

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**December 1, 2008**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, December 1, 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, Peura, and Elsaesser were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Winston Greely 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 November 17, 2008 were approved as submitted.

***Appointments***

APPOINTMENTS:

- A. Board of Adjustment
- B. Building Board of Appeals
- C. BID/HPC
- D. Helena International Affairs Council

Mayor Smith asked for Commission concurrence on the following appointments:

**Board of Adjustment-** Appointment of Michele Peterson – unexpired term will begin upon appointment and expire October 1, 2011.

**Building Board of Appeals-** Appointment of Architect/Engineer Alternate – Stephanie Brandenberger – term will begin upon appointment and expire December 31, 2013. Appointment of Contractor Alternate – Andy Tocke – term will begin upon appointment and expire December 31, 2013. Appointment of Consumer/Citizen – Anna Lindstrand – unexpired term will begin upon appointment and expire December 31, 2012.

**BID/HPC-** Appointment of Bill Crane and Tim Meldrum - terms will begin upon appointment and expire October 31, 2012.

**Helena International Affairs Council-** Ersun Ozer – unexpired term will begin upon appointment and expire October 28, 2009. Appointment of Doreen Vivian Kutufam (Carroll College Representative) – unexpired term will begin upon appointment and expire October 28, 2010.

**Public comment**

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Peura moved approval of the appointments to the Board of Adjustment, Building Board of Appeals, BID/HPC and Helena International Affairs Council as outlined above.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Consent Agenda**

CONSENT AGENDA:

- A. Claims
- B. Utility Insert - Sidewalk Snow Removal

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 Cartwright moved approval of items A and B on the consent agenda.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

- A. Helena International Affairs Council (HIAC) Annual Report

HIAC Member Gabe Furshong and Shahid Hauque-Hausreth presented the 2008 Helena International Affairs Council report to the Commission. A copy of the report is included in the Commission packet as part of the official record.

On behalf of the entire commission, Mayor Smith thanked Mr. Furshong and Mr. Hauque-Hausreth for the report and the work that HIAC does throughout the year. Commissioner Cartwright thanked the HIAC for their work to improve their website and encouraged the council to recruit a State of Montana employee to fill its vacant seat. Commissioner Peura referred Mr. Hauque-Hausreth to a proposed resolution from the Board of Health regarding the potential to create discussions on universal healthcare.

**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. South Hills Fire Prescriptions

City Manager Burton referred the Commission to a memo outlining several questions raised about the amended prescriptions. This memo is included in the Commission packet as part of the official record. The following items were confirmed: an Environmental Assessment was completed and the project is now undergoing a supplemental review by FEMA due to the revised prescriptions, and public comment about the project was solicited. A detailed definition of the proposed mechanical treatment was also given. Manager Burton noted City Attorney Nielsen determined a new motion revising the prescriptions was not necessary; however, two clarifying motions were provided for the Commission's consideration.

Commissioner Cartwright indicated he would support the clarifying motions. He reiterated, in the future, he would like a written report from the Helena Open Lands Management Advisory Committee (HOLMAC) on these kinds of issues. Commissioner Elsaesser spoke in support of the supplemental motions and clarified if approved they would amend the prescriptions for Lime Kiln and Bompert Hill but not award a bid for the work. City Manager Burton concurred. Commissioner Peura concurred with Commissioner Cartwright's comments. Manager Burton assured the Commission they would be provided with written statements by HOLMAC in the future.

**Motions**

**Commissioner Elsaesser moved to award fuel reduction contracts for the following projects: Nob Hill, Easy Rider Trail, and Entertainment Trail, using the prescription that was analyzed in the EA.**

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

**Commissioner Cartwright moved approval to work with FEMA on a supplemental analysis for changing the silvicultural prescriptions for the Lime Kiln and Bompert Hill Projects.**

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

City Manager Burton asked Public Works Director John Rundquist to report on a recent problem with someone dumping chromium into the city's wastewater system. Director Rundquist gave a detailed overview of the situation. The Commission members thanked staff for their work on the investigation.

***Report from the Helena Citizens Council***

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Winston Greely reported District 5 will be holding their park design meeting on December 4, 2008. Also, the council is hoping to implement recommendations from their fall retreat in early 2009.

***Identity Theft Policy***

CONSIDER AN IDENTIFY THEFT POLICY.

**Staff Report**

Deputy City Attorney Thomas Jodoin reported the Federal Fair and Accurate Credit Transaction (FACT) Act of 2003 mandates the creation of identity theft prevention programs for all affected financial institutions and creditors. Under the FACT Act, municipalities are creditors when they defer payment for goods and services offered by the municipality. The City of Helena currently provides its water and wastewater customers day-to-day service. Billing for the provision and use of water and wastewater is done at the end of the billing cycle.

Deputy Attorney Jodoin gave a detailed overview of the proposed policy and recommended its approval in order for the city to be in compliance with the FACT Act.

**Commission comment**

Commissioner Cartwright noted the Utility Billing Department would not be keeping social security numbers. Attorney Jodoin concurred.

**Public comment**

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Cartwright moved approval for an Identity Theft Prevention Program in compliance with the FACT Act.**

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

***15<sup>th</sup> Street Parking Lot***

CONSIDER A CONTRACT WITH DICK ANDERSON CONSTRUCTION FOR THE EXCAVATION, BACKFILL AND SHORING AT THE 15TH STREET PARKING RAMP.

**Staff Report**

Community Facilities Director Gery Carpenter reported the City Commission adopted a detailed written finding demonstrating that an

alternative project delivery contract meets the requirements of MCA 18-2-502 (2), for the 15<sup>th</sup> Street Parking Ramp. That action enabled the city to proceed with the alternative project delivery contract method. This included a RFQ followed by a RFP and then a selection interview process followed by the preconstruction contract. The result of those interviews and then a selection interview process followed by the preconstruction contract. The result of those interviews and the submitted RFP's provided a recommended ranking of the respondents by a committee with Dick Anderson Construction (DAC) ranked number one. The Commission approved the ranking and a preconstruction contract to provide leadership and administration services was entered into with DAC that will terminate with a guaranteed maximum price provided by DAC for the construction of the project.

During the process of implementing this contract, DAC noted that one element of their cost projection for backfill and construction of the lower level floor still had an unknown value. The unknown element is the make-up of the subsurface soils on the project site. This information is unknown until excavation. DAC's cost estimate for the backfill and subsequent construction of the concrete floor is based on conjecture of what the subsurface may or may not contain and, therefore, will include contingencies that may not be necessary. The City Commission authorized the City Manager to amend the preconstruction contract to include construction management and general contractor services to be provided by DAC, and allow the advertisement for bid of the excavation, shoring, and backfill. The amendment for those additional services pays DAC \$16,936 for those services. The work was advertised and bids were opened on November 26, 2008. The low bid amount was from Bullock Excavating for \$312,034 with \$5,680 for bonding and \$21,000 in general conditions for a total of \$338,714. The Commission previously authorized the City Manager to sign contracts and amendments thereto that are in compliance with the statutory requirement for an alternative project delivery contract.

Director Carpenter recommended the Commission authorize the City Manager to negotiate and enter into a contract with DAC in an amount not to exceed \$338,714 for the excavation, backfill and shoring for the 15<sup>th</sup> Street Parking Ramp.

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

**Motion** **Commissioner Peura moved approval to authorize the City Manager to negotiate and enter into a contract with Dick Anderson Construction in an amount not to exceed \$338,714 for the excavation, backfill and shoring for the 15<sup>th</sup> Street Parking Ramp.**  
Commissioner seconded the motion. All voted aye, motion carried.

**Public Hearings**

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION TO ESTABLISH FEES TO BE CHARGED FOR THE BILL ROBERTS MUNICIPAL GOLF COURSE FOR THE 2009 SEASON.

**Staff Report**

Parks & Recreation Director Amy Teegarden reported the Golf Advisory Board has analyzed in detail the operations and capital needs of the golf course and developed a long-term plan for continued improvement. Based on its review, the Golf Advisory Board is recommending the fee schedule for the 2009 season. The changes recommended will help continue the high level of maintenance and

operation that the golfers have come to expect at Bill Roberts Golf Course and fund the debt service for capital repairs, replacements, and improvements that have been done.

Finally, the Golf Advisory Board always considers the golfing market in the Helena area, as well as the region so that golf at the course remains affordable to the golfing public while maintaining its high standards; Bill Roberts Golf Course remains the best golfing value in the area.

Director Teegarden recommended approval of the resolution establishing fees for the 2009 season in order to meet the goals of the city and Bill Roberts Golf Advisory Board.

**Public Testimony**

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

Robert Anderson, member of the Bill Roberts Golf Course Advisory Board; spoke in support of the fee increase but expressed concern for the need to raise fees every year. He noted the board is working on business plan.

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

**Motion**

**Commissioner Peura moved approval of a resolution of intention establishing fees to be charged at the Bill Roberts Golf Course for the 2009 season.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19620**

**Public Communications**

**PUBLIC COMMUNICATIONS**

No communications were given.

**Meetings of Interest**

**MEETINGS OF INTEREST**

The next Administrative Meeting is Wednesday, December 10, 2008 and the next Commission Meeting is Monday, December 15, 2008. The City/County Joint Work Session will be held Thursday, December 4, 2008.

Interviews for the vacant Commission seat will be held Saturday, December 6, 2008 at 9:00a.m.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:20p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission