

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
June 16, 2008 - 6:00 P.M.**

- Time & Place** A regular City Commission meeting was held on Monday, June 16, 2008 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 Elsaesser were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Brian Olsen 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 2, 2008 were approved as submitted.
- Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Audit services contract for fiscal years 2008 and 2009 with the option to renew for an additional two years  
C. State of Montana Transit Service Memorandum of Understanding  
D. Memorandum of Understanding for East Valley Bus Service  
E. Rocky Mountain Development Council Head Start Bus Service Memorandum of Understanding  
F. Trolley System Memorandum of Understanding
- City Manager Tim Burton recommended approval of the claims and the consent agenda.
- Commission comment Commissioner Cartwright requested item C be removed for discussion.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** Commissioner Cartwright moved approval of items A, B, D, E and F on the consent agenda. Commissioner Peura seconded the motion. All voted aye, motion carried.
- Item C** C. State of Montana Transit Service Memorandum of Understanding (MOU)
- Discussion Commissioner Cartwright gave an overview of the MOU and he and Commissioner Peura spoke in support of its approval. Mayor Smith concurred with Commissioner Cartwright and Peura's comments.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** Commissioner Cartwright moved approval of item C on the consent agenda moved to authorize the City Manager to sign the MOU with the State of Montana for improved transit services for

**state employees.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Bid Award**

BID AWARD:

- A. Purchase and installation of solar aerators for algae control at Chessman Reservoir

**Staff Report**

Water/Wastewater Superintendent Don Clark reported the city has historically applied Copper Sulfate to water stored in Chessman Reservoir to control the growth of nuisance algae that can cause taste and odor problems in the treated water delivered to town. Staff currently applies about 10,000 pounds of Copper Sulfate into the reservoir each summer. Because Copper Sulfate is a herbicide, we are required to apply to MDEQ for a "Short-term Exemption From Surface Water Quality Standards for Emergency Remediation/Pesticide Application". This requires paying an annual fee, providing a licensed applicator and following applicable regulations regarding the handling and application. In addition to the regulatory issues, copper sulfate is becoming increasingly expensive to purchase in bulk. Solar aerator technology is fast becoming an established alternative for algae control. City staff has researched this new technology and the companies that build the aerators and believe that the Chessman Reservoir algae problem may be substantially reduced by installation of the solar aerators. This may entirely eliminate the need for copper sulfate applications.

Two bids were received for solar aerators on May 29, 2008. The low bid proposal was received from Pond Doctor, Inc. in the amount of \$89,700. The FY08 budget for this project is \$90,000.

The advantages are operation and maintenance costs for the aerators are expected to be very low as they run remotely and use photovoltaic cells and batteries for energy. Copper Sulfate cost \$18,700.00 last year and the prices continue to rise rapidly with this chemical. Using the solar aerators will be better for water quality as they do not add hazardous chemicals like Copper Sulfate and provide only aeration and circulation of water to control algae blooms.

Superintendent Clark recommended awarding a contract for purchase and installation of three solar aerators to the lowest responsible bidder, Pond Doctor, Inc. in the amount of \$89,700.

**Commission Comment**

Commissioners Cartwright, Peura and Elsaesser spoke in support of the bid award and commended Water/Wastewater Department staff for continually looking for new technology.

**Public Comment**

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Peura moved approval to award a contract for purchase and installation of three solar aerators to the lowest responsible bidder, Pond Doctor, Inc. in the amount of \$89,700.**

Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

- B. Benton & Custer intersection reconstruction and Benton Avenue extension, Project Nos. 06-37 and 07-10 (contingent upon approval of the FY09 budget)

## Staff Report

City Engineer Ryan Leland reported the Benton Extension Project consists of the reconstruction of the Benton/Custer Intersection, the connection of Benton Avenue from Northgate Meadows to Custer Avenue, a bike path from the north end of Crystal Springs to the Custer intersection, and the widening of Benton Avenue between the County shops and Crystal Springs Subdivision. The portion of Benton Avenue next to the County shops was required to be constructed to half width by the developers of Crystal Springs Subdivision.

The project was advertised on May 11<sup>th</sup> and 18<sup>th</sup>, and 25<sup>th</sup> and bids were opened on June 10<sup>th</sup>. Two bids were received and included the Base Bid, which included the Benton/Custer intersection and connection to Northgate Meadows Subdivision, and additive alternate 1, which includes the Benton widening next to the County Shop and the bike path from Crystal Springs.

Staff is bringing the bid award forward prior to the FY09 budget adoption in order to save three weeks of construction time. This will benefit city residents by allowing more time for the Benton/Custer Intersection to be constructed prior to the Stampede & Fair and the beginning of the school year.

Engineer Leland recommended awarding the base bid and alternate #1 to the lowest responsible bidder, Helena Sand & Gravel in the amount of \$988,988.

City Manager Burton requested the Commission allow the project to proceed with an early release of FY 2009 funding.

## Public Comment

Mayor Smith called for public comment; none was received.

## Motion

**Commissioner Oitzinger moved to award the bid to Helena Sand & Gravel in the amount of \$988,988 for the Custer/Benton intersection and the widening of Benton Avenue, authorizing early release of budgeted FY 2009 funding for the project.** Commissioner Peura seconded the motion. All voted aye, motion carried.

C. Green waste / Bio-solids

## Staff Report

Assistant Public Works Director Phil Hauck reported the city currently has a contract with Western Reclamation to accept lawn waste and bio-solids in order to divert the material from the landfill for beneficial reuse (compost). Western Reclamation has been successfully providing these services to the City of Helena since November 2006 when they took over the operation from Big Butte Compost. The contract was put out to bid and bids were opened on May 20, 2008. Ueland Western Reclamation submitted the only bid and a satisfactory price was negotiated with the sole bidder.

Assistant Director Hauck proposed awarding the Bio-solids & Green Waste Contract to Ueland Western reclamation for the negotiated price of \$22.00 per ton for bio-solids and \$10.00 per ton for green waste. The current contract price is \$20.00 per ton for bio-solids and \$20.00 per ton for green waste. Using estimated volumes and the fact that the city will be responsible for chipping the branches, it is estimated that there will be no additional cost to the Recycling Division with the proposed bid. The estimated annual program cost is \$72,340 and this cost is budgeted in the Recycling Division and included in the proposed FY09 budget.

**Commission Comment** Commissioner Peura noted the Commission spent a fair amount of time this past year looking at this program; staff is doing a great job monitoring it and there are many environmental benefits.

**Public Comment** Mayor Smith called for any public comment; none was received.

**Motion** **Commissioner Peura moved approval of the bid from Ueland Western Reclamation, Inc. to accept waste and bio-solids for beneficial reuse for the negotiated price of \$22.00 per ton for bio-solids and \$10.00 per ton for green waste.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

***Communications***

**COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS**

Commissioner Elsaesser reported the plastics recycling drive will be held July 4-8, 2008 in the YMCA parking lot. The next electronics waste recycling drive will be in early September.

Commissioner Peura congratulated and thanked Blue Cross/Blue Shield of Montana on the successful Governor's Cup event.

Commissioner Cartwright reported another 23 trees were planted in the Walnut Street neighborhood over the weekend for a total of over 60 new trees in the area. The trees were planted by the neighborhood with help from Growing Friends.

Commissioner Cartwright expressed concern that Yellowstone Pipeline has been cutting down mature trees in Helena for aerial surveillance of their pipeline. He urged them to provide replacement trees and stated it is disheartening to see them take down the trees for reasons that are legal but unclear. Manager Burton explained adjacent property owners were contacted about the tree work but his office was not. He noted the pipeline has an easement and it is legal for them to do the work they are doing but it should've been approached in a better way.

***Report of the City Attorney***

**REPORT OF THE CITY ATTORNEY**

No report was given.

***Report of the City Manager***

**REPORT OF THE CITY MANAGER**

Manager Burton spoke of the proposal to move the USS Helena artifacts from Pioneer Park to the Military Museum. He noted the Parks Board concurred with the proposal to move the anchor and propeller to the museum. Manager Burton recommended setting a public hearing to discuss the proposal and solicit comments from the public, then to move forward by contacting the US Navy to work out an agreement. There was Commission concurrence set a public hearing date to the call of the City Manager. Mayor Smith noted the Commission tentatively allocated \$10,000 in the FY 2009 budget to place some sort of replacement in the area of the anchor and propellar.

City Manager Burton asked Community Development Director Sharon Haugen to report on a grant the city recently received. Director Haugen reported earlier in the spring the city applied for a Community Development Block Grant (CDBG)- Planning Grant for the Center for Mental Health for a crisis stabilization shelter. The grant was for \$15,000; the city was successful in securing the grant. The next step will be to work with the Center for Mental Health to solicit Request for Proposals for architectural services.

**Report from the  
Helena Citizens**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Brian Olson updated the Commission on the neighborhood response to the development of Beltview Park.

**Mount Helena Trail**

CONSIDER A NAME FOR THE NEW MOUNT HELENA TRAIL OFF OF  
LEGRANDE CANNON BOULDEVARD

Staff Report

Natural Resource Coordinator Keldah Hedstrom reported Prickly Pear Land Trust proposed to HOLMAC to name the new Mount Helena trail off of LeGrande Cannon Boulevard that connects to the Ambrose Trail (a trail completed during the 2007 work plan) after a local Helena resident Mike Cormier. On January 8, 2008, HOLMAC moved to approve the naming of the new Mount Helena trail the "Cormier Trail".

Ms. Hedstrom concurred with the recommendation to name the new Mount Helena Trail the "Cormier Trail".

Prickly Pear Land Trust Director Andy Bauer spoke in support of the proposed name.

Public Comment

Mayor Smith called for public comment. The following persons spoke in support of the proposed name: Shannon Heath, Mike Roberts and Greg Morris.

**Motion**

**Commissioner Cartwright moved approval to name the new Mount Helena trail off of LeGrande Cannon Boulevard the "Cormier Trail".** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

**Alternative Project  
Delivery Contract**

CONSIDER ADOPTION OF DETAILED WRITTEN FINDING FOR  
ALTERNATIVE PROJECT DELIVERY CONTRACT

Staff Report

Community Facilities Director Gery Carpenter report the city will be building the 15<sup>th</sup> Street Parking Structure on the same site and within 20-feet of the Board of Investments State Fund Building. The technical complexities of building two buildings in such close proximity, one a 360-stall parking structure, the other a 100,000 square foot office building, will be substantial. The current process of awarding projects of this magnitude and complexity to the lowest bidder without any other consideration may not be in the City of Helena's best interest.

Staff provided a detailed written finding to the City Commission demonstrating the requirements of §18-2-503, MCA, have been met to enable the City of Helena to proceed with the alternative project delivery contract method. This includes a RFQ followed by a RFP, with a selection process to follow with the final step being the awarding of a general contractor construction management contract to the successful respondent.

Staff desires to award the construction contract for the 15<sup>th</sup> Street Parking Structure based on criteria that would include background, special capabilities, specific experience, proposed project team, methodology for cost estimating, value engineering, planning and scheduling of construction work, ability to manage construction projects in a confined project site, project communication, project safety and ability to minimize significant technical complexities during construction.

Director Carpenter recommended adoption of the detailed written finding demonstrating that an alternative project delivery contract meets the requirement of §18-2-502(2), MCA.

Manager Burton spoke in support of the alternative project delivery contract for the subject project and noted if this process is allowed this time, staff is not planning to ask for Commission consideration to do it on numerous other projects.

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

Commission comment Commissioner Peura noted the Business Improvement District/Helena Parking Commission is very supportive of the proposed concept.

**Motion** Commissioner Peura moved to adopt the detailed written finding demonstrating that an alternative project delivery contract meets the requirement of §18-2-502(2), MCA. Commissioner Oitzinger seconded the motion. All voted aye, motion carried

**Willows Townhouses** CONSIDER THE FINAL PLAT FOR THE WILLOWS TOWNHOUSES MAJOR SUBDIVISION CREATING 32 RESIDENTIAL LOTS AND ONE LOT FOR STORMWATER DETENTION FROM PROPERTY GENERALLY LOCATED EAST OF MCHUGH LANE AND NORTH OF ROAD RUNNER DRIVE.

Staff Report City Planner Lucy Morell-Gengler reported on August 7, 2007, the City Commission gave conditional preliminary plat approval for The Willows Townhouses major subdivision creating 32 lots and one lot for stormwater detention located in a R-O (Residential Office) District for approximately 4.66 acres. The plat also includes the dedication of 60-foot wide Sand Piper Loop right-of-way.

Approval of the preliminary plat was subject to the conditions stated in the Findings of Fact, which have been completed. For reference, a list of the original subdivision conditions and their status was attached to the transmittal memo.

The applicant is requesting approval of a major subdivision/final plat creating 32 townhouse lots and a stormwater detention lot on Lots 1 and 2 of Block 9 of the Skelton Second Addition.

Ms. Morell-Gengler recommended approval of the final plat for The Willows Townhouses major subdivision creating 32 lots and one lot for stormwater detention, and to accept the dedication to the City of Helena of property for public improvements designated thereon.

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

**Motion** Commissioner Elsaesser moved approval of the final plat for The Willows Townhouses major subdivision creating 32 lots and one lot for stormwater detention, and to accept the dedication to the City of property for public improvement designated thereon.

Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Social Host Ordinance** CONSIDER FIRST PASSAGE OF A "SOCIAL HOST ORDINANCE" THAT REQUIRES NOTIFICATION OF LAW ENFORCEMENT OF UNDERAGE DRINKING

Staff Report City Attorney David Nielsen reported Youth Connections has identified a problem in the community with underage consumption of

alcoholic beverages. The problems associated with underage drinking, as found by Youth Connections, were generally described on "Exhibit A" in the Commission packet. Studies show that underage drinkers are provided illegal access to alcohol in private homes particularly and this is leading to excessive and dangerous drinking. Property owners and landlords are allowing underage youth to gather on their property to illegally drink alcoholic beverages. These adults are not being held responsible for this illegal drinking on their property. Allowing use of property for illegal underage drinking is not fully covered by the criminal offenses of endangering the welfare of children under §45-5-622, MCA, or furnishing alcoholic beverages to underage persons under §16-6-305, MCA.

The proposal is to amend the Helena City Code by making it a municipal infraction for property owners and landlords who fail to notify law enforcement of underage drinking knowingly occurring on their property. This infraction would make an adult accountable for illegal underage drinking that occurs on the adult's premises with the adult's knowledge, even though the adult did not provide the alcoholic beverage or did not otherwise aid and abet the illegal drinking. This ordinance creates an affirmative duty to notify law enforcement when a person knows that a gathering is taking place on the person's premises and that underage persons are either consuming or in possession of alcoholic beverages.

The objective is to make changes to the City Code to make property owners and landlords responsible when they knowingly allow the consumption of alcohol by underage minors on their property and fail to report the activity.

Attorney Nielsen recommended first passage of the Social Host Ordinance that requires a person who knows of illegal consumption or possession of alcoholic beverages by underage minors that is occurring on that person's premises to notify law enforcement of the illegal activity.

Commission Comment

Commissioner Peura referred to the following language in the penalty section, "any person who fails to comply with the requirements of this chapter upon conviction thereof may be fined not more than \$300" and asked why the word may was used? Attorney Nielsen explained in legislative drafting, when the sentence is discretionary upon the court as to what the sentence would be, the term may is used, which means the court has that limit. Discussion was held on codification corrections to Section 5-14-3; Attorney Nielsen indicated he would make the editing correction.

Public Comment

Mayor Smith called for public comment. The following persons spoke in support of the ordinance: Melanie Reynolds, Health Officer and Health Department Director for Lewis & Clark County; Mike Franklin, Youth Connections; and Kris Minard, Youth Connections.

Motion

**Commissioner Oitzinger moved approval for first passage of the Social Host Ordinance that requires a person who knows of illegal consumption or possession of alcoholic beverages by underage minors that is occurring on that person's premises to notify law enforcement of the illegal activity and set a public hearing date to the call of the City Manager.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance #3099**

**Public Hearings**

PUBLIC HEARING:

- A. CONSIDER A RESOLUTION TO SET FEES CHARGED BY THE TRANSFER STATION FOR DISPOSAL OF GARBAGE AND REFUSE IN THE CITY OF HELENA FOR FISCAL YEAR 2009.

Staff Report

Administrative Services Director Tim Magee reported the City Commission passes a resolution annually establishing charges for the Transfer Station. The Public Works Department is recommended a Transfer Station fee increase not to exceed \$2.15 per ton for fiscal year 2009.

The passage of the resolution will allow the department to cover the costs of operation at the Transfer Station enterprise for FY09.

Director Magee recommended approval of the resolution to set fees charged for disposal of garbage and refuse at the City of Helena Transfer Station for FY09.

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.

Commission Comment

Commissioner Peura indicated he would support the resolution and noted recycling has been broken out as a separate and distinguished part of the garbage disposal fees.

Motion

**Commissioner Peura moved approval of a resolution to set fees charged for disposal of garbage and refuse at the City of Helena Transfer Station for FY 2009.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19566**

**Public Communications**

PUBLIC COMMUNICATIONS

No communications were given.

**Meetings of Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is Monday, June 30, 2008 and the next Commission Meeting is Monday, July 7, 2008. There will be a meeting regarding revisions to the city's Growth Policy on Thursday, June 19, 2008.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:25p.m.

\_\_\_\_\_  
Mayor James E. Smith

ATTEST:

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Clerk of the Commission

