening committee works very well.

Vote

All voted aye, motion carried. **Res #19883**

**Public Communications**

PUBLIC COMMUNICATIONS

No public communications were given.

**Meetings of Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is October 12, 2011 and the next Commission Meeting is October 17, 2011. Due to the Montana League of Cities and Towns Convention, the City/County Joint Work Session will be held October 13, 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