

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 18, 2007
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 18, 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 Matt 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 June 4, 2007 were approved as submitted.

Proclamation

PROCLAMATION:

A. Summer Program for the Blind

Mr. Jerry Hutch introduced Kay Stevens, Executive Director of the Summer Program for the Blind and gave an overview of the program. Ms. Stevens invited the Commission to attend the program's open house on July 1, 2007 from 2:00p.m. to 4:00p.m. and introduced the program instructors and attendees in the audience. Mayor Smith read the Summer Program for the Blind proclamation and presented it to Ms. Stevens.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Utility Bill Insert - Lewis & Clark Humane Society
- C. Utility Bill Insert - Florence Crittenton Home Golf Shootout
- D. Construction agreement with MDT for the city-wide signal upgrade
- E. Amendment to engineering services contract with HDR Engineering for work on the Missouri River Treatment Plant
- F. Contract with Department of Environmental Quality to review water and sewer extensions within the City of Helena
- G. Second passage of ordinance No. 3087 amending City of Helena Ordinance No. 2359, amending the official zoning map thereof, and pre-zoning to a R-2 (Single-Family Residential) District for approximately .29 acres; generally located north of Knight Street and east of Joslyn Street with a property address of 1922 Knight Street **Ordinance #3087**

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

Commissioner Cartwright asked that item D be removed for further discussion.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Throssell moved approval of items A, B, C, E, F and G on the consent agenda. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Discussion

Commissioner Cartwright stated the signalization project will be very helpful to traffic problems around town and asked Public Works Director Rundquist to explain the project.

Director Rundquist reported the signal upgrade project for Helena will upgrade about 28 existing traffic signals. Some upgrades will consist of just replacing electronics but many will be a complete reconstruction including the poles that hold up the lights, the arms that carry the lights as well as new pedestrian push buttons and handicap ramps. Three signals will have countdown timers installed on a trial basis. There have been three previous agreements with the Montana Department of Transportation regarding the project: a cost sharing agreement, construction agreement and easements associated with moving some of the signal poles to city property. Commissioner Cartwright stated synchronization of the lights will help traffic flow more smoothly and the countdown timers let pedestrians know how much time is available to get across the intersection. Director Rundquist concurred. He added the signals are going to move from an underground wire system to a camera detection system. The signals will be radio controlled from a central control center to monitor traffic and adjust signal timing based on the volume and flow of traffic. Commissioner Oitzinger commented less cars idling at traffic lights is better for air quality and will save gas.

Motion

Commissioner Cartwright moved approval of item D on the consent agenda. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Cartwright reported the cross-town bike route is now signed. He stated the city and Helena School District received some "Safe Walks to School" funding from the Montana Department of Transportation. The School District plans to identify safe walking routes around schools and set up an education program; the city will construct a sidewalk along the south side of Vigilante Stadium.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen gave a report on the background and history of the Paul Reber Properties PUD, including a discussion of subdivision versus zoning. City Manager Burton added the developers have submitted preliminary sewer and water plans for the subdivision and plan on grading in the roads within the next week or two.

Commissioner Cartwright stated there are six undeveloped lots remaining in the subdivision; if the property owner desires to split those lots the property would come under subdivision review and the Commission, using the criteria set out in law, would decide whether it's allowable or not allowable. Attorney Nielsen stated that is correct. Commissioner Cartwright stated the Commission is not obligated to approve or disapprove on previous action, it must judge the subdivision on information presented at the time. Attorney Nielsen stated that is

correct. Commissioner Cartwright referred to a traffic study for the Reber PUD and stated when Costco and other large developments have come in and applied for a zone change, the city has requested and received traffic studies. Attorney Nielsen stated many times the professionals associated with developments will pro-actively offer a traffic study but in researching city code it was discovered there was nothing in the zoning that referred to requiring a traffic study, just the subdivision regulations. Commissioner Cartwright referred to the city's Engineering Standards, which call for a traffic study but the conditions aren't identified. Attorney Nielsen stated when he reviewed the standards it was his opinion they relate to how to do a traffic study and what components it should contain, not when one needs to be performed. Commissioner Cartwright asked for clarification the street locations in the subdivision cannot be reviewed by the Commission. City Attorney Nielsen concurred. Commissioner Cartwright asked if city standards for the width, composition and slope of the streets applicable? Attorney Nielsen stated some standards are applicable now and some are not; whatever the right-of-way width and slope standards were in 1978 will stand. The composition of the base, asphalt or surfacing material will be required at the current standards. Commissioner Cartwright asked if someone wanted to place a street down Acropolis and down to Cruse Avenue off Sparta, would that be allowable? Attorney Nielsen stated technically that is correct. Commissioner Cartwright asked if the building permit standards from 1978 would apply? Attorney Nielsen stated the standards at the time of construction apply. Commissioner Cartwright asked if current sewer and water infrastructure standards would apply? Attorney Nielsen stated yes, the standards applied exist at the time of installation.

Commissioner Peura asked if any attempt to develop more than one unit on any of the platted six lots would require review? Attorney Nielsen stated if there is one development per lot there would be no review. If you have multiple developments per lot it may or may not require review, it depends on what type of units are developed and whether it would trigger a subdivision. Commissioner Peura referred to Block 16 of the development, which on the final plat lists 33 multi-family homes are allowed; in order to build or convey the homes would that require further review by the Commission? Attorney Nielsen stated there are ways of legally conveying a title without triggering subdivision review. For example, if property has been subdivided in contemplation of condominiums, or if the property is zoned to allow condominiums, you can build condominiums and transfer title to those properties without further subdivision review. Commissioner Peura stated he thought the Subdivision Act expressly prohibited building of condominiums as sort of a back door way to subdivide a piece of property. Attorney Nielsen explained the Subdivision Act defines condominiums as being a subdivision, but it exempts condominiums from subdivision review if the underlying property has already been subdivided in contemplation it would have condominiums, or the underlying zoning allows for condominiums. Commissioner Peura stated given this was approved in 1980 and current city code requires action be taken within 36 months of final plat approval, wouldn't this make the development stale and necessary to further review? City Attorney Nielsen explained that regulation wouldn't apply because the developer has already received final plat approval. He commented that change to the regulations was fairly recent, and was done because of a history of subdivision with final plat approval and not constructed for 15 to 20 years. There was concern

that if there was no timeframe for construction there would be a subdivision establishing lots without installing sewer and water. Since that regulation was not in effect in 1980 it does not apply to the Reber PUD. He reiterated in 1980 property rights were established for the property such as the size of the lots, density, location of the roads and standards.

Commissioner Throssell asked how zoning relates to the PUD and the allocation of building types in the subdivision? Attorney Nielsen stated a PUD (Planned Unit Development) is a type of zoning classification under ordinance and was at that time. The zoning as far as the building heights, setbacks, density and uses in a PUD are established by the PUD's covenants with approval by the Commission. At that time the zoning, through the PUD and subdivision, are approved together and go hand in hand. In this instance, the PUD was approved by the Commission four months before the subdivision was.

**Report of the City
Manager**

REPORT OF THE CITY MANAGER

A. Closeout Report – Radio Water Meter Conversion Project

City Manager Burton invited Utility Maintenance Division Superintendent Kevin Hart to report on the meter contract and closeout report.

Superintendent Hart report there were 652 total meter replacements by they City; 397 new meters due to development and 8,793 meter conversions under contract for a total number of installed radio meters of 9,842.

The meter conversion process allowed the city to read all meters monthly beginning in June 2006 due to a combination of radio red meters and manual reading of routes by meter reading staff. Manual meter reading previously took from 15 to 18 working days to complete half the town, with an additional 4 to 5 days for recheck and error correction at the end of the billing cycle. The new radio reading system allows initial reads of the entire town in the span of 2 or 3 days, depending on cloud cover and another 3 to 4 days for any necessary rechecks and a few manual readings.

Two full-time staff members have been re-deployed from the meter reading duties to other functions with the Division, including duties in water distribution, sewer collection and storm water collection operations and maintenance. A supervisory position and the remaining meter staff position have seen expanded job duties in such areas as a backflow detection and prevention program, and a large meter testing and maintenance program is being developed.

Commercial accounts were the first accounts targeted for completion under the meter program and have been read monthly since fall of 2005 using the new radio reading system. Monthly billing for wastewater charges on commercial accounts was authorized by ordinance change and has been occurring based on monthly readings since July 2006. Revenue from the commercial sector, which had shown a declining revenue picture for several years, has shown a net positive increase as a result of these combined charges.

The city has seen some good outcomes from the metering program that in the area of utility billing and customer service. For example:

1. Billing issues related to bad estimates have been eliminated. This has allowed Utility Customer Service Division to focus more

attention on other anomalies during billing including zero consumption. Being able to review actual reading on all accounts on a monthly basis is expected to ease the process of determining appropriate charges during the annual review of residential sewer rates. Actual monthly readings will also provide for better tracking of consumption by customers and staff and allow more accurate determination of meter related problems bases on changes in consumption history.

2. Phone calls regarding bill questions have decreased; a direct benefit of having actual reads each month. Customers aren't experiencing the ups and downs in total charges that they use to. Now when a customer has an extremely high bill, it most often is the direct result of leaks or lawn watering. Having actual reads every month can assist customers in diagnosing a leak if they review their consumption each month.

3. Diagnostic capabilities have increased for problems related to leaks, with the leak indicator on the meter.

4. Decreases in work loads have allowed Utility Customer Service Division to spend time in other worthy areas including delinquency follow through, rental properties tenant changes, and sanitation and alarm audits.

Of the meters replaced to date, between 10 and 15% of them show differences between the inside reading (meter) and outside reading (remote). This problem is solved with the new water meters that read directly off the head so the radio and meter are always in sync. Historically, the inside reading was usually more, but since the water billing relied on the reading of the remote, a difference existing between the amount billed and the amount of water actually used. In the past, this difference was written off as a loss and the water fund didn't collect this revenue.

Based on a query of the billing system from January 2005, the date of implementation of the project test route through project completion in November 2006 the total amount written off due to mismatched meter readings is shown as \$296,269.36. This is the equivalent of 133,361 units or 96,009,920 gallons of water.

The meter conversion project was completed within the original contract time period of 545 days and at a cost savings of \$116,256.00 below the original contract amount. These savings will be enough to complete the conversion of the flat rate accounts to metered accounts.

There are a number of flat rates or un-metered customer accounts remaining to be metered (20 accounts with both water and sewer, 35 sewer only accounts, and 14 parks that are not metered). A remaining priority is to meter these accounts to bring them into compliance with city ordinance requiring metered water consumption. This final phase of the project will convert the entire city to radio-read meters.

The metering of flat rate accounts would reduce staff time to manually read those water meters and would eliminate flat rate accounts, which are an anomaly in the city's billing system, reducing Utility Customer Service time addressing these accounts. Installing meters would put all utility customers on par in terms of method used to calculate utility charges. The conversion of flat rate accounts will be ongoing over the next year. It is anticipated that these conversions will either be done by City crews, under a small contract or a combination of both as necessary to complete the work.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Member Matt Cohn reported on Sunday, June 10, 2007 the HCC organized a clean up effort on the Walking Mall. The city Parks & Recreation Department provided materials; Café Artemis and Rocky Mountain Credit Union provided beverages. Some of the projects completed were: park bench staining, the kiosk outside of Performance Park was painted, trimming of hedges and raking of the islands. Another city-wide cleanup day will be held Sunday, September 23, 2007.

Mr. Cohn noted the HCC would meet with the Great Falls Neighborhood Council Coordinator on Wednesday, June 20, 2007 to discuss how the Great Falls council operates.

**Dept. of Commerce
Big Sky Economic
Development Trust
Fund**

CONSIDER SUBMITTAL OF A MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSEDTF) GRANT APPLICATION ON BEHALF OF PHD MECHANICAL SYSTEMS, INC AND AUTHORIZE THE CITY MANAGER TO SIGN ALL APPROPRIATE DOCUMENTS ON BEHALF OF THE CITY.

Staff Report

Community Development Director Sharon Haugen reported PhD Mechanical System, Inc is a highly successful, fast growing heating and cooling contractor. The company launched in 2002 and has grown to over \$2.0 million in revenues in the three ensuing years. PhD Mechanical System, Inc. is a full service mechanical contracting company serving residential, commercial and industrial clients. They focus on a diverse scope of work in the mechanical arena, from heating piping, sheet-metal work, industrial/process piping, refrigeration, climate control, process control, and fireplace (hearth) design, installation, and sales. PhD likes to perform work that is difficult to other contractors, as they have a well-developed pool of craftsmen trained in many trades. They currently have a total of 44 employees.

PhD Mechanical, working with Montana Business Assistance Connection (MBAC), is requesting that the City of Helena sponsor a BSEDTF grant application in the amount of \$75,000. The purpose of the grant would be to assist in financing working capital for training and equipment for the expansion of PhD. The BSEDTF grant will be matched by equity and operating capital generated by PhD, Inc. PhD will be hiring an additional 10 employees over the next 6 to 12 months paying an average wage, exclusive of benefits of \$15.75 per hour. A total of 15 employees are expected to be hired in the next two years.

The City of Helena's Growth Policy encourages the City to promote the maintenance and expansion of existing Helena area businesses. It also encourages the development of resources and incentives to help t accomplish that goal. The PhD Big Sky Trust Fund application would help accomplish both of these goals.

Community Development Director Haugen recommended approval of a motion authorizing the City of Helena to apply for a Montana Department of Commerce Big Sky Economic Development Trust Fund Grant to assist the PhD Mechanical, Inc.

Commission comments

Commissioner Cartwright asked if there are other businesses that applied for this grant sponsorship? Director Haugen explained there is no limit on the amount of businesses that can apply and noted this is the only business under consideration by the city at this time.

Public Comment Mayor Smith asked for public comment.
Sheli Jacoby, MBAC, 225 Cruse Avenue; gave an overview of the BSEDTF grant program and PhD Mechanical's services.
Sheldon Bartel, MBAC Executive Director, 225 Cruse Avenue; urged the Commission to support the grant application.

Discussion Discussion was held on PhD Mechanical's ability to manufacture and perform spiral ducting work, which is a specialized service and they are one of only two businesses in Montana that provide that service.

Motion Commissioner Peura moved approval authorizing the City of Helena to apply for a Montana Department of Commerce Big Sky Economic Development Trust Fund Grant to assist the PhD Mechanical, Inc. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Curb Cut Variance CONSIDER A CURB CUT VARIANCE FOR 1045 MENDOCINO DRIVE

Staff Report City Engineer Ryan Leland reported the property at 1045 Mendocino Drive currently is a vacant, undeveloped lot. The owner of the property would like to develop a single-family residence with a three-car garage, and is requesting a 36-foot curb cut on to Mendocino Drive to that each space in the garage can have a direct line to the street. The ordinance for R-2 zoning only allows a 24-foot curb cut.

Allowing a wider curb could have a potential for increased conflicts with on-street traffic when exiting the property, and will decrease the area for landscaping on the boulevard.

City Engineer Ryan Leland had no recommendation for the commission.

Commission comment Commissioner Peura asked for the reasoning to limit the curb cut for a driveway to 24 feet? Mr. Leland explained there are some aesthetic reasons; you don't want half a lot under pavement. Another reason is multiple curb cuts can cause potential conflicts between vehicles.

Commissioner Cartwright noted the paved alley behind the residence.

Public Comment Mayor Smith asked for public comment.
Mike Spaulding, 10 Meadowgrass Road, Clancy, applicant; urged the Commission to approve the variance. He noted the concrete for the driveway has already been poured as he has jurisdiction to do that as the property owner. He added the variance would be very helpful, as he would utilize the extra width to assist him in parking his boat.

Motion Commissioner Oitzinger moved to approve a curb cut variance for the property at 1045 Mendocino Drive. Commissioner Throssell seconded the motion.

Commissioner Cartwright stated he is uncomfortable with granting a variance for a 36-foot driveway when there is a paved alley in the back of the property that would allow access with a different housing configuration. Also, he is concerned that the applicant poured the concrete before applying for the variance and indicated he would not support the motion.

Commissioner Oitzinger referred to one of the applicant's reasons for the variance, to create a pitch in the driveway, and asked for more information. Mr. Leland stated there is a ridge in the driveway and the applicant needs to make a crown to run stormwater off the lot in both directions. Commissioner Oitzinger commented the applicant's letter states the pitch will work more efficiently in a 36-foot driveway, and indicated she would support the variance request.

Commissioner Throssell indicated he would not support the motion, as he believes the Commission can't approve one variance and not approve further requests. He is concerned about what granting it would do to the neighborhood and boulevard.

Commissioner Peura concurred with Commissioner Throssell and indicated he would not support the variance; most of the homes in the neighborhood have three car garages and if the Commission approves one, how can they not approve them all. He added there are compelling public policy reasons to require the 24-foot curb cut.

Vote

Motion failed 1-4 with Mayor Smith and Commissioners Throssell, Cartwright and Peura voting no.

PUBLIC HEARING

Public Hearing:

- A. CONSIDER A RESOLUTION SETTING FEES CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION FOR FISCAL YEAR 2008.

Staff Report

Assistant Public Works Director Phil Hauck reported the city commission passes a resolution annually establishing charges for the Transfer Station. The Public Works Department is recommending a Transfer Station fee increase not to exceed \$3.00 per ton for fiscal year 2008. The last time the tipping fee was adjusted was a decrease of \$.75 in 2005. The entities that pay the fee are the city's residential and commercial funds, the City of East Helena and direct transfer station customers.

Assistant Director Hauck recommended approval of the resolution, as passage will allow the department to cover the costs of operation at the Transfer Station enterprise for fiscal year 2008.

Commission comment

Commissioner Throssell stated when a city truck pulls into the transfer station full from doing its route then is that the tipping fee for that truck? Assistant Director Hauck stated that is correct, every truck is weighed going in and out of the station and that weight is charged to the city's commercial or residential account. Commissioner Throssell asked if there is any way that tipping fee ties back to the amount of solid waste that an individual resident along that route contributes to the load? Assistant Director Hauck stated no, there is a measurement of the route but not individual contributions. Commissioner Throssell asked if an individual hauling their waste to the station pays the same tipping charge as the city? Assistant Director Hauck stated yes.

Commissioner Cartwright asked if there is a variation on commercial fees based on the size of the dumpster? Assistant Director Hauck stated yes, there is a commercial matrix and the business owner can choose the size of container and frequency of pickup. Commissioner Cartwright stated since you can track each truck, would it be possible to examine if different neighborhoods generated different amounts of waste? Assistant Director Hauck stated that would be

possible, in the FY2008 budget the Public Works Department is trying to get more precise by using GPS to collect information on routes.

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 a resolution setting fees charged for disposal of garbage and refuse at the City of Helena Transfer Station for Fiscal Year 2008. Commissioner Peura seconded the motion.

Comment

Commissioner Throssell recommended the city begin charging everyone for their certain waste so citizens get an understanding of what they are paying to throw away.

Vote

All voted aye, motion carried. **Resolution #19478**

Public Communications

PUBLIC COMMUNICATIONS

No communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is June 27, 2007 and the next Commission Meeting is July 2, 2007.

Commissioner Peura announced the Downtown Visioning Partnership will continue working on a community branding process the week of June 25, 2007; Destination Development, staff and Roger Brooks will in town and holding meetings to collecting public input.

City Manager Burton noted his performance appraisal will be held Monday, June 25, 2007 at noon.

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