

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**October 29, 2012**  
**6:00 P.M.**

- Time & Place*** A regular City Commission meeting was held on Monday, October 29, 2012 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 Elsaesser, Ellison, Thweatt and Haque-Hausrath were present. City Manager Ron Alles, City Attorney Jeff Hindoien 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 October 29, 2012 were approved as submitted.
- Proclamation*** PROCLAMATION:  
A. Cyber Security Awareness Month
- Mayor Smith read the proclamation designating October as "Cyber Security Awareness" month and presented it to Information & Technology Services Trainer Ellen Bell. Ms. Bell spoke to the importance of cyber security and listed resources employees and citizens can use to stay safer and more secure online.
- Board Appointments*** BOARD APPOINTMENTS:  
A. Business Improvement District/Helena Parking Commission and Bill Roberts Golf Advisory Board
- Mayor Smith asked for Commission concurrence on the following appointments:
- BID/HPC - Reappointment of Bill Crane and Tim Meldrum to second term on the BID/HPC; terms will begin upon appointment and expire October 31, 2016.
- Bill Roberts Golf Advisory Board - Reappointment of Jonathan Pallister to a second term on the Golf Advisory Board; term will begin upon appointment and expire October 30, 2015.
- Public comment Mayor Smith asked for public comment, none was received.
- Motion*** **Commissioner Ellison moved approval of the appointments to the BID/HPC and Bill Roberts Golf Advisory Board as listed above.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried
- Consent Agenda*** CONSENT AGENDA:  
A. Claims
- City Manager Ron Alles recommended approval of the claims.

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

**Motion** **Commissioner Elsaesser moved approval of item A on the consent agenda.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Elsaesser spoke of attending the groundbreaking ceremony for two new cottages for Intermountain Children's Home.

**Report of the City Attorney** REPORT OF THE CITY ATTORNEY  
No report was given.

**Report of the City Manager** REPORT OF THE CITY MANAGER  
No report was given.

**Report from the Helena Citizens Council** REPORT FROM THE HELENA CITIZENS COUNCIL  
No report was given.

**Regular Items** REGULAR ITEMS:  
A. CONSIDER A SIDEWALK VARIANCE FOR 2147 & 2153 GOLD AVENUE.

Staff Report City Engineer Ryan Leland reported the properties at 2147 and 2153 Gold Avenue are being developed with a duplex on each lot. Gold Avenue is currently an undeveloped gravel road. The developers of the property are requesting to delay the installation of curb, gutter and sidewalk until Gold Avenue is constructed to city standards. The City of Helena has no plans at this time to construct Gold Avenue.  
Mr. Leland noted he had no recommendation on the proposal.

Discussion Commissioner Elsaesser asked if the Commission were to waive the sidewalk would it also waive the landscaping requirements. Mr. Leland stated no. Commissioner Elsaesser asked if this property were considered a commercial 4-plex, would ADA standards require sidewalks be installed? Mr. Leland stated no since there are no adjacent sidewalks. Commissioner Elsaesser asked if it would be possible for the Commission to condition the sidewalks be installed if adjoining sidewalks were installed. Mr. Leland stated yes.  
Commissioner Thweatt asked if it is likely that this street would be paved absent of an SID being formed. Mr. Leland explained the budget and CCIP would be factors; the paving would be at the Commission's discretion. He noted streets like this are typically developed through SIDs.  
Commissioner Haque-Hausrath asked if the city would have to do anything special other than require the formation of a SID. Mr. Leland explained the process for the Commission to require sidewalks be installed.  
Mayor Smith referred to the CCIP and asked if Gold Avenue is looking to be paved in next 2-4 years? Mr. Leland stated no and noted there are many higher priorities; however, the Commission can request sidewalks be installed wherever they would like. Mayor Smith asked if the neighborhood is interested in forming an SID. Mr. Leland explained

staff has not engaged the neighborhood regarding the formation of an SID and noted due to Nature Park property the city would end up making up half of the district.

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

**Motion** **Commissioner Ellison moved to approve deferral of the installation of curb, gutter and sidewalks for the properties at 2147 & 2153 Gold Avenue until such time the streets are constructed to city standards.** Commissioner Thweatt seconded the motion.

Friendly Amendment *Commissioner Elsaesser offered a friendly amendment to add the following language “or adjoining property installs sidewalks or bike/ped trails” after the word “standards”.* Commissioner Ellison accepted the amendment.

Discussion Commissioner Elsaesser explained the proposed language. Mayor Smith spoke in support of the amendment.

**Vote** All voted aye, motion carried.

B. CONSIDER THE PRELIMINARY PLAT FOR A MINOR SUBDIVISION CREATING TWO LOTS FROM LOT 4-H OF THE SKYWAY REGIONAL SHOPPING CENTER PLAT PHASE 1 SUBDIVISION GENERALLY LOCATED SOUTH OF CUSTER AVENUE AND WEST OF WASHINGTON STREET WITH A PROPERTY ADDRESS OF 2020 CROMWELL DIXON LANE.

Staff Report City Planner Lucy Morell-Gengler reported the applicant is requesting preliminary plat approval of a two-lot minor subdivision of Lot 4-H of the Skyway Regional Shopping Center Plat Phase 1 Subdivision. The subject property contains 1.474 acres and would be divided into two lots: Lot 4-H-1 containing 1.061 acres, and Lot 4-H-2 containing .413 acres. A 25-foot wide access easement is proposed to connect Lot 4-H-2 to existing access easements within the Skyway commercial development. A building permit has been issued for construction of a retail store on Lot 4-H. The property is located in the Skyway Shopping Center south of Custer Avenue and west of Washington Street, and is zoned B-2 (General Commercial) District. The preliminary infrastructure plans indicate water and wastewater mains are currently located adjacent to proposed Lot 4-H-1; services will have to be extended to proposed Lot 4-H-2.

Ms. Morell-Gengler recommended approval of the subdivision as it would encourage infill growth within the city that utilizes municipal water and wastewater. With the subdivision being located within the city it could lower some of the pressure to develop property in the county and, as a result, reduce sprawl and vehicle miles traveled.

Discussion Commissioner Elsaesser asked if the building permit already issued is independent of Commission action tonight. Mr. Morell-Gengler stated yes, as Lot 4-H is buildable as a single lot.

Commissioner Ellison asked for an update on the status of traffic light installation at Cromwell-Dixon Lane at Washington Avenue. Ms. Morell-Gengler stated it is Montana Department of Transportation (MDT)

right of way; staff has reminded them the city would like a traffic light at the intersection and the developer has installed infrastructure to accommodate the light. Commissioner Ellison urged MDT to install a light at the intersection.

Public comment

Mayor Smith called for public comment  
Greg Wirth, Northland Engineering & Surveying, 2969 Airport Road, representing the applicant; commented he was available to answer questions regarding the proposal.

Motion

**Commissioner Elsaesser moved to conditionally approve the preliminary plat for the minor subdivision of Lot 4-H of the Amended Skyway Regional Shopping Center Plat Phase 1 Subdivision, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

C. CONSIDER A RESOLUTION OF INTENTION TO DECLARE REAL PROPERTY SURPLUS AND AUTHORIZE THE SALE THEREOF, PARCEL ID 05-1888-31-4-27-25-0000.

Staff Report

City Controller Glenn Jorgenson reported the city owns property located above the corner of Rhode Island St. and South Hoback St, property ID 05-1888-31-4-27-25-0000. The property owner between it and Rhode Island St has requested it be declared surplus and sold at auction to facilitate their residential building plans.

The Parks Department would like to surplus this property and use the proceeds for improvements and management amenities on open lands within close proximity of the area. All department directors were notified of this request, and it was determined none of the other departments have a need to retain the property.

Staff recommends the City declare surplus parcel 05-1888-31-4-27-25-0000, described as Block 570 in the Easterly Addition in the City of Helena, as shown on the drawing Exhibit "A". The property will be sold to the highest bidder for a minimum price of \$1.42 per square foot based on the market value of surrounding properties. This property contains approximately 20,473 square feet, resulting in a minimum bid of \$29,072.

If the resolution of intention is approved, staff will notify all owners within 300 feet of the property for sale, advertise twice in the paper, and schedule a public hearing.

Mr. Jorgenson recommended approval of the resolution of intention as the Parks Department can use the proceeds from the sale to provide improvements and amenities to City owned properties in the same area.

Discussion

Commissioner Haque-Hausrath asked if this parcel provides necessary access to city parkland? Mr. Jorgenson stated no and explained although there is an existing trail through the property there are plenty of other opportunities for access. He reiterated that the Parks Department has no concerns with the proposal.

Commissioner Elsaesser asked if the motion under consideration would secure the minimum bid price. Mr. Jorgenson explained the notice for the sale would.

- Public comment Mayor Smith called for public comment; none was received.
- Motion** Commissioner Hague-Hausrath moved approval a resolution of intention to declare real property surplus and authorize its sale, described as Block 570 of the Easterly Addition in the City of Helena, and set a public hearing date of November 19, 2012. Commissioner Ellison seconded the motion. All voted aye, motion carried. Res #19971
- Public Hearings** PUBLIC HEARINGS:  
A. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3161 AMENDING CHAPTER 2 IN TITLE 6 OF THE HELENA CITY CODE TO CLARIFY THE ANNUAL TESTING REQUIREMENTS FOR BACKFLOW PREVENTION DEVICES.
- Staff Report Utility Maintenance Superintendent Kevin Hart reported the currently adopted version of state plumbing code amends out the requirement for back flow device testing but leaves the creation of this authority up to the individual entities who have adopted the code. Without changes, the water utility lacks authority to require testing as a means to protect the public water system from unwanted back flow into the distribution system. The City Commission passed on first reading a copy of the proposed changes and has scheduled a public hearing and final passage for October 29, 2012. Publication of the hearing notice was done twice; appearing Sunday, October 21 and again Sunday, October 28, 2012 in the Helena Independent Record.  
The proposed amendments will clarify and clearly state that the intent of the Commission's passage of the ordinance is to provide for testing upon installation and annually testing thereafter of devices connected to the Helena water system. This authority is to be placed within the water rules and further defines the person authorized to test such devices.  
Superintendent Hart recommended approval of final passage of the ordinance as would clearly states intent and places authority to require testing of devices within the water rules for protection of the distribution system.
- 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 Thweatt moved approval final passage of Ordinance No. 3161 amending Chapter 2 in Title 6 of the Helena City Code to clarify the annual testing requirements for back flow prevention devices. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. Ord #3161  
B. CONSIDER A RESOLUTION AUTHORIZING THE EXCHANGE OF A PORTION OF MOUNT HELENA CITY PARK PROPERTY OWNED BY THE CITY OF HELENA WITH THE OWNERS OF LOTS 1 AND 2 IN THE IRVING MINOR SUBDIVISION IN THE CITY OF HELENA, MONTANA.

## Staff Report

Parks & Recreation Director Amy Teegarden reported the owners of Irving Minor Subdivision Lot #1 and Lot #2 would like to exchange 396 square feet of their combined parcels for 396 square feet of Mt. Helena parkland adjacent to private land and Clarke Street. This exchange would allow for the design and construction of a mutually shared driveway to access these private lots. The owners are planning to construct two private homes, one on each of the lots. The proposed driveway would cross the acquired parkland. The driveway will be shared through a private access easement between the property owners.

Currently the parkland proposed for exchange is not critical for either access to the park or part of a trail system. A former trail that crossed this section has since been removed and rerouted. The city would be acquiring a linear strip of equal amount of property in exchange, that is adjacent to parkland.

In August, 2011, the Helena City Commission gave preliminary approval of a lot line relocation survey, for the purpose of providing vehicular access to the aforementioned parcels. Since preliminary approval was granted the applicants have paid for the amended plat. The amended plat meets all requirements and reviews.

A public hearing for a resolution of intention was held on this matter by the City Commission at the October 15, 2012 meeting. There were no public comments and the resolution of intention was passed. As outlined in the resolution of intention a mailing to property owners within 300 feet of the exchange property were mailed and a public notice was published.

Director Teegarden recommended approval of the land exchange as it will benefit the private lot owners by allowing them to proceed with home construction on vacant lots. Construction will result in in-fill development and the driveway will provide adequate access for emergency response vehicles.

## Discussion

Commissioner Elsaesser disclosed he had spoken with the applicant about the proposal in the past. City Attorney Hindoien indicated it was appropriate for him to vote on the proposal.

## Motion

**Commissioner Ellison moved approval of a resolution to exchange 396 square feet of City of Helena parkland with the owners of Lot #1A and Lot #2A as identified on the amended Irving Minor Subdivision Plat.** Commissioner Haque-Hausrath seconded the motion.

## Discussion

Commissioner Thweatt asked for more information on why a portion of the driveway had already been constructed. Director Teegarden explained there was confusion on what "preliminary approval" may have meant to the applicant.

## Public Testimony

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

Brenda Elias, applicant; urged the Commission to vote in support of the proposal.

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

## Vote

All voted aye, motion carried. **Res #19972**

**Public  
Communications**

PUBLIC COMMUNICATIONS

No public communications were given.

**Meetings of  
Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is October 31, 2012 and the next Commission Meeting is November 5, 2012. The City/County Joint Work Session will be held November 1, 2012.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 6:58 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission