

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
February 28, 2005
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, February 28, 2005 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 Robyn Brown were present. Others present were Anne Pitchette representing the Youth Advisory Council and Al Tompkins representing the Helena Citizens Council.

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 February 14, 2005, were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. One year extension for final plat approval for the Crystal Springs Subdivision Phases III and IV; generally located east of Green Meadow Drive and west of the existing Pioneer Village Subdivision
- C. Utility bill insert - Prickly Pear Land Trust

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

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

Bid Award

BID AWARD

- A. Last Chance Gulch Revitalization (Walking Mall Reconstruction)

Staff Report

City Manager Tim Burton reported bids were opened on February 18, 2005. Dick Anderson Construction, Inc. was the only bidder. The base bid from Dick Anderson Construction was \$2,056,183.22. The bid amount is greater than the TIF funds available for this project. The rebid of this project with a different time frame could possibly provide a more reasonable bid, but whether that bid would be within funding levels is uncertain at this time. A scaled down design along with different time frames may provide bids within funding levels. Differed maintenance and other improvements on the existing Walking Mall could be completed within funding levels with savings that could be allocated against revenue shortfalls and the costs for the Jackson Street Parking Structure.

City Manager Burton recommended the following to the

Commission:

- 1.) Reject the bid received from Dick Anderson Construction, Inc.
- 2.) Direct staff to either rebid this project with different time frames and designs or reallocate the funding to complete deferred maintenance and other improvements with any savings to cover revenue shortfalls and costs on the Jackson Street Parking Structure.

City Manager Burton stated these options will keep the project within available funding and could provide coverage of revenue shortfall in the TIF program and could also provide additional funding for the Jackson Street Parking Structure.

Motion

Commissioner Parriman moved to reject the bid received for the Last Chance Gulch Revitalization Project from Dick Anderson Construction, Inc. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Commission comments

Commissioner Pouliot asked how soon the bids could be received if the timeframe of the project is changed? Community Facilities Director Gery Carpenter stated the project could be let to bid at the end of March and be back before the Commission in April.

Commissioner Oitzinger referred to flexibility in the ordinance for reallocation and asked what the process would be to designate monies to other projects? City Manager Burton stated it would require Commission action and public comment. He referred to the budgets of the Jackson Street Parking Structure and the Exploration Works building. Commissioner Oitzinger stated there is a shortfall of funds because of revenues not coming in as anticipated in the beginning of the TIF process. She then asked if the Commission could reallocate monies to cover the shortfall or could eliminate a project? City Manager Burton concurred and gave a history of the shortfall of TIF funds.

Commissioner Parriman asked if the project was rebid, and the city received favorable bids or more funding, would the project start this spring or next fall? Director Carpenter recommended the project start after September 1, 2005.

Commissioner Pouliot stated this has been a difficult 18-month process; the majority of the Commission approved the project and he would like to see it go forward. He believes the construction time period hampered the bid price and would like to see it rebid with no change in the design, merely a change in the construction time period to begin September 1, 2005.

Commissioner Parriman stated he believes it is a good design and the reconstruction will take place later if not now. He is concerned with how much over budget the received bid was and stated the received bid was for 2 million when the project was only budgeted at \$800,000.00. Since the bid was so much over budget, he anticipates the city will not receive bids at budget cost if the project is rebid. Although he is still comfortable with the design, he does not believe the project is possible with the budget given.

Mayor Smith stated he believes the 6th to Broadway portion of downtown should remain the focus of the Commission's attention

because it shows the most blight. He concurred with Commissioner Parriman that a rebid would not show the kind of savings that would make the project feasible. Mayor Smith stated he'd support a rebid starting in September, focusing on 6th to Broadway and foregoing improvements to other blocks of Last Chance Gulch, Neill and Fuller Avenue. Those projects could be completed incrementally over an extended period of time or by reprogramming any available TIF funds. If the rebid does not allow for the project then he'd support the deferred maintenance plan and reallocation of 6th to Broadway funds to other TIF projects.

Commissioner Cartwright stated there are structural problems with the 6th to Broadway block. The reconstruction is a substantial project and he is afraid that if the project is changed to meet funding needs the results will not be the intention of the Commission. There are no immediate health and safety problems but repairs will be needed a few years in the future. He stated the Commission could propose a different design, such as the design suggested by Friends of Downtown Helena, but the cost would not vary greatly because of all the needed improvements. He then spoke of permitted traffic during the Vigilante Parade. In the past, the parade wasn't allowed on the mall; by allowing it currently, the city is exposing itself to liability. It is the block most in need of attention but the city does not have the funds. If this area is as popular a block as people say, the money should come down the road. If it's not the most popular block, the city shouldn't be reconstructing it anyway because the money would be well spent in other places. He stated maintenance could be done to improve the appearance and usability of the area and it would give the Commission time to work through the desired improvements of the block. He is reluctant to spend money that would not get the job done well.

Mayor Smith stated he does not believe there has been proof of actual structural problems.

Commissioner Cartwright concurred with Mayor Smith and stated maybe "structural" was the wrong term. He then explained he meant the cracking of the pavement signals a problem underneath and the sidewalk vaults are in need of replacement sooner or later. The Placer Center has recently replaced the sidewalks over the vaults in front of their building. He reiterated the reconstruction is more than mere patchwork.

Mayor Smith referred to safety of the block. There needs to be safety consideration for permitted traffic and special events.

Commissioner Oitzinger referred to Commission discussion about downtown being more than just 6th to Broadway. There are many variables to the vitality of the area. Her opinion is that it would be a mistake to shortchange other planned projects like lighting and signage. The Commission needs to continue with the full visioning process. Forgoing quality on the 6th to Broadway portion and shortchanging other needed improvements to the surrounding areas is not a good plan.

Commissioner Cartwright asked if it is imperative to specifically allocate the money to a new project or can staff come back with specific recommendations? Mayor Smith referred to the recommended motions.

Motion

Commissioner Pouliot moved to rebid the Last Chance Gulch Revitalization Project from Broadway to Sixth Avenue revising the construction date to begin after September 1, 2005.

Commissioner Parriman seconded the motion.

Public comment

Rachel Peura, 1100 Highland Street, stated Friends of Downtown Helena continues to support the necessary enhancements of the area. She urged the Commission to involve the community in a visioning process and stated Friends of Downtown believe there is time for a public involvement process. She asked that a compilation of comments about the reconstruction be entered into the record.

Joe Kiley, 102 South Benton, stated whatever funds are available belong to property owners of the TIF district. No matter their location, they are deserving of improvements as much as anyone else in the area.

Dave Duensing, 1904 Floweree, stated 12 people and 18 feet of asphalt shouldn't sway the Commission. Funds can and should be reallocated to the 6th to Broadway portion. The project is vital to the area and needs to be done.

Leo Barry, 2 Quarry Lane, spoke in support of the motion to rebid the project. He agreed with Mayor Smith that in terms of spending TIF money this project should be the number one priority.

Amy Glasscock, 11 South Benton, stated it's not just 12 people and 20 feet of pavement, hundreds of people have weighed in stating they do not want this design. The money should be allocated towards projects the community supports.

Discussion

Mayor Smith stated he'd be more comfortable if the project was scaled back and asked Commissioner Pouliot what his recommendation would be if the rebid still came back unaffordable. Commissioner Pouliot stated if it returns as unaffordable then he'd like to look to allocating the monies to other projects. He does not want to change the design in order to be able to see if the timeframe will change the cost.

Commissioner Parriman stated he does not believe the reconstruction will be in budget with the rebid but he is not ready to end the project and would like to exhaust all options. Maybe other TIF projects will be under budget and the savings can be allocated to the 6th to Broadway portion.

Commissioner Cartwright referred to Mr. Keily's statement that TIF monies belong to the downtown business owners. Mr. Keily explained when the TIF project began it was not meant for just 6th to Broadway, other downtown areas are deserving of the funding also.

Commission Cartwright addressed Friends of Downtown and stated he appreciates the offer of public dialogue but doesn't think the timeframe will allow for dialogue and design. Ms. Peura stated the group does believe it's possible. Commissioner Cartwright stated a major rebuild in four months isn't realistic.

Vote

Motion carried 3-2 with Commissioners Oitzinger and Cartwright voting no.

Communications**COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS**

Commissioner Parriman commended the Fire Department employees for taking the stairs to the meeting tonight.

Commissioner Pouliot thanked the public for keeping the discussion regarding the walking mall polite and courteous.

Mayor Smith stated Bill Rule wrote a song for Saturday Night Live in Helena; he then read the song-

"Joey had a business on the walking mall downtown,

He'd been down there for 30 years; he'd seen the ups and
downs,
His daddy ran the business for the 60 years before,
Watched horses turned to streetcars, then cars come by the
score,
They rolled with all the punches; they shifted with each trend,
The gulch goes on forever and the party never ends

For many years the gulch had been the center of the town,
A rough and tumble retail world and place to party down,
The businesses, they came and went, by popular demand,
Then walkers turned to drivers who didn't give a damn,
Except to find a parking place, no meters to attend
The gulch kept right on rolling and the party didn't end

The infrastructure crumbled, but the City had a plan,
With federal funds and wrecking balls, renewal soon began,
They saved what buildings could be saved, as money could
restore,
Reduced the rest to rubble, changed the streets and moved the
poor,
While Joey and his daddy shake their heads and just pretend,
That the gulch goes on forever and the party doesn't end

The outcry was tremendous, the community distressed,
To see their city center changed despite their best protest,
"I'll never set a foot downtown" said some but not them all,
Parking tickets packed the rest out to the shopping mall,
But liquor flowed and dancing girls and food held up its end,
The gulch kept right on rocking and the party didn't end

Retail turned to office space; a little bit survived,
The party took a hit; we could no longer drink and drive,
And dust returns to dust, they say, the gulch was not immune,
With thirty years of wear and tear, big help was needed soon,
Downtown brought the party back on Wednesday nights again,
The gulch remained the city's soul; the party didn't end

The gulch played host to big events, the place to meet and greet,
But most all times a man could shoot a cannon down the street,
So Joey pushed for traffic back; his customers said "no",
They want a place to walk in peace, a place where cars can't go,
The party signed petitions, an ad hoc group contends,
That street should not run through the mall or else the party ends

Good people with a traffic plan, good people in their way,
Good people getting uglier, old friendships cast away,
Such hollerin' and yellin', Christ! Won't someone make the call,
A boycott raised, emotion ruled as Joey watched it all,
How people got so polarized he could not comprehend,
This ain't the spirit of the gulch, this ain't how this should end

It's Wednesday night in the summer, Joey's lockin' up the store,
He isn't rich, but livin' here he damn sure isn't poor,
I guess it all worked out OK, 'cept all the friends he lost,

But saying things you can't take back exacts a certain cost,
He heads on to Alive at Five to meet with all his friends,
May the gulch rock on forever and may the party never end."

***Report of the City
Attorney***

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen reported in early February he received a petition to place an initiative on the ballot. The initiative would require city voter approval before allowing any new motor vehicle traffic on the walking mall. He has issued a memorandum that states the petition is not acceptable. The drafters of the initiative can make the suggested revisions and re-submit the petition to the County Election Administrator.

***Report of the City
Manager***

REPORT OF THE CITY MANAGER

- A. Acceptance of the 2004 Fire Act Grant for fitness equipment
- B. Acceptance of the ODP Equipment Grant for Haz-Mat equipment

City Manager Tim Burton invited Chief Larson to discuss the two grants.

Fire Chief Steve Larson introduced Captain Brad Hampton, Firefighter Brad Taylor, Fire Lieutenant Shawn Logan and Assistant Chief Larry Ross and reported the fire department has worked within the budget process to purchase individual pieces of equipment and by donations from the Firefighter Benefit Fund and others to build their current fitness equipment inventory. Some of the equipment is worn and needs to be reconditioned or replaced to maximize the department's fitness program.

Chief Larson recommended the acceptance of the 2004 Fire Act Grant for fitness equipment. The grant will replace all of the departments existing equipment and offer the usable pieces to the Police Department.

Commissioner Parriman asked what type of equipment will be purchased? Chief Larson stated cardio machines and Cybex Eagle machines, which are ergonomically correct machines. The Firefighters will be able to safely use the new machines without a spotter.

Commissioner Parriman stated he sees firemen working out at the Lifestyle Fitness Center and asked if it would be cheaper to just pay for staff memberships? Chief Larson stated the department is using a combination system, with both memberships and an in house gym. For staff at the Westside fire station it is ineffective to attend the Lifestyle Center, it works best to have a workout system in the building. For eastside staff the Lifestyle center is very convenient. The department has 4 open memberships for on duty staff. Chief Larson stated the new equipment will last 15-20 years.

Chief Larson then reported the US Department of Homeland Security, Office of Domestic Preparedness (ODP) Homeland Security Grant Program (HGSP), has approved funding for Haz-Mat equipment to be used for state Haz-Mat response. This funding for equipment is administered through the State of Montana Department of Military Affairs, Disaster and Emergency Services Division.

The award is for a Haz-Mat ID Command System, and an Aldrich Chemical Company Library. The Haz-Mat Command System (\$59,295) and the Aldrich Chemical Company Library (\$9,950) are fully funded through this award. Acceptance of the Office of Domestic Preparedness Grant will enhance the Fire Department's capabilities in identifying unknown hazardous substances.

- Motion** **Commissioner Pouliot moved acceptance of the 2004 Fire Act Grant for fitness equipment.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.
- Motion** **Commissioner Pouliot moved acceptance of the Office of Domestic Preparedness Homeland Security Grant Program Haz-Mat team allocation in the amount of \$69,245.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.
- Report from the Helena Citizens Council**
- REPORT FROM THE HELENA CITIZENS COUNCIL
- HCC member Al Tompkins reported the HCC has been exploring the possibility of a water and sewer system for the Kessler School District properties and has held discussion regarding sight problems at intersections and the amount of growth within the city and related concerns. Also, the HCC will be doing survey of the cemetery at the old Cooney Home in order to designate its area so it will not be involved in any development of the area.
- Land trade and lease of parkland**
- CONSIDER A LAND TRADE AND LEASE OF PARKLAND IN BLOCK 3 OF THE SLEEPING GIANT ADDITION.
- Staff Report**
- Director of Parks and Recreation Randy Lilje reported Block 3 of the Sleeping Giant Subdivision currently contains 2 parcels of parkland totaling 115,819 square feet of 2.66 acres. This block is zoned B-2 as are the blocks on either side of it.
- The 2 parkland parcels have been determined to have little recreational value because of the rather small size, asymmetrical shapes, and location within a drainage swale. Therefore, they are not anticipated to be developed as parks.
- The Student Assistance Foundation is now proposing to purchase the undeveloped portion of Block 3 for the purpose of constructing an office building to house approximately 250 employees. In order to do this SAF is proposing to do a land trade for equal values as well as a boundary line adjustment. This would allow development of the new office building as well as make the parkland one contiguous parcel. SAF would then lease the remainder of the parkland from the city. The compensation for the lease would be that SAF would landscape and maintain the parkland during the term of the lease.
- The City-County Parks Board reviewed this issue earlier in February and recommended to declare the parkland surplus and sell it to SAF for the appraised value. SAF has since changed its proposal as noted above.
- The Student Assistance Foundation proposes the following steps:
1. Trade 83,813 square feet of city-owned land at an appraised value of \$59,506 for 19,320 square feet of SAF land at an appraised value of \$59,507.
 2. Relocate boundaries so that parkland is contiguous. Amend plat for Block 3 of the Sleeping Giant Subdivision; and
 3. Enter into a long term lease with the city for the remainder of the parkland for \$1.00/year and other considerations including but not limited to the following:
 - Landscape and maintain the parkland over the term of the lease;

- SAF will be allowed to install landscaping, parking, and stormwater pond within the parkland, but no permanent structures without the written approval of the city;
- SAF will also be responsible for the maintenance of the boulevard and sidewalk that is adjacent to the parkland.

Director Lilje stated this proposal facilitates the development and maintenance of parkland that would probably not be developed by the city. It facilitates commercial development within the city and consolidates parkland in the block.

Director Lilje then recommended approval to Trade 83,813 square feet of city-owned land at an appraised value of \$59,506 for 19,320 square feet of SAF land at an appraised value of \$59,507; to relocate boundaries so that parkland is one contiguous piece contingent upon review and approval of an amended plat submitted by the Student Assistance Foundation; and to authorize the City Manager to negotiate the lease of the remaining parkland that is located in Block 3 of the Sleeping Giant Subdivision, Helena, Montana and later to be reviewed and approved by the City Commission.

Commission comment

Commissioner Parriman asked how the city ended up with the odd shaped property? Director Lilje stated at the time the subdivision was created, the parkland requirements required local government to take what was given by the developer. Local governments were generally given drainage areas. The parkland requirement has since changed.

Mayor Smith asked if appraisals had been done for the properties? Director Lilje concurred.

Public comment

Mayor Smith called for public comment.

Sheldon Bartel, 225 Cruse Avenue, representing Gateway Economic Development, spoke in support of the land trade.

James Stipich, CEO of Student Assistance Foundation, gave an overview of the Student Assistance Foundation and spoke in support of the land trade.

Motion

Commissioner Parriman moved approval to Trade 83,813 square feet of city-owned land at an appraised value of \$59,507 for 19,320 square feet of SAF land at an appraised value of \$59,506.

Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Motion

Commissioner Parriman moved approval to relocate boundaries so that parkland is one contiguous piece contingent upon review and approval of an amended plat submitted by the Student Assistance Foundation. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Motion

Commissioner Parriman moved approval to authorize the City Manager to negotiate the lease of the remaining parkland that is located in Block 3 of the Sleeping Giant Subdivision, Helena, Montana and later to be reviewed and approved by the City

Commission. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Memorandum of Understanding

CONSIDER A MEMORANDUM OF UNDERSTANDING FOR THE OPERATION OF THE TROLLEY BY THE HELENA AREA TRANSIT SERVICE (HATS)

Staff Report

Fleet Superintendent Ed Robinson reported the trolley and its operation are a component of the HATS system under the Section 5311 Operating Grant. The local matching funds for operation of the trolley are provided by the BID. Total projected operating cost of the trolley for FY2006 and FY2007 is \$58,576.00. The BID projected operating expense for the trolley after fares and the 5311 operating match is limited to \$25,000.00. The agreement is for a one-year duration, not two as listed in the staff report. Approval of this agreement will allow HATS to continue services providing a designated bus route through the Downtown, Great Northern business district to the Capital complex.

Mr. Robinson then recommended approval to authorize the City Manager to sign the Memorandum of Understanding with the Helena Downtown Business Improvement District for the operation of the trolley.

Commission comment

Mayor Smith asked for trolley ridership amounts. Mr. Robinson replied over the past year, with the exception of December, ridership has increased every month.

Public comment

Mayor Smith called for public comment.
Hal Fossum, Director of BID, spoke in support of the Memorandum of Understanding.

Motion

Commissioner Parriman moved to authorize the City Manager to sign the Memorandum of Understanding with the Helena Downtown Business Improvement District for the operation of the trolley with the understanding the duration of the contract will be revised to one year. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Memorandum of Understanding

CONSIDER A MEMORANDUM OF UNDERSTANDING WITH LEWIS AND CLARK COUNTY COORDINATING THE STOCKPILING, PULVERIZATION AND STORAGE OF GLASS AT THE COUNTY LANDFILL.

Staff Report

Street Superintendent Bill Michalson reported the objective is to enter into an MOU with Lewis & Clark County to coordinate stockpiling, pulverization and storage of glass at the County Landfill.

Since 1997, all glass was collected at the Transfer Station and then transported to Ash Grove and used in their production process. Ash Grove notified the City of Helena that they could not accept glass after December 2004. The County Commission has approved the MOU allowing the city to stockpile, pulverize and store glass at the County Landfill.

The City of Helena Solid Waste Division will continue to accept glass as a recyclable commodity. Glass will be stored at the County Landfill Site throughout the year and will be processed annually for use as a road base material, landscaping, septic drain fields, retaining wall

backfill, or pipe bedding material or other approved uses for the recycled product.

The advantage would be to continue recycling efforts of an existing commodity and divert approximately 120-130 tons of glass from the landfill operation. Land filling this material would cost \$51.35 per ton. To pulverize this product would cost approximately \$20.00 per ton and we will have an end product this is suitable for other uses.

Commission comment Mayor Smith asked if this is a net savings to the city. Mr. Michalson concurred.

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

Motion Commissioner Parriman moved approval for a Memorandum of Understanding with Lewis and Clark County and authorized the City Manager to sign the agreement. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Right-of-Way Vacation CONSIDER A RESOLUTION OF INTENTION TO VACATE A PORTION OF NORTH HOWIE STREET RIGHT-OF-WAY ADJACENT TO 343 CLARK STREET.

Staff Report City Engineer Ryan Leland reported North Howie Street is currently a developed local city street located in the older part of town. The applicant located at 343 Clark Street recently discovered that a portion of their garage, front porch, and retaining wall are encroaching onto the How Street Right-of-Way.

The applicant is proposing to vacate a 1376 square foot portion of the How Street ROW. There are no objections from the utility companies and no city owned utilities are located on the proposed vacation. The vacation will allow the applicant to have all their structures to be located on their property.

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

Motion Commissioner Parriman moved approval of a resolution of intention to vacate a portion of Howie Street Right-of-Way located adjacent to 343 Clark Street and set a public hearing date of March 14, 2005. Commissioner Pouliot seconded the motion. All voted aye, motion carried. Resolution #19195

Professional Services Contract CONSIDER A PROFESSIONAL SERVICES CONTRACT FOR THE DESIGN OF STREETS, WATER, SEWER, AND STORM WATER FOR SID 392 LOCATED SOUTH OF BROADWAY AVENUE.

Staff Report City Engineer Ryan Leland reported the unpaved city streets south of Broadway Avenue have been unpaved since the original townsite of Helena was platted. There have been two prior efforts to create a Special Improvement District for these streets in the last 30 years. Through canvassing of fronting property owners by neighborhood organizers, there now exists significant support for creating of a SID to reconstruct and pave the streets. However, due to the unknown cost and high contingencies, there were many homeowners uncomfortable about fully supporting the improvements and district formation. The

Commission directed staff to develop a more detailed design and cost estimate for consideration by property owners.

As part of the city's water and sewer main replacement program the city is proposing to reconstruct both the water and sewer mains prior to the construction of the streets. Design of the new water and sewer mains are included in the consultant contract.

Eight firms submitted qualifications for the work. The selection of the consultant was based on the proposal scores and consensus of the city selection committee.

Staff recommends awarding the design of the water, sewer, stormwater, and streets for SID 392 to Stahly Engineering and Associates.

Commission comment

Mayor Smith asked if sidewalks would be included in SID 392? City Engineer Leland concurred. Mayor Smith asked if the residents feel more comfortable with the cost of the SID now? City Engineer Leland stated the subject design contract will allow the city to review the SID design and provide accurate cost estimates to the residents.

Commissioner Parriman asked about the funding of the contract. City Engineer Leland stated after the design is completed, if the SID is found to be possible, the cost will be absorbed by the residents. Commissioner Parriman asked if this is typically how an SID is formed? City Engineer Leland concurred. Commissioner Parriman stated this shows a good faith effort and partnership between the city and the neighborhood.

Commissioner Oitzinger asked if several firms submitted qualifications for this contract. City Engineer Leland concurred and stated eight firms submitted qualifications. Commissioner Oitzinger asked if the Commission is still being notified of qualification reviews? City Engineer Leland concurred but stated that a member of the Commission was not on the review panel.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Parriman moved approved to award the professional service contract for the design of water, sewer, stormwater, and streets for SID 392 to Stahly Engineering and Associates. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Right-of-Way Use Agreement

CONSIDER A RIGHT-OF-WAY (ROW) USE AGREEMENT WITH STOCKTON OIL COMPANY FOR A LEAKY UNDERGROUND STORAGE TANK (LUST) MONITORING IN THE EAST/WEST ALLEY BETWEEN CEDAR AND ELM STREETS AND MONTANA AVENUE AND COOKE STREET.

Staff Report

City Engineer Ryan Leland reported the Jolly O's Gas & Go located at the corner of Cedar Street and Montana Avenue is a site of an ongoing investigation of leaky underground storage tank (LUST) and clean up of a gasoline release. The Montana Department of Environmental Quality (DEQ) has requested that Resource Technologies, Inc. for Stockton Oil Company to install a monitoring well northeast of the LUST site. The applicant is requesting a right-of-way agreement to install a 2" PVC well in the alley north of Jolly O's Gas &

Go. This will allow the applicant and DEQ to better assess the extent of the gasoline release from Jolly O's Gas & Go.

Mr. Leland recommended approval of the ROW use agreement.

Commission comment

Mayor Smith asked for the timeframe of the monitoring. City Engineer Leland stated probably 5 years depending on how extensive the damage and contamination is found to be. Mayor Smith then asked if the problem underground tank has been replaced? City Engineer Leland concurred.

Commissioner Oitzinger asked for more information on methyl tertiary butyl ether. City Engineer Leland explained it is an additive added to gasoline to help emissions. When a leak occurs, it travels very rapidly and is soluble.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Parriman moved approval of the right-of-way use agreement with Stockton Oil Company to install a LUST monitoring well in the alley north of Jolly O's Gas and Go.

Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Resolution of Intention

CONSIDER A RESOLUTION OF INTENTION TO INCREASE POLICE SERVICES (EXTRA WORK) FEE.

Staff Report

Police Chief Troy McGee reported a number of years ago, the Helena Police Department (HPD) required that all organizations/sponsors of events that requested extra duty services sign a contract which effectively guaranteed reimbursement for services. The majority of the HPD's extra work is derived from the School District Athletic Office, the State of Montana, the Civic Center, Carroll college and the high school, although request have expanded to include Helena College of Technology activities, Festival of Trees, etc.

A flat rate is charged for services and the officers working the event are paid their appropriate overtime rate. In some cases, the flat rate exceeds the officer's overtime rate, however it evens out over the year as some of the officer's overtime salaries are more. The current rate of \$32 per hour with a 3-hour minimum has been in place since July 1, 2003. To date we have been successful in breaking even or accumulating a small nest egg. However, there may be a deficit this year because the rates haven't been increased.

The proposal is for a \$3.00 per hour increase, effective July 1, 2005 for all extra work activities. A letter of intention to raise rates has been mailed to those event sponsors who will be affected most by this change, particularly the school district, Carroll College, and the high schools. This advance notice will give them enough time to increase their budgets accordingly.

By approving the rate increase the HPD training and overtime fund will be able to maintain a break-even or cash carryover level. Rates will be more in line with upcoming FY06 officer salaries and benefits. Raising rates periodically every 2-3 years will result in smaller one-time increases rather than one or two large increases.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Parriman moved approval of a resolution of intention to increase police services fee from \$32 per hour to \$35 per hour and set a public hearing date of March 14, 2005. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19196**

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3016 PRIORITIZING A PROJECT PREVIOUSLY DESIGNATED AND APPROVED AS A QUALIFIED URBAN RENEWAL PROJECT IN THE CONSOLIDATED CENTRAL HELENA URBAN RENEWAL AREA, AND AMENDING ORDINANCES NO. 2559 AND 2963.

Staff Report

Community Facilities Director Gery Carpenter reported the Civic Center Advisory Board has requested that the City Commission authorize a funding change for the \$20,000 appropriated to the Civic Center mezzanine railing project to the Civic Center ballroom main floor project.

The Board proposes to incur the total funding for the ballroom mezzanine railing project through their fundraising efforts and request that the City Commission transfer \$20,000 in funding for the Ballroom Mezzanine Railing project to the Ballroom Main Floor project at the existing \$20,000 level. It is anticipated the Ballroom Main floor project will be completed in the summer of 2005.

Replacement of the ballroom main floor will alleviate safety concerns of multi-level floor heights that currently exist in the Civic Center ballroom. This project will replace current floor coverings that have reached the end of their useful life and can no longer be maintained for the use they were intended.

Mr. Carpenter recommended approval for second passage of Ordinance No. 3016, prioritizing a project previously designated and approved as a qualified urban renewal project in the consolidated central Helena urban renewal area, and amending Ordinances No. 2559 and 2963.

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 Pouliot moved approval for second passage of Ordinance No. 3016 prioritizing a project previously designated and approved as a qualified urban renewal project in the consolidated central Helena urban renewal area, and amending Ordinances No. 2559 and 2963. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ordinance # 3016**

B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3015 AMENDING SECTION 3-11-4 OF THE HELENA CITY CODE TO CLARIFY USE OF AUTHORIZED WELLS.

Staff Report

Public Works Director John Rundquist reported the owners of Woody's Car Wash at 1201 Cedar Street have petitioned the city to allow drilling a well to provide water for commercial car washing. They claim that city water is too expensive and that potable water is not needed for their operation. Presently, Helena City Code (HCC) 3-11-4 allows wells only for irrigation or bona fide manufacturing purposes. Authorization of a well for a commercial car wash in the city is not presently allowed.

If City Code did allow non-potable wells for car washes, the drilling and use of ground water wells is also regulated by the Montana Department of Natural Resources and Conservation (DNRC) the use is expected to be greater than 35 gallons per minute or greater than 10 acre-feet annually, a Permit to Appropriate Water is required by DNRC prior to use of the water. Based upon historical water use, Woody's Car Wash would exceed the DNRC limits and therefore would require a DNRC permit in addition to a city well permit.

Director Rundquist stated accommodating private wells for car washes would be best accomplished by amending the ordinance to allow wells for both manufacturing and commercial uses not requiring potable water. This may open the door for other commercial/non-potable uses such as laundromats, however, designating a specific commercial category for car washes may open the door for legal challenge.

Staff has drafted amendments to HCC 3-11-4 that would allow wells for non-potable commercial uses in addition to currently allowed manufacturing and irrigation uses. Of particular importance are the protection of the city's water supply from potential contamination and the metering of commercial and manufacturing wells for determining sanitary sewer charges. The draft amendment includes language that addresses these issues.

One advantage to the proposed ordinance is it may provide a cost advantage to the commercial user of city water whose use is strictly non-potable.

Commission comment

Mayor Smith referred to laundromats, and asked if there are other users that might want to drill wells also? Director Rundquist responded there probably are, but their use is small and not included in the lost revenue figure.

Commissioner Pouliot asked for confirmation that the revenue lost would be \$57,000.00. Director Rundquist concurred.

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 Cartwright moved approval for second passage of Ordinance No. 3015 amending Section 3-11-4 of the Helena City Code to clarify use of authorized wells. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.
Ordinance # 3015

**Public
Communications**

PUBLIC COMMUNICATIONS

Meetings of

MEETINGS OF INTEREST

Interest

The next Joint Work Session is March 3, 2005, the next Administrative Meeting is March 9, 2005 and the next Commission Meeting is March 14, 2005.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:22p.m.

Mayor Smith

ATTEST:

Clerk of the Commission