

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
September 11, 2006
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, September 11, 2006 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 Cartwright, Oitzinger, Peura, and Throssell were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present.

Pledge of Allegiance

Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance.

Moment of Recognition

Fire Department Captain Sean Logan delivered a reading recognizing September 11, 2001.

Minutes

The minutes of the regular City Commission meeting of August 28, 2006 were approved as submitted.

Proclamation

PROCLAMATION

A. Pollution Prevention Week

Mayor Smith read the proclamation designating September 18-24, 2006 as Pollution Prevention Week. Public Works Director John Rundquist announced the following events:

- ❖ September 15-16, 2006 – Electronics Recycling Event at Staples® Office Supplies;
- ❖ September 16, 2006 – Latex Paint Exchange at the City of Helena Transfer Station;
- ❖ September 23, 2006 – Trash for Trees sponsored by Growing Friends of Helena.

Director Rundquist recognized City Recycling Supervisor Kathy Goroski, Lewis & Clark County Solid Waste Manager Sherrel Rhyss, and Sandra Boggs, Brian Spengler and Dusty Johnson from the Department of Environmental Quality for their work on events celebrating the week.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Amendment to Smoke Alarm contract in the amount of \$10,000
- C. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property (vehicles and equipment) **Resolution #19413**
- D. Utility Bill Insert - Prickly Pear Land Trust
- E. Final passage of Ordinance No. 3062 amending City of Helena Ordinance No. 2359, and amending the official zoning map thereof and pre-zoning to R-2 (Single Family Residential) District, prior to annexation for multiple properties in Lewis and Clark County, generally located south of Knight Street, west of

Joslyn Street, north of Hauser Boulevard and east of Granite Avenue in Lewis and Clark County **Ordinance #3062**

- F. Final passage of Ordinance No. 3063 amending City of Helena Ordinance No. 2359, and amending the official zoning map thereof for a zone change from R-3 (Medium Density Residential) District to R-4 (High Density Residential) District for property generally located north of Custer Avenue and south of Northgate Loop **Ordinance #3063**
- G. Final passage of Ordinance No. 3064 amending City of Helena Ordinance No. 2359, and amending the official zoning map thereof, and pre-zoning to R-4 (High Density Residential) District, prior to annexation for property in Lewis and Clark County for property generally located north of Custer Avenue and south of Northgate Loop **Ordinance #3064**

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 G on the consent agenda. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Bid Award

Bid Award:

- A. Granite Street Paving - City Project No. SID 408

Staff Report

City Engineer Ryan Leland reported on July 31, 2006 the City Commission created SID 408 for the reconstruction of Granite Street. This project will construct approximately 900 lineal feet of curb, gutter and pavement. The project was advertised and bids were opened on August 22, 2006.

Mr. Leland recommended awarding the bid to the low bidder, Helena Sand & Gravel, who submitted the amount of \$177,772.

Commission comment

Commissioner Cartwright asked if trees would be installed behind the sidewalk? Mr. Leland stated the School District is still looking at design options that would allow trees to be planted on the fence side of the sidewalk. Commissioner Cartwright noted Growing Friends of Helena would be willing to work with the Kessler School to obtain and plant trees.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Peura moved to award the base bid of the Granite Street Paving Project, SID #408 to the lowest responsible bidder, Helena Sand & Gravel for \$177,772. Commissioner Throssell seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

- A. Head Start Program

Mayor Smith announced the Helena Head Start Program had received the highest possible ranking after their evaluation from the Federal Government Administration on Children, Youth, and Families

and introduced Rocky Mountain Development Council Special Projects Coordinator Curt Chisholm, Head Start Director Patty Dahl, Rocky Mountain Development Council Board Chair Bill Roberts, and Head Start Policy Council Chair Amber Piilola.

Mr. Chisholm explained the award and Ms. Dahl and Mr. Roberts thanked everyone involved with the program for their excellent work. Mayor Smith and the Commission members commended the Head Start Program employees for their outstanding review.

Commissioner Cartwright referred to discussion held at the Administrative Meeting on September 6, 2006 and spoke in support of the proposed Neighborhood Transportation Program.

**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. Police Department Promotions – Sergeant Jerry McGee, Sergeant Torey Keltner, Corporal Cory Bailey and Corporal Lynnette Flink

City Manager Burton invited Police Chief Troy McGee to introduce the above listed officers, who were recently promoted in the Police Department. Chief McGee gave the work history of the officers and congratulated them on their promotions. Sergeant McGee, Sergeant Keltner, Corporal Bailey and Corporal Flink introduced their family members in attendance and thanked Police Chief McGee and City Manager Burton for their promotions.

Chief McGee asked Captain Mike Anderson to introduce Officers Curt Stinson and Sam Robbins who recently competed in the “Governor’s 20” Shooting Event. Captain Anderson announced Officers Stinson and Robbins placed as two of the top twenty police marksmen in the state.

B. Governor's Award for Safety and Health

City Manager Burton read a letter from the Commissioner of the Montana Department of Labor and Industry acknowledging the City of Helena for excellence in improving safety and health in the workplace. Human Resource Director Salty Payne introduced Risk Manager Katherine Swindle and gave an overview of additions to the city’s safety program. Mayor Smith and the Commission members commended Director Payne and Ms. Swindle for their work on the safety program.

C. Last Chance Gulch – 300 Block Project

Director Rundquist reported the project is proceeding toward completion. City Engineer Leland has identified a solution for the curb and sidewalk elevation disparity with the contractor, and a price should be determined very soon. The project is scheduled for completion this fall. Commissioner Throssell asked what solutions have been identified? Director Rundquist explained if the property does not contain vaults, a new sidewalk would be installed. If the property has vaults, the contractor will overlay the existing sidewalk to bring it to the correct elevation and match the newly installed sidewalks.

Mayor Smith asked if it is anticipated that TIF funds will cover the construction change order? Director Rundquist stated although the price is unknown staff expects to be able to fund the repairs within the original budgeted amount. Commissioner Cartwright urged staff to complete the project as soon as possible.

Commissioner Peura asked Mr. Greg Allen to list any concerns he has with the subject project. Greg Allen, 316-320 Last Chance Gulch, By George Sheila's; spoke of his concern with the proposed patch job to the sidewalks on the westside of the 300 Block of Last Chance Gulch.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

**Veterans' Memorial
Agreement**

CONSIDER THE VETERANS' MEMORIAL AGREEMENT.

Staff Report

City Attorney Nielsen reported the Lewis & Clark County Veterans Memorial is a monument to the war dead of Helena and Lewis & Clark County. It is sited in Memorial Park. Erected in 1949, it is in need of restoration and repair. An entity is also needed to manage the Memorial and ensure prompt repairs are funded and made in the future when necessary. That entity will also insure that the correct names of future war dead are added to the Memorial. The Military Affairs Committee in the interim, and then a substitute permanent organization in the future, will assume responsibility for management of the Memorial and the addition of names when necessary. The permanent organization might be a tax-exempt foundation that can raise funds for the maintenance. The City of Helena and Lewis & Clark County have agreed to provide immediate funding, up to \$30,000 each, for the restoration and repair of the Memorial, providing there is another entity willing to assume financial responsibility for future maintenance and the responsibility for addition of eligible names. Eligibility will be determined in accordance with criteria set by the U.S. Department of Defense.

City Attorney Nielsen recommended approval of the agreement, as the city and county will be relieved from future maintenance expenses for the Memorial. He added the responsibility for determining when new names should be added would be clearly assigned to an entity that has qualifications to perform that duty.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Oitzinger moved approval of the Veterans Memorial Agreement. Commissioner Throssell seconded the motion. All voted aye, motion carried.

Tax Levy FY2007

CONSIDER A RESOLUTION PROVIDING FOR THE ANNUAL TAX LEVY IN MILLS FOR FISCAL YEAR JULY 1, 2006 THROUGH JUNE 30, 2007.

Staff Report

Administrative Services Director Tim Magee reported as required by 15-10-203 MCA, the City of Helena:

- o held a public hearing before passing a resolution to Budget additional property tax revenue;

- adopted a resolution to budget additional property tax revenue after the public hearing; and
- adopted the final budget.

MCA 7-6-4036 now requires the City Commission to set the tax levy no later than the 2nd Monday in August or within 45 calendar days after receiving certified taxable values.

- ✓ certified taxable values were received on August 7, 2006
- ✓ the city is required to fix tax levies by September 21, 2006

Under MCA 2-9-212, Group Health Insurance tax levies may include annual increases for insurance premiums. However, that tax increase must be levied or the authority to levy in future years is lost. The city has annually levied for group health insurance, including annual premium increases. The fiscal year 2007 budget provides for \$680,000 or 14.38 mills, to be levied for group health insurance premiums in 2006 for FY 2007, including a premium increase of \$30,697, as allowed under MCA 2-9-212. Director McGee recommended approval of the annual mill levy resolution.

Commission comment

Commissioner Peura referred to Resolution #19380, which authorized the Commission to budget additional property tax revenue and asked what would happen if the Commission did not increase the mill levy to raise \$71,692 for inflation, \$64,208 for group benefit premiums, and \$8,131 for state personal property tax reimbursement for a total of \$144,031? Director Magee explained the revisions could be noted and passed as an amended resolution. He commented if the authorization for health benefit premiums is excluded, the premiums cannot be levied in the future

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Peura moved approval for a resolution approving the annual mill levy, exclusive of \$71,692 for inflation, \$64,208 for group health benefit premiums, and \$8,131 for state personal property tax reimbursements. Motion died for lack of a second.

Motion

Commissioner Cartwright moved approval for a resolution approving the annual mill levy as presented. Commissioner Oitzinger seconded the motion.

Discussion

Commissioner Cartwright commented on the city's amount of surplus funds, which resulted from an accounting procedure change at the state level. He noted the city has not spent these funds and needs to save them for the future. He indicated he would support the budget as presented because the increases are necessary to provide services at the levels citizens want. He also expressed his belief that the war and federal tax policies will cause the national economy to slow down, which may cause the need for the city to not increase mill levies in the future.

Commissioner Peura stated with approval of the proposed mill levy the ending fund balance would be approximately 27.5%. Without

the proposed increase the ending fund balance would be 26.4%. He commented he sees this as a minimal difference and believes growth can provide necessary funding without increasing the mill levies. He indicated he would not support the mill levy as proposed.

Commissioner Oitzinger spoke of sitting on the Fire Service Review committee and stated the city is overdue for equipment replacement. She indicated she would support the full increase, as the full levy will allow the city to spend wisely and manage funds in an effective way.

Commissioner Throssell indicated he would support setting the mill levy as proposed. He stated he would follow up on Commissioner Peura's concerns but at this time he does not believe the additional amount is excessive, and in case of an emergency the funding will be there.

Vote Motion carried 4-1 with Commissioner Peura voting no.

Resolution #19406

SLD No. 213

CONSIDER RESOLUTION OF INTENTION TO ASSESS SPECIAL IMPROVEMENT LIGHTING DIST NO. 213 ALONG THE STREETS AND AVENUES IN PARTS OF THE OVERLOOK ESTATES SUBDIVISION.

Staff Report

Director Magee reported the City Commission must levy and assess an annual charge for Special Improvement Lighting District No. 213 in order for the charge to be placed on the upcoming tax bills. Lighting district assessments are based upon the anticipated cost of electric utility bills and administrative services.

Director Magee recommended approval of the resolution of intention as it allows city staff to place the required notices in the Independent Record to inform the public and receive their input on the annual charges.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Throssell moved approval for the resolution of intention to levy an assessment upon all property in Special Improvement Lighting District No. 213 to defray the cost of maintaining improvements in said district for fiscal year 2007 and set a public hearing date of September 25, 2006. Commissioner Cartwright seconded the motion. All voted aye, motion carried.
Resolution #19407

SLD No. 214

CONSIDER RESOLUTION OF INTENTION TO ASSESS SPECIAL IMPROVEMENT LIGHTING DIST NO. 214 ALONG THE STREETS AND AVENUES IN PARTS OF THE OVERLOOK ESTATES SUBDIVISION.

Staff Report

Director Magee reported the City Commission must levy and assess an annual charge for Special Improvement Lighting District No. 214 in order for the charge to be placed on the upcoming tax bills. Lighting district assessments are based upon the anticipated cost of electric utility bills and administrative services.

Director Magee recommended approval of the resolution of intention as it allows city staff to place the required notices in the Independent Record to inform the public and receive their input on the annual charges.

Commission comment

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Throssell moved approval for the resolution of intention to levy an assessment upon all property in Special Improvement Lighting District No. 214 to defray the cost of maintaining improvements in said district for fiscal year 2007 and set a public hearing date of September 25, 2006. Commissioner Cartwright seconded the motion. All voted aye, motion carried.
Resolution #19408

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION VACATING A PORTION OF THE DONALDSON STREET RIGHT-OF-WAY ADJACENT TO LOT 12 OF BLOCK 75 IN THE ORIGINAL HELENA TOWNSITE.

Staff Report

City Engineer Ryan Leland reported Jerry and Korene McGuire applied to vacate a portion of the Donaldson Street right-of-way (ROW) adjacent to Lot 12 of Block 75 of the Original Helena Townsite.

On July 12, 2004, the City Commission vacated 352 square feet of Donaldson Street and accepted approximately 3250 square feet of dedicated ROW from Jerry and Korene McGuire. Prior to bringing the vacation and dedication forward, the McGuires had proposed to vacate this ROW, but through meetings with the city and applicant, the city felt it would be better to not vacate the ROW before the infrastructure plans were approved and installed. The city approved the infrastructure plans on April 29, 2005, and it is currently being installed and accepted by the city.

The requested vacation is a 40-foot by 100 foot triangular piece of the Donaldson Street ROW adjacent to property they presently own. There are no utilities in the portion of the ROW proposed to be vacated. Donaldson Street was constructed as part of the Harrison Avenue Development. Because of topographic constraints, the Donaldson Street ROW had to be moved to the north onto property the McGuires previously donated to the City of Helena. Now that Donaldson Street has been constructed, the McGuires desire that the unusable ROW be vacated to allow them to install a retaining wall and driveway access to their lot. The square footage to be vacated is approximately 2000 square feet with a calculated fee of approximately \$1000.

Mr. Leland recommended approval of the proposed vacation and noted it would allow use of ROW that is not currently developed and of no value to the city as ROW.

Commission comment

Commissioner Peura asked for the basis of the differing land values between the city's and Mr. McGuire's property? Mr. Leland stated both valuations came from the Department of Revenue; the difference could have come from the topography of the property.

Public Testimony

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

Jerry McGuire, 1300 Floweree, applicant; urged the Commission to approve the vacation without charging the proposed fee, as the prior land trade should be sufficient.

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

Discussion

Commissioner Cartwright commented the lots would be worth more in the future because they have been made into buildable lots. He indicated he would support charging the fee.

Commissioner Peura indicated he would not support charging the fee, as he believes the land exchange was a sufficient payment for the property.

Mayor Smith concurred with Commissioner Cartwright and stated he would support charging the fee.

Motion

Commissioner Peura moved approval of a resolution to vacate a portion of Donaldson Street ROW adjacent to Lot 12 of Block 75 of the Original Helena Townsite, in exchange for previously donated property. Commissioner Oitzinger seconded the motion. Motion failed 2-3. With Commissioners Cartwright, Throssell and Mayor Smith voting no.

Motion

Commissioner Cartwright moved approval of a resolution to vacate a portion of Donaldson Street ROW adjacent to Lot 12 of Block 75 of the Original Helena Townsite for the calculated fee of \$1000. Commissioner Throssell seconded the motion. Motion carried 3-2. With Commissioners Oitzinger and Peura voting no. **Resolution #19409**

B. CONSIDER A RESOLUTION VACATING ALLEY RIGHT-OF-WAY SITUATED WEST OF LOT 7 IN BLOCK 45 OF THE LENOX ADDITION.

Staff Report

City Engineer Ryan Leland reported when the Lenox Addition was created, the plat filed on May 13, 1890, showed a sliver of land running north and south, located between the western-most lots and the western boundary of the Lenox Addition. This sliver of land is 6.7 feet in width, 125 feet in length, and from the plat appears to have been intended to be half the width of an alley. The Corbin Addition, which is west of the Lenox Addition, was created subsequently by a plat filed on May 25, 1890. The Corbin Addition's eastern-most lots abut the west boundary of the Lenox Addition, and the plat of the Corbin Addition did not provide for additional right-of-way width to complete the Lenox Addition alley. Oliver G. Lundborg owned Lots 7 and 8 in Block 45 of the Lenox Addition and the east ½ of Lot 11 in Block 37 of the Corbin Addition. The 6.7-foot wide half-width alley is located between Lot 7 in the Lenox Addition and Lot 11 in the Corbin Addition. A house was constructed on the Lenox lots in 1956 and was addressed as 1722 Winne. A large addition was added to the home in 1987 on part of the Corbin lot. The Montana Department of Revenue assigned a separate property identification number to the half-width alley and has been assessing it for property taxes. Mr. Lundborg and his successors in title have paid ad valorem taxes and city assessments on the half-width alley as part of the lots comprising the 1722 Winne residence. Mr. Lundborg died recently and the current owners of the property desire to clear up

title to the half-width alley. In reviewing the 1890 plats, we believe the 6.7-foot wide sliver might have been intended to be dedicated as half of an alley. Because of its small width and the fact that it runs through the middle of the residential structure at 1722 Winne, the right-of-way has not and cannot be used for public access or placement of utility lines. It has no value to the public as right-of-way. For vacation of right-of-way, the City charges a transfer fee under §7-1-7(C), MCA, that is equal to the Department of Revenue area market value of the adjacent property.

Since the city has never recognized the right-of-way as such, and since property taxes have been paid on it, though it is exempt from taxation, it would be fair to waive the transfer fee set by §7-1-7(C) of the Helena City Code. As part of the vacation requirements, the applicants will have an amended plat prepared that incorporates the right-of-way into the adjacent lots. This will clean up the title defect for the 1722 Winne property and provide an accurate property description for future tax assessments.

Mr. Leland recommended approval of the alley vacation and noted this vacation will clean up the legal title and allow for the continued use of the alley right-of-way as a portion of the residential lots for the residence at 1722 Winne Avenue. The vacation of the right-of-way and waiver of fee maintains the status quo use and tax assessment of the property.

Public Testimony

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

Dave Jackson, 203 North Ewing, Attorney representing the applicant; spoke in support of the alley vacation.

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

Motion

Commissioner Throssell moved approval for a resolution to vacate the alley right-of-way situated west of Lot 7 in Block 45 of the Lenox Addition. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19410**

C. CONSIDER A RESOLUTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 213 ALONG THE STREETS AND AVENUES IN PARTS OF THE OVERLOOK ESTATES SUBDIVISION.

Staff Report

Administrative Services Director Magee reported a petition has been signed and filed by Norbert Waldenmeyer requesting a light district be created in the Overlook Estates subdivision. The City Commission passed a resolution of intention to create SLD No. 213 on August 14, 2006.

The proposed facilities will consist of 18 units, with underground wiring, fiberglass or metal poles for 14-foot mounting heights, and glass enclosed cut-off luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$9,418 with the estimated cost being \$.01263 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.

Director Magee recommended passage of the resolution and stated with the creation of Special Improvement Lighting District No. 213, 18 lights will be installed in the Overlook Estates Subdivision.

Commission comment

Commissioner Cartwright asked if the proposed fixtures would comply with the city's dark skies ordinance? Director Magee stated the fixtures in both SLD No. 213 and 214 would comply. Commissioner Cartwright reiterated his desire that Northwestern Energy change their selection of available light fixtures.

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 Oitzinger moved approval of the resolution to create Special Improvement Lighting District No. 213.

Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19411**

D. CONSIDER A RESOLUTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 214 ALONG THE STREETS AND AVENUES IN PARTS OF THE NORTHGATE MEADOWS SUBDIVISION.

Staff Report

Director Magee reported a petition has been signed and filed by Jerry Hamlin requesting a light district be created in the Northgate Meadows subdivision. The City Commission passed a resolution of intention to create SLD No. 214 on August 14, 2006.

The proposed facilities will consist of 24 units, with underground wiring, fiberglass or metal poles for 16-foot mounting heights, and glass enclosed cut-off luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$7,618 with the estimated cost being \$.00935 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.

Director Magee recommended passage of the resolution of intention as approval of the creation of Special Improvement Lighting District No. 214, will provide for 24 lights to be installed in the Northgate Meadows Subdivision.

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 Oitzinger moved approval of the resolution to create Special Improvement Lighting District No. 214.
Commissioner Peura seconded the motion. All voted aye, motion carried.
Resolution #19412

Public Communications

PUBLIC COMMUNICATIONS

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, September 20, 2006 and the next Commission Meeting is Monday, September 25, 2006. There will be a special Administrative Meeting regarding the Fire Service Review on Wednesday, September 27, 2006. Commissioner Cartwright announced on September 12, 2006 at 6:00p.m., a forum on growth in and around Helena would be held at Capital High School.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:47p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission