

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**March 22, 2004**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, March 22, 2004, 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, Cartwright, Parriman, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Jacki Pierson were present. Others present were Anne Pitchette representing the Youth Advisory Council and George Hoff representing the Helena Citizens Council. Other HCC members included Jerry Hutch and Justin Trafton.

***Pledge of Allegiance***

Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance lead by Cub Scout Pack 215.

***Minutes***

The minutes of the regular city commission meeting of, March 8, 2004 were approved as submitted.

***Introduction***

**INTRODUCTION:**

A. Kyrgyzstan Delegation

Mayor Smith stated visitors from the nation of Kyrgyzstan are present this evening; on an Interagency Security Cooperation Project. Mayor Smith invited Ron Lukenbill forward to give the introduction. Mr. Luckinbill introduced visitors and stated they are here to learn how our system operates and to learn how to build professional relationships across the United States and in Montana.

Colonel Alybay Kaipov addressed the commission.

Mayor Smith stated Kyrgyzstan has become a great ally of the United States and great friend to the State of Montana. Mayor Smith thanked the delegation for being with the commission tonight.

***Proclamation***

**PROCLAMATION:**

A. Narles Layne – State Wrestling Champion

B. Casey Kelly – State Wrestling Champion

Mayor Smith read and presented the proclamations to Narles Layne and Casey Kelly.

Mr. Kelly thanked his coach, the program and everybody who helped him through the season.

Mr. Layne thanked his coach and his dad for supporting him through his wrestling career.

***Presentation***

**PRESENTATION:**

A. Central School 4<sup>th</sup> and 5<sup>th</sup> graders

Director of Parks and Recreation Randy Lilje presented the 4<sup>th</sup> and 5<sup>th</sup> grade classes from Central School who have been working on a project in the street boulevard on Warren Street.

The students presented their presentation to the commission, which included the "buy a brick" campaign.

Mayor Smith thanked the students and gave them the commission's support.

Commissioner Cartwright asked how much each bricks costs? A student replied \$30.00.

Commissioner Oitzinger asked if former students could buy bricks? A student concurred.

**Consent Agenda**

CONSENT AGENDA:

- A. Claims
- B. Utility bill insert - Lewis & Clark County Water Quality Protection District
- C. Utility bill insert - Prickly Pear Land Trust
- D. Declaration of old outstanding checks as unclaimed property
- E. Second passage of Ordinance #2988 – rezoning Tract 1 of the Inter-City II Minor Subdivision, Located in the Lewis and Clark County, prior to annexation into the city of Helena, Montana.

City Manager Tim Burton recommended approval of the claims.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Pouliot moved approval of items A through E on the consent agenda.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Bid Award**

BID AWARD:

- A. City Park Sidewalk installation

Staff Report

City Engineer Ryan Leland reported the city of Helena opened bids for the City Park Sidewalk project on February 18, 2004. The low bidder for the base bid plus alternates #1 and #2 is Tabbert Construction Company with a bid of \$224,200.55. These projects were budgeted in FY04 and a reimbursement grant in the amount of \$244,214 is in place with CTEP for this project. In essence, this grant will pay approximately 84% of the recommended project.

Mr. Leland recommended approval to award the base bid plus alternates #1 and #2 to Tabbert Construction Company in the amount of \$244,200.55.

Discussion

Commissioner Pouliot asked how the other 16% would be funded? Mr. Leland explained it would be funded in a combination between school district money and the Park Department funds.

Commissioner Parriman asked if the city was aware of the CTEP Grants at the time the budget was developed? Mr. Leland explained the budget includes the CTEP funds.

Mayor Smith stated he is very pleased to see this project come together.

Public Comment

Mayor Smith asked for public comment; none was received.

**Motion**

**Commissioner Parriman moved approval to award the base bid plus alternates #1 and #2 to Tabbert Construction Company in the amount of \$224,200.55.** Commissioner Oitzinger seconded the

motion. All voted aye, motion carried.

**Communications**

**COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS**

Commissioner Oitzinger mentioned the memorial service held for Ruth Sasser was wonderful and stated her work would live on.

Mayor Smith thanked all the city staff for the award given to him at the Employee Award Luncheon.

**Report of the City**

**REPORT OF THE CITY ATTORNEY**

City Attorney David Nielsen stated he was in a conference with a group of citizens who are interested in the reinstatement of the Helena Clean Indoor Air Act and were asking questions of the status. Mr. Nielsen explained he believes there would be a recommendation taken to the City/County Health Board to look at amendments in order to avoid the Constitutional infirmities that Judge Pitch found.

Commissioner Oitzinger stated she is assuming these steps are being taken so that the ordinance can be ready to take effect upon the action of the Supreme Court and the staging in with respect to Judge Pitch's ruling. Commissioner Oitzinger asked if Mr. Nielsen had decided to try to amend it as opposed to letting the severability clause work? Mr. Nielsen explained the severability clause should work by being pursued through the District Court. The status of the ordinance now is regardless of what happens at the Montana Supreme Court, which will not fully reinstate the ordinance because of the City Court ruling and is a separate issue. There are two ways to resolve it; by an amendment or to follow through on the litigation.

Mayor Smith stated this is an item of interest to a great many people in the community and the commission looks forward to a recommendation from the City/County Board of Health regarding the steps needed to fix the ordinance. Mr. Nielsen concurred and stated he is unsure what the recommendation would be.

**Report of the City  
Manager**

**REPORT OF THE CITY MANAGER**

**A. Mike and Alicia Pichette – Memorial Fund**

Mr. Burton invited the Pichette family forward to address the commission.

**Anne Pichette, 2005 5<sup>th</sup> Avenue**, thanked the commission for allowing them to discuss the Blythe Pichette Memorial Fund. The fund was set up to purchase accessible playground equipment. With the help of city staff they have already begun plans for equipment in Lockey, Sherron and Memorial Parks. Ms. Pichette stated their family was overwhelmed to discover the memorial fund had reached \$5,263.00; she then presented the check to Mayor Smith from the Blythe Pichette Memorial Fund.

Alicia Pichette stated they are speechless in regards to the community's kindness and donations.

Mayor Smith stated it was a small token that expresses the love and affection that so many people in this community had for Blythe. He stated Blythe was only with us for a short period of time but she touched a lot of lives and with this donation she will continue to make an impact on this community into the future.

**B. Montana Public Power Agency Interlocal Agreement**

Mr. Burton explained this item is not ready for commission consideration; however, in the next couple days he would have the draft

copy of the agreement for the commissions review and would be on the agenda for the March 31st Administrative Meeting.

Commissioner Cartwright stated there are some people who are unaware of this agreement and asked Mr. Burton to give a short explanation. Mr. Burton stated the six larger cities in Montana have retained various business and financial experts to look at the feasibility of putting a bid into the Bankruptcy Court in the creditors committee to acquire what use to be Montana Power Company and is presently owned by Northwest Energy who are currently in bankruptcy

**State Senator Ken Toole, 202 Blake**, urged the commission to take a serious look at the city acquisition in the Montana Power distribution facilities now owned by Northwestern Energy. Senator Toole explained depending on the structure of what the cities end up doing might make more Montana citizens eligible for Bonneville Power Preference Power. The price of that can fluctuate; however, the cities get a position in line for that power that is preference over other customers and he feels that is something that could be valuable to customers in Montana.

Senator Toole mentioned he filed a Ballet Initiative to go through the process of legal review at the Legislative Council that is in essence, creating a public power entity, which would be able to look at purchasing at the State level; generation, natural gas assets and any other "energy facility" would be set at the state level. However, if that entity decided to buy something through bonding and through revenue bonds would then be able to sell that to local governments.

Commissioner Oitzinger asked if the public power authority would have the possibility of purchasing generation or distribution or both? Senator Toole stated it would purchase both and explained it basically defines energy facilities and includes transmission, distribution, generation or natural gas reserves could buy that. Commissioner Oitzinger asked if he could envision a situation where the public power authority and a local government might partner for the development of alternate forms? Senator Toole stated yes and explained it has that kind of flexibility for any type of energy facility and specifically lists wind turbines as an option. As far as partnering, he feels that depends on how the bonds are structured but clearly it can transfer ownership.

Mayor Smith stated it could take three to five years before there is power available for any customer and asked for the Senator's thoughts. Senator Toole concurred and explained they are fully subscribed and is very controversial because of the large industrial customers in the northwest and the aluminum industry. However, this is the good thing about structuring a public power entity is that entity has the ability to move forward in that line. He stated it is also important to understand when you're talking about public power and the potential of the cities and municipal facilities; we're talking about a fundamental restructuring of the path we've been on. He encouraged the commission to think about the long-term, which could be 25 to 30 years out. Mayor Smith asked regarding the Western Area Power Administrations load or demand is? Senator Toole stated he was unsure regarding their load or demand but he thinks the same kind of preferences exist in that system. The Bonneville Power system, because it's heavily hydro based, the rates are probably better. hydrobased is cheaper.

Commissioner Cartwright stated the initiative will go on the ballet in November and if the cities proceed with this, there will be a bid in front the bankruptcy committee before that for all of the old Montana Power

assets and asked how Senator Toole sees the two of those interacting? Senator Toole stated he was unsure how those would interact and one of the things that can be characterized is the path we've been on is unpredictable.

**Report from the  
Helena Citizens  
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

Helena Citizen Council Member George Hoff explained the HCC is working on correcting the situation on Last Chance Gulch; from Lyndale Street to North Montana. Addressing, street signage and directories would all need to be changed, as well as, business licenses. The HCC is also working on building numbering. HCC formed a committee for both the dwelling and commercial numbers. A report on both those items will be available for the commission soon.

Commissioner Oitzinger asked regarding Cedar Street and if the HCC will be making a recommendation for that? Mr. Hoff stated the HCC hasn't addressed Cedar Street; however, they discovered an abandoned block, which is being used by Alias, Smith and Jones. That block was abandoned by two ordinances. Commissioner Oitzinger asked for the Cedar Street issue to be discussed at a future Administrative Meeting in order to receive staff recommendation.

Mayor Smith thanked the HCC for taking these two important projects on.

**Local Government  
Review Res.**

CONSIDER A RESOLUTION CALLING FOR AN ELECTION ON THE QUESTION OF CONDUCTING A LOCAL GOVERNMENT REVIEW AND ESTABLISHING A LOCAL GOVERNMENT REVIEW STUDY COMMISSION

Staff Report

City Attorney David Nielsen reported Article 11, Section 9, of the Montana Constitution, and §7-3-171 through §7-3-193, MCA required the city of Helena, in 1984, to hold an election on the question of conducting a local government review and establishing a study commission. Said election was held.

Section 7.3-193, MCA requires local governing bodies to hold such an election whenever ten (10) years have elapsed since the electors last voted on the question of conducting a local government review and establishing a local government review study commission. On February 28, 1994, resolution 10698, calling for an election on the question of conducting a local government review and establishing a local government review study commission was approved by the City Commission.

Mr. Nielsen recommended approval of the resolution calling for an election to be held on the primary election date in 2004 on the question of conducting a local government review and establishing a local government review study commission.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

**Commissioner Cartwright moved approval of a resolution calling for an election on the question of conducting a local government review and establishing a local government review study commission.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #12088**

**Amend. City Codes** CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTIONS 2-7-19 AND 2-7-25 OF THE CITY CODE CONCERNING PROBATIONARY PERIODS

Staff Report Human Resource Director Salty Payne reported current city code is not clear as to the rights of probationary employees in utilizing the Civil Service Board.

Mr. Payne recommended approval of first passage of an ordinance amending Section 2-7-19 and 2-7-25.

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

**Motion** Commissioner Oitzinger moved approval of first passage of an ordinance amending sections 2-7-19 and 2-7-25 of the Helena City Code and clarifying that a probation employee may not appeal discharge to the civil service board. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Ord. #2989**

**Anderson Business Park** CONSIDER FINAL PLAT FOR A MINOR SUBDIVISION CREATING 4 LOTS FROM LOT 11 OF THE ANDERSON BUSINESS PARK MAJOR SUBDIVISION LOCATED IN A B-2 (GENERAL COMMERCIAL) DISTRICT; GENERALLY LOCATED EAST OF MCHUGH DRIVE AND SOUTH OF RIVER ROCK DRIVE

Staff Report City Planner Belinda Waters reported the applicant is requesting approval of the final plat for the Anderson Business Park II minor Subdivision. The proposed lots in this subdivision will meet lot area and width requirements for the B-2 District. The main access route to the subdivision will be from a recently constructed street, River Rock Drive.

On January 26, 2004, the city commission gave preliminary plat approval subject to the conditions stated in the Findings of Fact.

Ms. Waters recommended final plat approval for a minor subdivision to create 4 lots from Lot 11 of the Anderson Business Park Major Subdivision, a 1.35-acre parcel, to be legally described as Lots 11A, 11B, 11C, and 11D of the Anderson Business Park II Minor Subdivision; generally located east of McHugh Drive and south of River Rock Drive.

Discussion Mayor Smith asked if the lighting would be in compliance with the lighting ordinance? Mr. Barros concurred and explained lighting that makes an attempt to be historic are exempt from the ordinance.

Public Comment Mayor Smith called for public comment.  
**Dick Anderson, 1800 Lodgepole**, stated he is here for questions.

Mayor Smith asked regarding the lighting? Mr. Anderson stated they were attempting to match the lighting found in the Skelton Subdivision and stated they are historical.

**Motion** Commissioner Parriman moved approval of the final plat for a minor subdivision creating 4 lots from Lot 11 of the Anderson Business Park Major Subdivision located in a B-2 (General

**Commercial) District, generally located east of McHugh Drive and south of River Rock Drive.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Public Hearings  
SID #210**

**PUBLIC HEARINGS:**

A. CONSIDER A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 210 ALONG THE STREETS AND AVENUES IN PARTS OF SUNRISE LOOP SUBDIVISION

**Staff Reported**

Accounting Supervisor Brandi Pierson reported a Resolution of Intention to create Special Improvement Lighting District No. 210 was passed by the commission on February 23, 2004. There are 29 properties that will be included in the light district.

The proposed facilities will consist of six units with underground wiring, round poles for 16 foot mounting heights, and Lexington Colonial 100 watt high pressure sodium vapor lamps. The estimated cost of maintenance, electrical energy, and administration for the first year is \$2,947 with the estimated cost being \$.00775 per square foot of property owned, said amount to be paid by the property owners. 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.

Ms. Pierson recommended approval of the resolution creating Special Improvement Lighting District No. 210 in the city of Helena, Montana.

**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 Parrimen moved approval of the resolution creating Special Improvement Lighting District No. 210.**

Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Res. #12089**

**SID #413**

B. CONSIDER CREATION OF A RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 413 RELATING TO TAMARACK STREET IMPROVEMENTS; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF THE SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

**Staff Report**

City Engineer Ryan Leland reported the district includes portions of the parcels adjacent to Tamarack Street right-of-way in Blocks 3 and 4 of the Fairmount Park Addition. The improvements will be made to Tamarack Street south of Illinois Street to the end of Tamarack Street.

The general character of the improvements being financed is preparation, design, engineering, reconstruction and installation of streets, and related improvements, including grading, asphalt, curbs,

storm drainage, signage, striping, miscellaneous utility work, and landscaping.

The total estimated costs of the improvements, including all incidental costs are up to \$54,430.00. The bonds are to be payable from special assessments to be levied against property in the District, which property will be specially benefited by the Improvements in an amount not less than \$54,430.00.

**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 Parriman asked if the turn-around is adequate? Mr. Leland concurred and explained a hammerhead turn around would be used and has been accepted by the Fire Chief.

**Motion**

**Commissioner Pouliot moved approval of a resolution relating to Special Improvement District No. 413 relating to Tamarack Street improvements; creating the district for the purpose of undertaking certain local improvements and financing the costs thereof and incidental thereto through the issuance of Special Improvement District Bonds secured by the city's Special Improvement District Revolving Fund.** Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #12090**

**Public Communications**

**PUBLIC COMMUNICATIONS**  
No report was given.

**Meetings of Interest**

**MEETINGS OF INTEREST**  
Mayor Smith stated the next regular Administrative Meeting will be held on Wednesday, March 31, 2004 and the next City Commission meeting will be held on Monday, April 5, 2004.  
Mr. Burton stated both the City and County passed a joint resolution relative to transportation projects and implementation with the I-15 Corridor EIS. There is a meeting on Wednesday, March 24, 2004 at 9:30.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:30 p.m.

\_\_\_\_\_  
Mayor Smith

ATTEST:

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Clerk of the Commission