

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
March 14, 2005
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, March 14, 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.

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 28, 2005 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. A one year extension for final plat approval for the amended Capital Hill Addition; generally located north of Lyndale Avenue and east of Benton Avenue.
- C. Second passage of Ordinance No. 3021 pre-zoning Aspen Park at Mountain View Meadows subdivision to R-2 (Single-Family Residential) and R-3 (Medium Density Residential) Districts prior to annexation into the City of Helena, Montana; property is generally located in Lewis and Clark County, southwest of East Helena, west of Highway 282 and north of the Jefferson County line.

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

Bid Award

BID AWARD

- A. Water main replacements – City Project No. 04-12

Staff Report

City Engineer Ryan Leland reported the ductile iron water main in the Barney Subdivision has experienced a history of failures due to the corrosive nature of the soils in that area. This construction project will replace approximately 1720 lineal feet of ductile iron pipe with a PVC water main, in the Barney Subdivision.

The project was advertised and the bids were opened on March 1, 2005. Two local contractors submitted bids. Hard Rock Road Building & Utilities, Inc. of Helena submitted the low bid, for all schedules of \$181,681.00.

A total of \$147,500.00 is budgeted for the project as shown on the attached worksheet. Because of budget limits, staff is recommending awarding only the base bid (\$100,501.00) and additive alternate 1 (\$41,680.00), for a total of \$142,181.00 to the lowest responsible bidder, Hard Rock Road Building & Utility, Inc. This contractor has satisfactorily completed work on the 2004 Sewer Main Replacement project and an asphalt repair contract on 11th Avenue this past construction season.

Commission comment Mayor Smith asked how long the current iron pipe has been in use? Mr. Leland responded the pipe was installed in the seventies. Mayor Smith asked if the corrosiveness of the soil is natural or caused by prior use of the area? Mr. Leland stated the soil is naturally corrosive.

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

Motion **Commissioner Pouliot moved to award the base bid and additive alternate 1 of city project No. 04-12 to the lowest responsible bidder, Hard Rock Road building & Utilities, Inc. for \$142,181.00.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Oitzinger spoke of a Capital City Mayor's Group conference that was held on March 10, 2005 in Annapolis, Maryland. The next meeting will be held in Springfield, Illinois.

She reported on three action items:

1. Lobbying for capital cities to be included as specific places in Homeland Security so that direct allocations will be available as capital cities are first responders, high value targets and in need for more direct allocations without administrative costs being siphoned off.
2. Quantification of costs of services capital cities sustain for state/federal government and nonprofits and tourism sectors for justification of Payment In Lieu of Taxes (PILT).
3. Quantification of capital city's value as an economic hub for state or region due to presence of above listed sectors for justification of PILT.

Mayor Smith stated he too is concerned with terrorism affecting our community and would like Commissioner Oitzinger or another member of the Commission to attend the next meeting in Springfield, Illinois. She concurred and also suggested Paul Spengler, City/County DES Coordinator, attend.

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

Report of the City Manager REPORT OF THE CITY MANAGER
A. National Trust for Historic Preservation Award

City Manager Burton invited Mr. Will Greiner, Chairman of City/County Historic Preservation Commission, to speak about the City of Helena's recognition as one of America's Dozen Distinctive Destinations.

Mr. Greiner presented the plaque to the Commission and expressed his appreciation for their work toward historic preservation.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

There was no report given.

**Report from the
Helena Youth
Advisory Council**

REPORT FROM THE HELENA YOUTH ADVISORY COUNCIL

Youth Advisory Council Coordinator Anne Pichette gave an overview of the projects of the Youth Advisory Council. She stated the council is waiting to hear from the Turner Foundation regarding their FY 2006 funding award.

Recognition

RECOGNITION OF SCOBEEY HIGH SCHOOL STUDENTS IN ATTENDANCE

Mr. Bill Roath spoke of the students' visit to Helena and the activities they have participated in during their visit. He then introduced the students in attendance.

Mayor Smith spoke of working with Mr. Roath in the past and commended him on his work helping underprivileged families.

Resolution

CONSIDER A RESOLUTION PROVIDING COMMISSION INTENT AND DIRECTION FOR THE FISCAL YEAR 2005 -2006 ANNUAL BUDGET.

Staff Report

Budget Manager Robert Ricker reported the city must provide essential services while living within its means. Staff is in the process of developing a constraint budget for FY 2006. Revenue and resource limitations are the bottom line constraint for each fund. An important part of annual budget development is the ability to work within financial constraints while still addressing community dynamics and changing priorities.

The city operations are generally organized and funded to meet both existing and new challenges on an ongoing basis. However, staff needs policy and priority guidance from the City Commission in order to adjust the annual budgets and operations to best meet the needs and priorities of the community.

A resolution of Commission Intent for the FY 2006 Annual Budget provides the authoritative and definitive direction staff needs to most efficiently and effectively meet community needs and priorities.

Commission comment

Commissioner Oitzinger stated she would like to amend the resolution to read:

Whereas, the City Commission is committed to consider all public input throughout the budget process and adopt a budget providing needed services to and city budget policies for the citizens of Helena in the most efficient, and cost-effective and sustainable manner; and

City Manager Burton stated if it is the pleasure of the Commission, the amendment enhances the resolution.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Oitzinger moved to amend the Resolution of Commission Intent to include the following:

Whereas, the City Commission is committed to consider all public input throughout the budget process and adopt a budget providing needed services to and city budget policies for the citizens of Helena in the most efficient, and cost-effective and sustainable manner; and. Commissioner Cartwright seconded the motion.

Commission comment Commissioner Pouliot gave the definition of sustainable policies; sustainable policies are policies that meet the needs of the present without compromising the ability of future policy-makers to meet future needs.

Vote All voted aye, motion carried.

Motion **Commissioner Cartwright moved to strike the wording “through the next State Legislature” from page 8, Section 11A item 3.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Motion **Commissioner Oitzinger moved approval of the Resolution of Commission Intent for the FY 2006 Annual budget as amended.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution# 19197**

Resolution of boundary dispute CONSIDER THE RESOLUTION OF A BOUNDARY DISPUTE ON DAVIS STREET AND A SPENCER STREET BOUNDARY RELOCATION.

Staff Report City Engineer Ryan Leland reported in 1996 the city bought a tract of land from Lois DeFord that runs through Davis Gulch and contains Davis Street. This tract was originally a patented mining claim and its western boundary overlaps another patented mining claim, from which the Joseph Cox Addition was platted. Since 1996 this boundary overlap has been resolved in two ways:

1. Agreeing with adjacent property owners on boundary location; and
2. Purchasing adjacent property.

Bert Glueckert and two other owners of property west of the city’s tract have agreed to set a common boundary that fits with the location of Davis Street and its amenities and the present and proposed improvements to their properties. In addition, Spencer Street, which is fee property owned by the city and not a dedicated public right-of-way, has an unusual configuration that conflicts with the historic use of Lot 8 and is unnecessary for the use of Spencer Street.

The property owners have agreed to a common boundary that will resolve the boundary conflict created by overlapping tracts. After filing an amended plat, the city and the parties will exchange quit claim deeds to resolve the boundary issue. Lot 8 will receive a small part of the Spencer Street tract that will allow the lot’s western fence and wall to be located on the lot, and the sidewalk will remain on the city’s property.

This agreement will amicably resolve a 120-year-old property boundary conflict for four lots, and allow full use and development of the lots without title defects. This encourages in-fill of undeveloped lots in

the area. The agreed upon boundary does not adversely impact the location of Davis Street and other street amenities.

Commission comment Mayor Smith asked if the landowners involved are in agreement with the proposed resolution. Mr. Leland concurred.

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

Motion Commissioner Pouliot moved approval for establishment of a common, agreed-upon boundary between Lots 8, 10 and 11 in the Joseph Cox Addition to the City of Helena and Tract B-1, shown on the amended plat and to issue appropriate deeds. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Ordinance CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 6-2-5 OF THE HELENA CITY CODE TO CLARIFY INSTALLATION OF WATER METERS.

Staff Report Utilities Superintendent Kevin Hart reported residential meters of ¾" and 1" are now purchased through the city while meters larger than this are purchased individually by developers or their contractors. Fees charged for the meters that the city now sells are set by ordinance and these fees have not been updated since the passage in ordinance passed in 1987. Existing customers now subsidize about one-half the price of each new ¾" and 1" meter. Customers requiring larger meters currently pay going market price without benefit of the lower cost possible through larger volume purchase. Also, since large meters are purchased and installed often without direct city involvement there is a potential for delays in establishing timely customer accounts.

Staff proposes to place all meter purchase responsibility on the city as a means to better integrate the technology advances of the new radio read system. This will pass along cost savings from volume purchases to new meter customers, improve establishment of timely utility account setup and billing and provide a mechanism of revising meter fees on a timely basis.

Mr. Hart recommended first passage of an ordinance amending Section 6-2-5 of the Helena City Code to clarify installation of water meters, and set a public hearing date of March 28, 2005.

Commission comment Commissioner Cartwright referred to the current ordinance and asked who owns the meters after they are installed? Mr. Hart stated under the current ordinance the meters are under city ownership and would continue to be under the amended ordinance.

Commissioner Parriman referred to the requirement regarding licensed installers. Mr. Hart explained the requirement was added to encompass both commercial and residential installation and conform to existing plumbing codes.

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

Motion Commissioner Cartwright moved approval for first passage of an ordinance amending Section 6-2-5 of the Helena City Code to clarify installation of water meters, and set a public hearing date of March 28, 2005. Commissioner Pouliot seconded the motion. All voted aye, motion carried. Ordinance #3022

**Resolution of
Intention**

CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES FOR THE PURCHASE OF NEW WATER METERS.

Staff Report

Utilities Superintendent Kevin Hart reported residential meters of ¾" and 1" are now purchased through the city while meters larger than this are purchased individually by developers or their contractors. Fees charged for the meters that the city now sells are set by ordinance and these fees have not been updated since the passage in ordinance passed in 1987. Existing customers now subsidize about one-half the price of each new ¾" and 1" meter. Customers requiring larger meters currently pay going market price without benefit of the lower cost possible through larger volume purchase. Also, since large meters are purchased and installed often without direct city involvement there is a potential for delays in establishing timely customer accounts.

Staff proposes to place all meter purchase responsibility on the city as a means to better integrate the technology advances of the new radio read system. This will pass along cost savings from volume purchases to new meter customers, improve establishment of timely utility account setup and billing and provide a mechanism of revising meter fees on a timely basis.

The proposed fees are as follows:

Positive Displacement Disc Meters

¾" T-10 Complete	\$ 135.00
1" T-10 Complete	\$ 175.00
1.5" T-10	\$ 200.00
2" T-10	\$ 245.50

For weather proof meters of any above size add \$15.00

Compound Meters

2" Tru/Flo	\$ 914.00
3" Tru/Flo	\$ 962.00
4" Tru/Flo	\$1245.00
6" Tru/Flo	\$1915.00

Larger compound meters, if available, will be actual cost at the time of order.
For weatherproof applications of any above size meters, 2" thru 6", add \$15.00.

High Performance Turbine Meters

2" HP Turbine	\$ 258.00
3" HP Turbine	\$ 480.00
4" HP Turbine	\$ 516.00
6" HP Turbine	\$1023.00
8" HP Turbine	\$1553.00
12" HP Turbine	\$3787.00

For weatherproof applications of any above size meters, add \$15.00.
Turbine meters require use of strainer for warranty performance.

Mr. Hart recommended approval of a resolution of intention to establish fees for the purchase of new water meters and set a public hearing date of March 28, 2005.

Commission comment

Mayor Smith asked if the proposed prices are for the new digital meters? Mr. Hart concurred; the prices are based on the unit price in the project bid award.

Commissioner Parriman asked for an explanation of the increase of meter permit fees. Mr. Hart stated if a person was building a house in town the current cost of their permit is \$75.00, under the proposed resolution, it would increase to \$135.00 because it includes the meter, tail pieces and radio read equipment.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Parriman moved approval of a resolution of intention to establish fees for the purchase of new water meters and set a public hearing date of March 28, 2005. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19198**

Resolution of Intention

CONSIDER A RESOLUTION OF INTENTION TO VACATE PORTIONS OF PARK AVENUE, RALPH STREET, HENRY STREET, A PORTION OF THE NORTH/SOUTH ALLEY IN BLOCKS 2 AND 3, AND A PORTION OF THE EAST/WEST ALLEY IN BLOCK 2, ALL IN THE CAPITAL HILL ADDITION IN THE CITY OF HELENA, MONTANA.

Staff Report

City Engineer Ryan Leland reported Carroll College owns all the lots in Blocks 2 and 3 in the Capital Hill Addition except for three lots fronting on Lyndale Avenue. Carroll College is consolidating all its holdings into five lots. As part of this consolidation, Carroll desires to have the rights-of-way within these lots vacated and incorporated into the newly consolidated lots. Some of the rights-of-way have utility facilities in them and are needed for emergency access to Carroll College buildings.

The applicant proposes the rights-of-way would be vacated by the city and title transferred to Carroll College. Carroll College in turn would convey the necessary easements for utility services and emergency access across these vacated rights-of-way to the city. The city would be relieved of responsibility and liability for maintenance and upkeep of the rights of way. The vacated ROW's become privately owned and subject to being assessed.

Mr. Leland recommended approval of a resolution of intention to vacate portions of Park Avenue, Ralph Street, Henry Street, a portion of the north/south alley in Blocks 2 and 3, and a portion of the east/west alley in Block 2, all in the Capital Hill Addition, and set a public hearing date.

Public comment

Dick Thweet, 36 Harrison, representing Plan Helena, spoke of the Non-Motorized Transportation Plan. He expressed his concern that one of the proposed routes for the pedestrian network is through the Carroll College campus to the Getchell Street crossing.

City Manager Burton stated the Getchell Street ROW remains city property and the connectivity issues will be resolved as the Centennial Park Master Plan is worked through.

Motion Commissioner Parriman moved approval of a resolution of intention to vacate portions of Park Avenue, Ralph Street, Henry Street, a portion of the north/south alley in Blocks 2 and 3, and a portion of the east/west alley in Block 2, all in the Capital Hill Addition, and set a public hearing date if March 28, 2005.

Commissioner Cartwright seconded the motion. Resolution# 19199

Discussion Commissioner Cartwright asked that someone from Carroll College report on how they are planning to coordinate with the Non-Motorized Transportation Plan at the March 28, 2005 public hearing for the proposed resolution.

Vote All voted aye, motion carried.

Resolution of Intention CONSIDER A RESOLUTION OF INTENTION TO ANNEX 13.55 ACRES GENERALLY LOCATED NORTH OF CUSTER AVENUE BETWEEN WASHINGTON STREET AND THE I-15 FRONTAGE ROAD WITH A CURRENT PROPERTY ADDRESS OF 1822 EAST CUSTER AVENUE.

Public Hearings PUBLIC HEARINGS:

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359, AND AMENDING THE OFFICIAL ZONING MAP THEREOF, AND PRE-ZONING TO B-2 (GENERAL COMMERCIAL) DISTRICT FOR 13.55 ACRES; GENERALLY LOCATED NORTH OF CUSTER AVENUE BETWEEN WASHINGTON STREET AND THE I-15 FRONTAGE ROAD WITH A CURRENT PROPERTY ADDRESS OF 1822 EAST CUSTER.

B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A CASINO ON A 13.55 ACRE-TRACT OF LAND GENERALLY LOCATED NORTH OF CUSTER AVENUE BETWEEN WASHINGTON STREET AND THE I-15 FRONTAGE ROAD WITH A CURRENT PROPERTY ADDRESS OF 1822 EAST CUSTER AVENUE.

Staff Report Community Development Director Sharon Haugen reported the applicant, Montana Opportunities LLC, has requested to postpone the hearing before the Commission to the April 11, 2005 Commission Meeting to allow additional time to work with the city to reach consensus as to the annexation agreement. Mr. Richardson has requested the Commission table all three proposals affecting the same 13.55-acre property.

Director Haugen stated access issues are an important component of all three applications and it would be beneficial to all parties involved to resolve these issues prior to the public hearings.

Public comment Dick Thweet, 36 Harrison Ave, stated Plan Helena has been involved in all three proposals. He noted the Planning Board recommended denial of all three proposals. Also, Plan Helena would like to see the request for a variance from the sign ordinance denied.

Motion Commissioner Cartwright moved to table until April 11, 2005 a resolution of intention to annex 13.55 acres. Commissioner Oitzinger seconded the motion. All voted aye motion carried.

Motion Commissioner Cartwright moved to table until April 11, 2005 first passage of an ordinance amending City of Helena Ordinance No. 2359 and amending the Official Zoning Map thereof in, and rezoning to B-2 (General Commercial) District. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Motion Commissioner Cartwright moved to table until April 11, 2005 a resolution for a CUP to allow a casino with 20 gaming machines to be located in a B-2 (General Commercial) District. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

C. CONSIDER A RESOLUTION INCREASING POLICE SERVICES (EXTRA WORK) FEE.

Staff Report Police Chief Troy McGee asked the Commission table its decision to the March 28, 2005 Commission meeting in order to allow for proper advertising of the subject resolution.

Motion Commissioner Pouliot moved to table a resolution increasing police services (extra work) fee to March 28, 2005. Commissioner Parriman seconded the motion. All voted aye, motion carried.

D. CONSIDER A RESOLUTION VACATING 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 Howie 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 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 of a resolution to vacate a portion of Howie Street Right-of-Way located adjacent to 343 Clark Street. Commissioner Cartwright seconded the motion. All voted aye, motion carried. Resolution # 19200

Public PUBLIC COMMUNICATIONS

Communications

Mayor Smith referred to an incident involving a legislator giving CPR services to a member of the public. Fire Chief Larson spoke of the importance of the public knowing CPR. Also, Chief Larson reported the Fire Department, along with the Helena Police Department, delivered a baby on the Westside earlier today.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is March 23, 2005 and the next Commission Meeting is March 28, 2005. Commissioner Pouliot spoke of St. Patrick's Day and asked everyone to celebrate responsibly.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:22 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission