

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
February 26, 2007  
6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, February 26, 2007 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. Acting City Manager/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.

***Minutes***

The minutes of the regular City Commission meeting of February 12, 2007 were approved as submitted.

***Presentation***

**PRESENTATION:**

A. Confirmation of Firefighters Mike McDaniel and Matt Welch

Fire Chief Steve Larson introduced Firefighters Mike McDaniel and Matt Welch, who successfully completed their one-year probation. Chief Larson gave a brief history of Mr. McDaniel and Mr. Welch's achievements and training over the past year. Chief Larson recommended approval of Mr. McDaniel and Mr. Welch as firefighters for the Helena Fire Department.

Mr. McDaniel and Mr. Welch expressed their appreciation for being able to work for the City of Helena. The Commission thanked Mr. McDaniel and Mr. Welch for their desire to serve the citizens of Helena.

***Motion***

**Commissioner Oitzinger moved approval for the confirmation of Firefighters Mike McDaniel and Matt Welch.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

***Appointments***

**APPOINTMENTS:**

- A. Civic Center Board
- B. Fire Service Planning Committee

Mayor Smith asked for Commission concurrence on the following appointments:

**Civic Center Board** – Reappointment of Rita Cortright, Lana Anderson, Karen Seiler, Jeannie Pullin and Jennifer Wendt

**Fire Service Planning Committee** - Helena Fire Chief Steve Larson, Commissioner Sandy Oitzinger, County Commissioner Ed Tinsley, City Manager Tim Burton, County Manager Ron Alles, State of Montana Representative Marv Eicholtz, Fort Harrison Representative Dan Herrera, Helena Regional Airport Representative Ron Mercer, U.S. Forest Service Representative Bret Ruby, Local Executive Representative Rick Hays, Helena Fire Department's Union Local 448

Representative Cory O'Brian, Rural Fire Representative Bob Drake, Lewis & Clark County Sheriff Cheryl Liedle and St. Peter's Hospital Representative John Solheim

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

**Motion** **Commissioner Throssell moved approval of the above listed appointments to the Civic Center Board.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Comment Commissioner Throssell commended the members of the Civic Center Board for their hard work.

**Motion** **Commissioner Peura moved approval of the above listed appointments to the Fire Service Planning Committee.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Resolution declaring certain personal property to be abandoned and unclaimed (bicycles and miscellaneous abandoned property) **Resolution #19447**
- C. Amended plat incorporating closed and vacated portions of the Clore and Taylor Streets rights of way (approximately 1891 square feet more or less)
- D. Construction agreement with MDT for signal upgrade CM 5899(22)
- E. Resolution amending Resolution No. 19318 that established the Urban Wildlife Task Force **Resolution #19448**

Acting City Manager Nielsen 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 E on the consent agenda.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

***Communications***

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Oitzinger asked for an update on pothole repair. Public Works Director John Rundquist reported as soon as the ground thaws the street department will begin filling potholes, it is still too frozen at this time. He asked that the Commission let him know of any particularly dangerous potholes and staff will make them first priority. City Manager Burton joined the meeting at this time.

***Report of the City Attorney***

REPORT OF THE CITY ATTORNEY

City Attorney David Nielsen reported PMD Equity Corporation, owner of the Colwell Building, would like to file an amended plat for the building to establish condominium ownership and proceed with plans to revitalize this historic portion of the walking mall. The amended plat is needed because the Colwell Building and the apartment addition to the building are both on the same parcel. During the survey, it was

discovered that the Colwell Building slightly encroaches by 1.4 feet on city-owned property located east of Park Avenue. The city property is a parking lot managed by the Helena Parking Commission. The building encroachment is about 25 square feet and is east of the easterly parking lot curb. The encroachment consists of a portion of the brick façade of the Colwell Building and a gas meter for the building with its associated piping. To clean up the boundary description, PMD Equity is requesting a boundary line relocation that will add 56 square feet to the Colwell Building lot. This moves the western boundary of the Colwell Building to a point behind the parking lot curb. Thus, the Colwell Building would gain a small setback from the western boundary rather than having a zero lot line with no set back. The Montana Department of Revenue's appraised value for the Colwell lot is \$5.01 per square foot, so the value is \$280.56.

City Attorney Nielsen recommended selling to PMD Equity the small area comprising the encroachment and an additional vacant area, totaling 56 square feet, to resolve the title issues caused by the encroachment. PMD would be responsible for surveying and recording costs for this boundary line relocation, along with the calculated fee of \$280.56.

City Attorney Nielsen noted this sale would make the stairway to the Colwell Building on the west all Colwell Building property, thereby eliminating liability to the city for maintenance and the condition of the stairs. The property between the building and the city parking lot would be a small setback that would be the maintenance responsibility of the Colwell Building owner. There would be no adverse affect on the operation and maintenance of the parking lot. City Engineer Ryan Leland gave a detailed power point presentation of the proposal.

Public comment

Mayor Smith called for public comment.  
Gregory C. Beebee, Jackson, Murdo and Grant Law Firm, representing the applicant; spoke in support of the proposed relocation.

Motion

**Commissioner Peura moved approval for the relocation of a common boundary between Parcel 61 and Parcels 26-27 and transfer 56 square feet to PMD Corporation for a purchase price of \$280.56.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

***Report of the City Manager***

REPORT OF THE CITY MANAGER

City Manager Burton asked Administrative Services Director Tim Magee to report on a contingency fund expenditure for the Urban Wildlife Task Force. Director Magee referred to the \$12,500 placed in the contingency fund for the current years budget and stated it is ready to be placed in the budget and spent. There was Commission concurrence to process the budget amendment.

City Manager Burton updated the Commission on Senate Bill 339. Further discussion will be held at the March 7, 2007 Administrative Meeting.

Mayor Smith asked for an update on the lawsuit Jefferson County filed against the city. City Attorney Nielsen stated the city has filed a motion to dismiss the lawsuit and is awaiting the courts ruling on that motion.

City Manager Burton also reported the Environmental Protection Agency is working with the Department of Environmental Quality to set

up a meeting, including the City of Helena and Lewis & Clark County, to discuss TMDL issues. He noted this is the first time all of the agencies involved will meet at the same time.

**Report from the  
Helena Citizens  
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL  
No report was given.

**Records & Information  
Management Program**

CONSIDER FIRST PASSAGE OF AN ORDINANCE CREATING A RECORDS AND INFORMATION MANAGEMENT PROGRAM FOR THE CITY OF HELENA, AND ESTABLISHING THE DUTIES AND RESPONSIBILITIES OF CITY PERSONNEL WITH RESPECT TO CITY RECORDS.

Staff Report

City Clerk Debbie Havens reported the City of Helena does not have a Records Management Program at this time. The Records and Information Management Program Committee has worked with City Attorney Nielsen and a consultant to develop the proposed ordinance and program. This program would provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of state law.

City Clerk Havens recommended approval of the proposed ordinance and program, as it will allow for city staff to follow the Management Plan and Records Retention Schedules that will be developed for each city department.

Commission comment

Commissioner Throssell asked for further information on electronic records? Clerk Havens explained the Records Management Committee is recommending the city adopt the State of Montana's E-Mail Guidelines, which were included in the Commission packet for reference. Commissioner Throssell asked how electronic records will be retained and if there would be a problem with the city adopting the e-mail guidelines when the information and technology system is joint city and county? City Clerk Havens noted electronic records are retained in the same manner as paper documents. City Manager Burton stated discussions have been held regarding the policy with the Information & Technology Services (IT & S) Board. He anticipates once the county adopts a Records Management policy, the two policies would be integrated through the IT & S Department.

Commissioner Cartwright stated the media for storage of electronic records needs to be updated so it remains accessible in the future. He asked if the Montana Historical Society should be included in the review of records for their retention period? City Clerk Havens stated the State Records Retention Office and the Montana Historical Society have reviewed the proposed policy and recommend approval.

Public comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Oitzinger moved approval for first passage of an ordinance creating a Records and Information Management Program for the City of Helena and establishing the duties and responsibilities of city personnel with respect to city records.**

Commissioner Throssell seconded the motion. All voted aye, motion carried. **Ordinance #3077**

***Benton Ave Extension*** CONSIDER A CONTRACT FOR ENGINEERING SERVICES FOR CUSTER/BENTON INTERSECTION RECONSTRUCTION.

Staff Report

City Engineer Ryan Leland reported the Benton Avenue extension will create a north leg to the Custer/Benton intersection and complete the construction of Benton Avenue from Custer to the north end of the County Shops. The project will require a significant reconstruction of the Custer/Benton intersection for approach and turn lanes, pedestrian safety and traffic signals. As Custer Avenue is a state maintained urban route, plan approval for intersection improvements will be required by the Montana Department of Transportation (MDT).

To assist with the project, staff advertised for consultant services to assist with the intersection design. Six engineering firms submitted qualifications statements. The selection committee, including Commissioner Oitzinger, selected Stahly Engineering of Helena as the best qualified for the work. Staff, Stahly Engineering and MDT have met to establish an appropriate scope of services necessary to complete the design and to provide assistance during construction.

Mr. Leland recommended awarding the consultant services contract to Stahly Engineering for professional engineering services associated with the Custer/Benton intersection reconstruction. This contract will allow further progress toward completion of a high priority city street project.

Public comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Peura moved approval for a consultant services contract with Stahly Engineering of Helena for professional engineering services associated with the reconstruction of the Custer/Benton intersection in an amount not to exceed \$101,929.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

***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 IN REFERENCE TO PROPERTY LOCATED AT 440 SOUTH PARK AVENUE, FOR A ZONE CHANGE FROM PLI (PUBLIC LANDS AND INSTITUTIONS) TO R-O (RESIDENTIAL OFFICE) DISTRICT.

Staff Report

City Planner Kathy Macefield reported on February 13, 2007 the Helena Zoning Commission unanimously recommended approval (3:0 vote) for the adoption of an Ordinance for a zone change from PLI (Public Lands and Institutions) to a R-O (Residential-Office) District for Lot 24 and the adjacent portion of the Clore and Taylor Streets rights of way that were closed and vacated with Resolution No. 19429. This property is located in the Helena Historic District at the southern end of downtown. The property currently contains the parking lot for the existing Hair Hair Salon and Spa and a portion of the building. The applicants plan to use some of the existing building footprint for their business expansion.

Ms. Macefield recommended approval of the zone change and noted this proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, is a logical extension of the R-O District, and is compatible with the surrounding land uses.

**Public Testimony**

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

Joe Hrella, 615 Stuart; spoke in support of the zone change and thanked the Commission and staff for their work on the project.

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

**Motion**

**Commissioner Peura moved approval the adoption of an ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map for a zone change from PLI (Public Lands and Institutions) to a R-O (Residential-Office) District for property legally described in the ordinance.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.  
**Ordinance #3078**

**Public Communications**

**PUBLIC COMMUNICATIONS**

No communications were given.

**Meetings of Interest**

**MEETINGS OF INTEREST**

The next Administrative Meeting is Wednesday, March 7, 2007 and the next Commission Meeting is Monday, March 12, 2007. The City/County Joint Work Session will be held on Thursday, March 8, 2007.

Mayor Smith announced he and City Manager Burton would be out of state in Washington D.C. Wednesday, February 28, 2007 through Friday, March 2, 2007.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:05p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission