

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**December 16, 2002**  
**6:00 P.M.**

**Time & Place** A regular City Commission meeting was held on Monday, December 16, 2002, 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 Oitzinger, Netschert, Pouliot, Parriman were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Jacki Pierson were present. HCC member present was Jerry Hutch.

**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 December 2, 2002 were approved as submitted.

**Introduction** INTRODUCTION OF CONFIRMED POLICE OFFICERS:  
A. Cory Bailey  
B. Darrick Wakefield

Chief of Police Troy McGee introduced Police Officer Cory Bailey and Police Officer Darrick Wakefield.

Mr. Wakefield thanked his wife, the Helena Police Department and Chief McGee for giving him the opportunity to move back to Montana and serve the citizens.

Mr. Bailey thanked his family, Chief McGee and the Helena Police Department.

**Motion** **Commissioner Pouliot moved to approve confirmation of Cory Bailey and Darrick Wakefield as police officers with the Helena Police Department.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. A resolution authorizing the adoption and execution of the second amended revised and restated Workers' Compensation Risk Retention Program Agreement entered into between the Montana Municipal Insurance Authority and the City of Helena dated as of December 1, 2002; and authorizing that the adoption and execution of any amendment thereto may be made by motion. **Resolution # 11835**  
C. A resolution authorizing the adoption and execution of the second amended and restated Liability Insurance Coverage Program Agreement entered into between the Montana Municipal Insurance Authority and the City of Helena dated as of December 1, 2002; and authorizing that the adoption and execution of any amendment thereto may be made by motion. **Resolution # 11836**  
D. Acceptance of the fiscal year 2002 Comprehensive Annual Financial Report

City Manager Tim Burton recommended approval of the claims.

**Motion** Commissioner Netschert moved approval of the consent agenda item's A through D. Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Bid Award** BID AWARD  
A. Side load refuse trucks - Solid Waste Division  
B. Front load refuse trucks - Solid Waste Division

**Side Load Refuse Trucks** A. Public Works Director John Rundquist reported bids were received for two (2) new side-load refuse trucks to replace unit's #212 and #213 and the trade of the existing units. The low bid was from Western Star Trucks. Western Star bid a 2003 Sterling Condor with a 2002 Heil Rapid Rail body at a price of \$129,950.00 per unit after trade and including extended warranties. Total bid was \$259,900.00 including trade in and extended warranty. The FY03 Budget appropriation for both units is \$310,000.00.  
Mr. Rundquist recommended the purchase of the new unit's at the bid price of \$259,900.00 from Western Star for the replacement of units #212 and #213.

**Discussion** Commissioner Netschert asked for clarification regarding the four bids that were not considered and asked how close the bids were. Mr. Rundquist explained that the body style of those four bids were not what the city operators preferred.  
Mayor Smith asked if it was specified in the bid that the city was looking for a specific body style? Mr. Rundquist concurred.  
Commissioner Pouliot asked what would be done with the trucks that are being replaced? Mr. Rundquist explained that the older trucks would be traded in.

**Motion** Commissioner Pouliot moved to award the bid from Western Star Trucks for two (2) Side-load Refuse Trucks for the bid price of \$259,900.00. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Front Load Refuse Trucks** B. Public Works Director John Rundquist reported bids were received for two (2) new front-load refuse trucks to replace unit's #209 and #215 and trade in of existing units. The low bid was from Western Star Trucks based on the City's 3% preference, Ordinance 2430. Western Star bid a 2003 Sterling Condor with a 2002 Wittke compaction body at a price of \$107,954.00 per unit after trade and including extended warranties. Total bid was \$215,908.00 including trade in and extended warranties. The FY03 Budget appropriation for both units is \$310,000.00. Mr. Rundquist explained Western Star had taken advantage of the city's ordinance that allows for local companies to be awarded, if they are within 3% of the low bid.  
Mr. Rundquist recommended the purchase of the new unit's at the bid price of \$215,908.00 for the replacement of units #209 and #215.

**Discussion** Commissioner Pouliot asked if the city had purchased vehicles from Western Star previously? Mr. Rundquist stated he wasn't entirely sure but would find out. Commissioner Pouliot asked for clarification on why Western Star was awarded the bid when there were two other bids that were lower than Western Star's bid. Mr. Rundquist stated that Western Star is a Helena company and by ordinance there is a 3% bid preference allowance for local firms.

**Motion**

**Commissioner Parriman moved to award the bid from Western Star Trucks for two (2) Front-load Refuse Trucks for the bid price of \$215,908.00.**  
Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith wished a Merry Christmas to all the citizens of Helena.

Commissioner Oitzinger stated she would like to comment on the National League of Cities & Town conference in Salt Lake City. Commissioner Oitzinger explained that at every event of the National League of Cities and Towns they have participation by youth delegates and she is very keen to have some members from the Helena Youth Advisory Council involved with this event. Commissioner Oitzinger stated the educational offerings were most excellent and with the permission of the commission, the city could research the cost to have members from the HYAC participate. She stated the funding from the Turner Grant that funds the council, would be able to be dedicated to the project.

Commissioner Oitzinger explained there was a collection of resolutions that was adopted by the full league that had been offered by the League Resolution Committee. Commissioner Oitzinger explained there was one resolution in particular, which she felt had special relevance and wanted to share it with the commission, it urges the National Institutes of Health and the National Institute of Occupational Safety and Health to study the occupational risks of methamphetamine lab seizures and clean up. She explained that Helena and the State of Montana has to think about methamphetamine as a work place safety issue for the police officers. She was thrilled to see the Mayor of Washington DC was installed as a second vice president of the National League. Commissioner Oitzinger stated visited with him, after he was sworn in, and asked him if he might be interested in putting together a capital city caucus at the National League of Cities and he stated he was intrigued with the idea. Commissioner Oitzinger stated she has written to the Mayor of Washington DC and sent a copy to the Executive Director of the National League of Cities, asking what the appropriate process is to organizing a caucus.

Mayor Smith thanked Commissioner Oitzinger for representing the City of Helena and stated he is intrigued about having the youth involved as well.

Commissioner Parriman stated he would like to have a discussion regarding the status of the negotiations with the State of Montana in regards to the homeland security. Commissioner Parriman explained that recently the question came up, that the state receives fire protection from the City of Helena at no charge, however, it is required by State Code that the state pay the city for that service or contract with another firm. Commissioner Parriman stated he would like to see the city come up with a cost estimate on what the city's exposure is in regards to the state buildings here in Helena. Commissioner Parriman stated that the City of Helena should be receiving payment for the fire protection service.

Commissioner Netschert stated he agrees with Commissioner Parriman and would like to know where the negotiations are.

Commissioner Oitzinger stated she thinks it fits right in the capital city caucus, in that the City of Helena would know how other cities are dealing with such issues.

Mayor Smith stated the total number of square footage should be taken; compare that with what similar institutions are being charged and see what could be worked out.

City Manager Tim Burton stated it's in the interest of the City of Helena and the State of Montana to look at issues like elected official security, fire protection, and land use planning. Mr. Burton stated there has not been any progress on a contract, in regards to charging a fee to the State of Montana for fire protection services. However, there has been progress relative to fire protection, particularly in relation with the establishment of the Hazardous Materials Sixth Regional Team, which is located here in Helena. Mr. Burton stated there has been discussion on homeland security since September 11, 2001, and the city's position has been very clear that the city will respond to emergency situations on the Capital complex. However, where there are additional services required, the city does not have the budget to assume those additional costs. On that point, the State of Montana has chosen to provide their own enhanced security through a contracted agent. Mr. Burton stated there's still progress to be made and would like to further discuss this issue at an administrative meeting.

Mayor Smith asked if an agreement was reached with the State of Montana during the special session that stated the State of Montana would provide funding for the City of Helena to provide two police officers at the Capitol. City Manager Tim Burton stated at this point there is not a formalized agreement, although those services were just for the special session and the city cannot sustain that higher level of service with the existing staff. Mr. Burton stated that through the upcoming special session the city would not be providing any enhanced level of security other than what has been provided in the past.

Mayor Smith stated he has dealt with these issues and he would be happy to discuss this issue at an administrative meeting and would suggest inviting the Director for the Department of Administration Scott Darkenwald as well as others who may be knowledgeable and involved in this discussion.

Commissioner Parriman concurred with Mayor Smith on inviting some of the powers from the state to have those discussions. Commissioner Parriman stated at that time he would certainly like to have on hand the estimates of the costs associated with providing fire service to the State of Montana.

Commissioner Netschert wanted to echo Mayor Smith comments on the holiday season and wanted to wish happy holidays to the citizens of Helena. Commissioner Netschert asked if the commission would be taking formal action on the appeal to the smoking ordinance.

City Manager Tim Burton concurred and would like to address that item under the City Attorney.

Commissioner Netschert stated he has had a number of people ask him what the costs are in association with the appeals and all the actions that pertain to the smoking ordinance and asked if there would be a way to get an estimate the total cost.

City Manager Tim Burton concurred and stated to date he's not aware of any out-of-pocket costs.

Commissioner Pouliot wanted to wish everyone a Merry Christmas and wanted to make a commitment to the citizens of Helena that the commission is committed to doing their best to make Helena a good place to live and to work.

***Report of the City  
Attorney***

**REPORT OF THE CITY ATTORNEY**

City Attorney David Nielsen stated last Thursday he filed a notice of appeal on behalf of the city in the decision that City Court Judge Pitch had ruled regarding the municipal infractions filed against two parties.

City Attorney David Nielsen stated it might be prudent to have the commission vote, authorizing to move forward with the appeal.

Mayor Smith stated during the last administrative meeting the commission reached a consensus that there would be an appeal and the commission would vote on December 16, 2002. Beyond that, the city determined that while this appeal is pending the enforcement of the ordinance would be suspended.

Commissioner Pouliot stated he believes the ordinance was not going to be suspended during this period, just the enforcement of it.

Mayor Smith explained he misspoke and concurred the ordinance remains on the books, while the District Judge suspends the enforcement of it pending a decision.

**Motion** Commissioner Oitzinger moved approval of the city's appeal of Judge Pitch's decision regarding Ordinance 2911. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

**Discussion** Commissioner Parriman asked for clarification regarding which district court the appeal will go to.

City Attorney David Nielsen stated the appeal will go into a pool and the one of the judges will be assigned the case.

**Report of the City  
Manager**

REPORT OF THE CITY MANAGER

A. Update - surplus Water Division property

City Manager Tim Burton stated at the October 7, 2002, the commission approved a motion that allowed time to find a solution for the expressed purpose of providing that area as open space to a date certain of December 16, 2002. Mr. Burton stated that no offers have been received on the property and the property will be put out for auction. Mr. Burton explained that there is a certain group of neighbors under the representation of Mr. Waterman, whom sent an email stating there will not be an offer forth coming and to proceed at the will of the commission.

Mr. Burton stated through the city attorney's office the cost of acquisition in all associated cost of closing the sale of this property was \$107, 606.00 and the minimum bid will be set for \$108,000.00. Mr. Burton explained based upon the motion at the October 7, 2002 meeting and the lack of a response, unless he hears otherwise, he will proceed with a full scale auction, to the highest bidder, of this property.

Commissioner Pouliot stated over the last several months as this issue has been addressed, he feels satisfied that the commission, has allowed the best effort to find a person or persons or a group, that might put this property in open space. Commissioner Pouliot stated the commission should proceed with another alternative.

Commissioner Netschert stated he would like to do his best to put the people, who wanted to keep it open space, to some ease, in the fact that their thoughts and their desires have certainly been noted by the commission and the interested parties who might purchase the property. Commissioner Netschert explained most of the proposals received will keep the land open space, however, there were a couple that had proposed some building on the property. Commissioner Netschert stated he hopes that any proposals that would come from a prospective buyer would reflect the wishes of the neighbors.

Commissioner Parriman explained he feels there was a misunderstanding between the involved parties and he could not find where the City Attorney had made a mistake or misrepresented anything. Commissioner Parriman stated the commission would like to see the property remain open space, however, there were just not enough funds and by looking at the property, there isn't much land that is developable. Commissioner Parriman stated he hopes all the parties are satisfied with the outcome of the auction.

Commissioner Oitzinger stated it is her hope that the character of the land is preserved and whatever the outcome of the auction is; she hopes it's consistent with the quality of life that has been there.

Mayor Smith stated he came to the conclusion that there was no misrepresentation and that an apology isn't necessary from any of the involved parties. However, he did apologize for the miscommunication that took place. Mayor Smith stated he feels there is room for some open space and room for some development.

Mr. Burton invited Community Development Director Michael Barros up to give the commission a report regarding the Penkay Manor.

Mr. Barros stated the commission authorized staff to apply for two grants from the state, one would be the Community Development Block Grant and the other would be the HOME Grant, both for half a million dollars. Mr. Barros explained the third component of funding to make this a successful project would be Low-Income Tax Credits. The city has entered into a partnership with Penkay Manor's residents, the board and Rocky Mountain Development Corporation to apply for this money. Mr. Barros stated staff was notified that they were awarded the \$500,000.00 from the HOME program for this project. Mr. Barros wanted to thank Belinda Waters, Penkay Manor and Rocky Mountain Development Corporation.

**Energy Laboratories  
Minor Subdivision**

CONSIDER THE FINAL PLAT FOR ENERGY LABORATORIES MINOR SUBDIVISION (5.51 ACRES) IN THE CLM DISTRICT, GENERALLY LOCATED SOUTH OF EAST LYNDALE AVENUE AND WEST OF YELLOWSTONE DRIVE

Staff Report

City Planner Belinda Waters reported lot 4 currently houses a recently constructed facility for Energy Laboratories. The remaining three lots are vacant and undeveloped. All four lots in the proposed subdivision will meet lot area and width requirements for this zoning district.

On June 4, 2001, the City Commission gave preliminary plat approval to subdivide this 5.51-acre tract into four lots ranging in size from .99 acres to 2.39 acres. This approval was subject to the three conditions:

1. **Storm Water Drainage**

The applicant must submit a storm water drainage plan, complete with drainage calculations provided by an engineer, not allowing drainage in excess of the historical run-off and discharges at a uniform rate, for review and approval by the city engineer.

2. **Water and Sewer**

- a. There is an existing 8-inch main on Lyndale at the west boundary of the proposal and a six-inch main midway between Bozeman Avenue and Lyndale on B Street. Applicant must extend an 8-inch main on Lyndale and B Street to loop existing mains.

- b. There is an existing manhole at Yellowstone Drive and Lyndale. The applicant must extend an 8-inch sewer main from the existing manhole to Lot 1 on Lyndale for service to the four lots.
- c. Fire hydrants meeting adequate fire flows shall be installed within 150 feet of commercial structures; information on the location and placement of fire hydrants and fire flow requirements shall be submitted for review and approval by the Fire Marshall.

3. **Design Standards/Improvement**

The subdivision and final plat must comply with the requirements of Chapter 4 (Design Standards/Improvement) of the Helena Subdivision Regulations.

Typically final plats for minor subdivisions are filed within one year of preliminary plat approval, but the applicant requested a one-year extension for this condition. Therefore, on June 17, 2002, the City Commission granted the applicant a one-year extension to file the final plat. The three conditions of preliminary plat have been met.

Ms. Waters recommended final plat approval for a minor subdivision to create four lots. Lot 1 will contain 43,040 square feet; Lot 2, 45,182 square feet; Lot 3, 47,678 square feet; and Lot 4, 104,095 square feet.

**Motion**

**Commissioner Pouliot moved approval of the final plat of the Energy Lab Minor Subdivision creating four lots from a tract of land legally described as COS #301811 in the NE¼ of Section 28, T10N, R3W, P.M.M., Helena, Montana; generally located south of East Lyndale Avenue and West of Yellowstone Drive.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Swaney Minor Subdivision**

CONSIDER FINAL PLAT FOR SWANEY MINOR SUBDIVISION (17.29 ACRES) IN THE R-1 DISTRICT, GENERALLY LOCATED SOUTH OF LEGRANDE CANYON BOULEVARD AND WEST OF CHARLIE RUSSELL DRIVE

Community Development Director Michael Barros stated this item need to be pulled from the agenda for the reason that the property has not been annexed into the city. Mr. Barros explained the property owner is fine with waiting until the next opportunity.

**Ordinance**

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 7-4-2 (F. SIDEWALKS AND LANDSCAPING) AND SECTION 7-10-22 OF THE HELENA CITY CODE TO ESTABLISH LANDSCAPING STANDARDS FOR BOULEVARDS

**Staff Report**

Director of Parks and Recreation Randy Lilje reported the present code established the standard for the area between the sidewalk and the curb for grass or grass and trees only. It does not allow for variances from the standard. However, a previous City commission put a moratorium on enforcement of this code until something could be worked out that could allow for variances under certain conditions. Staff has developed a proposed amendment to this ordinance that would allow variances.

The ordinance amends the existing ordinance to allow for a variance from the standard of grass and trees under the following conditions:

- 1) The plant material must be of adequate number, size, and type to ensure that at 3 years of initial planting, 60% of the ground area is covered by plant material.
  - 2) A landscape plan must be submitted to the Director of Parks and Recreation for review and approval.
  - 3) The proposed variation from the standard must fit the overall character of the other properties in the neighborhood.
- Mr. Lilje recommended amending the City Code 7-4-2 F. and 7-10-22 to establish standards for landscaping.

Discussion Mayor Smith asked if citizens would be able to conserve water in the boulevards by moving in this proposed direction?  
Mr. Lilje concurred.

Motion **Commissioner Netschert moved approval for first passage of an ordinance amending Section 7-4-2 (F. Sidewalks and Landscaping) and Section 7-10-22 of the Helena City Code to establish landscaping standards for boulevards and set a public hearing for January 13, 2003.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance # 2948**

**Information** CONSIDER INCORPORATING THE INFORMATION TECHNOLOGY POLICIES  
**Technology Policies** INTO THE CITY OF HELENA PERSONNEL POLICIES

Staff Report Human Resource Director Salty Payne reported City Personnel Policies contain no rules or guidelines concerning usage of computer technology.  
Mr. Payne recommended adoption of the attached policies covering: Internet Use; End User Responsibility; E-Mail; Computer Training; Personal Computer Care; Internet Filtering; Internet Reporting; and Logging On and Off.

Discussion Mayor Smith asked if it was Mr. Payne's position that the interest of the city and that of the employees using this technology are mutually protected by these policies. Mr. Payne concurred and stated this is something the city needs to have in place and that the employees need to know it is in place.  
City Manager Tim Burton stated the IT steering committee and the IT Board has recommended approval of the policies.

Motion **Commissioner Netschert moved to adopt into the City of Helena Personnel Policies, the Information Technology Policies approved by the I.T. Steering Committee covering: Internet Use; End User Responsibility; E-mail; Computer Training; Computer Virus Prevention; Personal Computer Care; Internet Filtering; Internet Reporting; and Logging On and Off.** Commissioner Pouliot seconded the motion. All voted aye, motion carried.

**Padbury Ranch  
Properties**

CONSIDER A DEVELOPMENT AGREEMENT WITH PADBURY RANCH PROPERTIES, LLC, BEING 700 ACRES OF LAND GENERALLY LOCATED EAST OF INTERSTATE 15 AND SOUTH OF HIGHWAY 12

Staff Report

Community Development Michael Barros reported staff's memo recommends city commission approval to enter into the attached development agreement with Padbury Ranch Properties, LLC. Padbury Ranch Properties, a large property owner on the East Side, is pursuing urban development of the land.

The proposed agreement is consistent with a number of recent steps by the City to promote orderly urban development in this area. In March 2000, the Joint City-County Infrastructure Committee published a report assessing infrastructure readiness in Helena's East Side, an area that includes this property. Acting on the recommendations of that report, the City obtained grant funds for neighborhood planning, and in 2002 completed the Planning Vision for Helena's East Side. The city commission on December 5, 2002 accepted that plan. Meanwhile, the Montana Department of Transportation has in progress a major study of the Interstate 15 corridor, which contemplates significant investments in highway improvements in the area.

Staff has worked with Padbury Ranch Properties to draft the attached development agreement. Lewis & Clark County and the property owners would also sign. The agreement recognizes the mutual interests in development of the property, establishes a planning team to expedite progress, and sets forth expectations regarding rights of way, public facilities, and annexation.

Mr. Barros recommended the city commission approve and authorize the City Manager to sign the attached development agreement.

Discussion

City Manager Tim Burton stated last week the county commission approved this document.

Commissioner Pouliot asked how much of the 700 acres are in the city? Mr. Barros stated the majority is not in the city and as the project progresses the land would be annexed into the city.

Commissioner Oitzinger asked for clarification on Alice Street. City Attorney David Nielsen stated there is only half of it that is dedicated and it now serves, as a utility easement, which means the portion on the south, would need to be developed and completed. Mr. Nielsen explained that Alice Street has importance as a collector street and would facilitate tying in the other local streets that would be developed in that area.

Commissioner Parriman asked if there would be a time frame on annexation? Mr. Barros explained to annex before they are ready to develop really increases the cost of holding the property and assembling it. Mr. Barros stated the time sequence will be discussed when the planning team is formed and staff will report back to the commission. City Manager Tim Burton stated one of the partners of this development company has stated it will happen in phases, perhaps over a period of time, up to 20 years. Commissioner Parriman asked if the actual annexation would happen in phases as well as the development. Mr. Burton concurred and explained when the development and the filing of final plat takes place, that portion would be annexed into the city.

**Motion**

**Commissioner Pouliot moved approval to authorize the City Manager to enter into a development agreement with Padbury Ranch Properties, LLC.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

***Public Communications***

PUBLIC COMMUNICATIONS - There were no persons present wishing to address the commission.

***Meetings of Interest***

MEETINGS OF INTEREST

City Clerk Debbie Havens stated the City of Helena Christmas Party is scheduled for December 20, 2002 at 6:00 p.m.; directions are available in the clerk's office.

City Manager Tim Burton thanked Ms. Havens and staff for all the work that went into the Christmas party and for trying to get all the city employees together through the holiday season.

Commissioner Netschert stated on January 18, 2003 at 10:00 a.m. the CTEP selection committee would be meeting and making their final recommendation for the engineering firm working on Knight Street and adjacent sidewalks.

City Manager Tim Burton reminded the commission and members of the community that the Carroll College Fighting Saints football team will be playing this Saturday at 11:00 a.m. Mr. Burton explained it's the first time ever in the history of the college that they are going to be playing for the national championship and thinks that this team can bring that back home to Helena and Montana.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:36 p.m.

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Mayor Smith

ATTEST:

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CLERK OF THE COMMISSION

