

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
March 12, 2007  
6:00 P.M.**

**Time & Place** A regular City Commission meeting was held on Monday, March 12, 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. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Matthew Cohn 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 26, 2007 were approved as submitted.

**Appointments** APPOINTMENTS:  
A. City/County Parks Board

Mayor Smith asked for Commission concurrence on the following appointment:

**City/County Parks Board** – Appointment of John Kotson

**Motion** **Commissioner Oitzinger moved approval of the appointment of Mr. John Kotson to the City/County Parks Board.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Utility Bill insert – Helena Citizen's Council  
C. Lease with Rocky Mountain Development Council for the Neighborhood Center  
D. Resolution declaring 44 radios to be surplus property and authorizing the disposal of that property **Resolution #19449**  
E. Resolution declaring pieces of equipment no longer used at the Tenmile Water Treatment Plant to be surplus property and authorizing the disposal of that property **Resolution #19450**  
F. Final passage of Ordinance No. 3077 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 **Ordinance #3077**  
G. Final passage of Ordinance No. 3078 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 **Ordinance #3078**

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 Throssell moved approval of items A through G on the consent agenda.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

A. Consider a resolution ordering placement of a referendum concerning withdrawal of troops from Iraq on the November 6, 2007 ballot

Commissioner Peura explained the group Helenans Support for Troops and Military Withdrawal contacted the Commission and asked them to place a referendum on the November 6, 2007 ballot regarding the ongoing situation in Iraq.

**Motion**

**Commissioner Peura moved approval for a resolution ordering placement of a referendum concerning the withdrawal of troops from Iraq on the November 6, 2007 ballot, and amend the resolution to delete the fifth whereas.** Commissioner Oitzinger seconded the motion.

Public comment

The following people spoke in support of the resolution: John Munding, 1414 Hauser Boulevard; Jonathan Matthews, 1633 Floweree Street; George McCauley, 926 5<sup>th</sup> Avenue; John Smart, 125 Humbolt Loop; John Forbes, 2526 Heritage Drive; Katie Knight, 707 Highland Street; Chip Clausen, 202 Pine Street; Rachel Carol-Larson, 406 North Ewing; Linda Hayes, 570 State Street; Steven Papanek, 1973 Dodge Drive; Bernadette Abbott, 312 North Howie; Becca Liephart, 519 1<sup>st</sup> Street; Will Boland, Helena; and Michael Willing, 570 State Street.

The following people spoke in opposition to the resolution: Tom Stockton, 1430 Boston Road; and Amy Orser, 1019 Middlemas Road.

Commission comment

Commissioner Cartwright indicated he would vote in support of the resolution. He stated he hoped the Commission could set some criteria for proposing any referendum, and noted he had circulated suggested language to the Commission members; however, based on feedback from the Commission, he will continue to work on the idea and offer it to the Commission at a later date. Commissioner Throssell stated he would vote in support of the resolution, as the people of Helena should have an opportunity to vote. He cautioned the Commission is establishing a precedent to put any citizen-initiated referendum on the ballot. Commissioner Throssell spoke of Article 2, section 2.01 of the Helena City Charter, which states all City Commission elections are non-partisan. The definition of non-partisan is not influenced by, affiliated with, or supporting any interests or policies of any one political party. Partisan is defined as a militant supporter of a party, cause, faction, person or idea. He stated as a non-partisan Commissioner, he does not have a position on this issue.

**Vote**

All voted aye, motion carried. **Resolution #19451**

Commissioner Cartwright referenced the Justice Department's report on the Patriot Act, which stated there have been numerous reports of abuses of the powers of the act, verging on illegal investigations of American citizens. He commended the Commission for passing the city's resolution against the Patriot Act.

Commissioner Oitzinger spoke in opposition to proposed cuts to the state Department of Corrections (DOC) budget. Mayor Smith concurred and explained some of the proposed cuts. Commissioner Oitzinger stated she would like to invite DOC Director Mike Ferriter and Boyd Andrew CEO Mike Rupert to report to the Commission on budget changes after the session.

**Report of the City Attorney**

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen stated he and City Manager Burton attended and testified at a hearing on Senate Bill 339 this morning.

**Report of the City Manager**

REPORT OF THE CITY MANAGER

No report was given.

**Report from the Helena Citizens Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Matt Cohn reported the HCC has been very busy and gave the following district update:

District 1 & 2 – the Rodney Street area will hold a historical neighborhood walk in May.

District 2 – there are concerns with parking overflowing from the Great Northern Area into the Jackson Street Neighborhood.

District 6 – the Midtown/6<sup>th</sup> Ward Area recently formed a non-profit association to work on the neighborhood revitalization; there are 49 members.

Mr. Cohn also reported on the VISTA application and future district meetings. Discussion was held on the Quality of Life Survey; a formal presentation will be made to the Commission at a future date.

**SLD No. 214**

RESOLUTION OF INTENTION AMENDING RESOLUTION NO. 19412 WHICH CREATED SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 214 ALONG THE STREETS AND AVENUES IN PARTS OF THE NORTHGATE MEADOWS SUBDIVISION TO INCLUDE PHASE II.

**Staff Report**

Accounting Supervisor Brandi Pierson reported on September 11, 2006, the City Commission passed Resolution No. 19412 which created Special Improvement Lighting District No. 214 in the Northgate Meadows Subdivision. A petition has been signed and filed by Jerry Hamlin requesting a light district be created in Phase II of the Northgate Meadows Subdivision. It appears to be in the best interest of the City of Helena and the affected property owners to amend Resolution No. 19412 to encompass Lots 1-89 in SLD No. 214.

The proposed facilities will consist of ten additional 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 \$3,160 with the estimated cost being \$.00943 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the city to establish a cash

reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Ms. Pierson recommended approval of the resolution of intention and noted ten lights would be installed in Phase II of the Northgate Meadows Subdivision. She asked the Commission to set a public hearing date for April 9, 2007.

Commission comment                    Commissioner Cartwright expressed his concern that street lighting districts are based on square footage whereas the cost of the lighting is actually a function of the linear feet of the street. He indicated he would like to review this funding formula in the future.

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

**Motion**                                    **Commissioner Peura moved approval of a resolution of intention amending Resolution No. 19412 to include Phase II in Special Improvement Lighting District No. 214 and set a public hearing date for April 9, 2007.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19452**

**SLD No. 215**                                RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 215 ALONG THE STREETS AND AVENUES IN PARTS OF THE SUSSEX PARK SUBDIVISION.

Staff Report                                Accounting Supervisor Brandi Pierson reported a petition has been signed and filed by Ron Bartsch requesting a light district be created in the Sussex Park Subdivision.

The proposed facilities will consist of nine units, with underground wiring, fiberglass or metal poles for 14-foot mounting heights, and glass enclosed acorn luminaries with 100-watt high-pressure sodium vapor lamps. The estimated cost of maintenance, electrical energy, and administration for the first year is \$5,014 with the estimated cost being \$.0171 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the city to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Ms. Pierson recommended approval of the resolution of intention to create SLD No. 215, as nine lights will be installed in the Sussex Park Subdivision. She asked the Commission to set a public hearing date for April 9, 2007.

Commission comment                    Commissioner Peura asked why this subdivision's cost per square foot is more expensive than SLD No. 214? Ms. Pierson explained the difference in cost is related to the price of the lights; SLD No. 214 used the least expensive light fixtures available.

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

**Motion**                                    **Commissioner Throssell moved approval of a resolution of intention to create Special Improvement Lighting District No. 215 and set a public hearing date for April 9, 2007.** Commissioner Peura

seconded the motion. All voted aye, motion carried. **Resolution #19453**

***Final Plat-Nob Hill Subdivision, Phase III*** FINAL PLAT FOR THE AMENDED PLAT OF LOTS 21A THROUGH 24A, BLOCK 13, OF THE NOB HILL SUBDIVISION, CREATING EIGHT LOTS FROM FOUR LOTS; PROPERTY IS GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SONOMA DRIVE AND NAPA DRIVE.

Staff Report

City Planner Lucy Morell-Gengler reported on September 25, 2006, the City Commission gave conditional preliminary plat approval for the Amended Plat of the Nob Hill Subdivision Phase III, Block 13, Lots 21A through 24A, Minor Subdivision. The approval of the preliminary plat was subject to the conditions stated in the findings of Fact; these conditions have been completed. For reference, a list of the original subdivision conditions and their status was included in the Commission packet. Ms. Morell-Gengler noted condition No.1 stated Sonoma Drive must be paved the entire width of the street and the entire length adjacent to the lots after the installation of individual water services to avoid causing weakness in the newly paved street. That condition is no longer applicable as the developer has submitted an agreement for shared service thus eliminating the need to cut into the new street.

Ms. Morell-Gengler recommended approval of the final plat for a minor subdivision creating four lots zoned R-O (Residential-Office) District. She noted approval of the final plat would allow for the sale of the lots; would encourage the development of property in this area; and would facilitate in-fill development and compliance with city regulations.

Commission comment

Commissioner Throssell asked why the condition referenced above was eliminated? Ms. Morell-Gengler explained because the street is new, cutting into it would reduce its integrity. Because of this, the applicant indicated they would share the line until there was a problem with it; at that point they will replace the line with two service lines.

Public comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Cartwright moved approval of the final plat for the Amended Plat of Lots 21A through 24A, Block 13, of the Nob Hill Subdivision crating eight lots from four lots.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

***Sections 6-2-6 & 6-3-4 of the City Code***

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 6-3-4 OF THE HELENA CITY CODE TO CLARIFY REQUIREMENTS FOR WASTEWATER MAIN EXTENSIONS AND LIFT STATIONS AND COST REBATE.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 6-2-6 OF THE HELENA CITY CODE TO CLARIFY REQUIREMENTS FOR WATER MAIN EXTENSION AND COST REBATE.

Staff Report

City Public Works Director John Rundquist reported Sections 6-2-6 and 6-3-4 of the Helena City Code define the conditions for

reimbursement of costs associated with extension of new water and wastewater facilities and rebates associated therewith. The current code sections evolved separately and although the intent of both is similar, the language difference between the two creates some confusion as to correct city policy. In addition, the requirements of these ordinances do not fully anticipate the range of facilities that could be reimbursed when benefited properties connect to city utilities. The proposed ordinance revisions would accomplish the follow:

1. Similar format, structure, and consistency between the two ordinances. For example, Section 6-3-4 specifically allows the city to obtain rebates for new wastewater facilities constructed and paid for by the city. However, Section 6-2-6 has no provision to allow this for water facilities.

2. Expand the rebate policy to include sewer force mains and interceptors and water reservoirs and pump stations.

3. Clarity, consistency, flexibility, and adaptability in water and sewer main extension requirements by the city. Every development should fit like a puzzle piece so that the water and sewer main requirements anticipate utility service expansion to adjacent properties on all sides. Presently, there are discrepancies and some vague wording in the existing ordinances relative to what the city may require for main extensions to serve new developments. Section 6-2-6 states that "the director of public works may require the public mains be connected, extended or looped in addition to the paid extension to provide an adequate and functional water supply". However, Section 6-3-4 states: "Beginning at the point where service is available, the main must be extended through the entire length of the property to be served". Neither of these requirements fully address the city's need for main extensions to serve new developments, especially relative to larger subdivisions that may have multiple streets, multiple points of connection, and a variety of options for future extensions to bordering properties.

Director Rundquist recommended approval of the proposed revisions to Helena City Code Sections 6-2-6 and 6-3-4 to clarify the process for water and wastewater facility extensions and the rebates associated therewith, as they would expand reimbursement potential to a variety of utility infrastructure and allow for a common format and structure to the "rebate ordinance" to assist with consistent code interpretations.

Commission comment

Commissioner Cartwright offered the following amendments to both proposed ordinances:

Page 4, Item C, 1. The applicant must establish eligibility for the rebate by applying for the rebate within one year after acceptance of the completed main extension, reservoir, or pump station.

Page 5, Item C, 5. The total cost of a project is the actual cost of construction, including engineering, testing, labor, materials, and administration fee, as provided by the applicant and verified by the public works department.

He also referred to page 3, Item B and asked if the portion referring to an overpayment refund should include language stating whether or not it would include interest?

Director Rundquist stated he had no recommendation on Commissioner Cartwright's discussion of whether or not to apply interest to refunds. If a refund needs to be paid to the applicant, it is staff's hope that the amount would be small enough to not warrant interest. Director Rundquist added he was agreeable to the two amendments proposed by Commissioner Cartwright.

Public comment

Mayor Smith asked for public comment; none was received.

Motions

**Commissioner Cartwright moved approval for first passage of an ordinance amending Section 6-3-4 of the Helena City Code, with amendments to Sections C.1 and C.5, and set a public hearing date of March 26, 2007.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance #3079**

**Commissioner Cartwright moved approval for first passage of an ordinance amending Section 6-2-6 of the Helena City Code, with amendments to Sections C.1 and C.5, and set a public hearing date of March 26, 2007.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance #3080**

***Public Communications***

PUBLIC COMMUNICATIONS

***Meetings of Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is March 21, 2007 and the next Commission Meeting is Monday, March 26, 2007.

Commissioner Peura reported the Downtown Visioning Partnership is approaching the culmination of its work and will hold a "wrap-up" meeting on Saturday, March 31, 2007 from 1:00 – 5:00 p.m. at the Chamber of Commerce Building. In April, the partnership will provide a report on its work to the City Commission.

City Manager Burton asked the Commission to consider attending another tour to view new developments and projects around the city in the spring. There was concurrence to schedule the tour.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:16p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission