

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
February 23, 2009
6:00 P.M.**

- Time & Place*** A regular City Commission meeting was held on Monday, February 23, 2009 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, Shropshire and Elsaesser were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Larry Mitchell representing the Helena Citizens Council.
- Pledge of Allegiance*** Mayor Smith asked the members of Boy Scout Troop #207 to those persons present in the pledge of allegiance.
- Minutes*** The minutes of the regular City Commission meeting of February 9, 2009 were approved as submitted.
- Consent Agenda*** CONSENT AGENDA:
A. Claims
B. Amended Findings of Fact for the proposed Crossroads at Mountain View Meadows Major Subdivision creating 892 lots and one off-site parkland lot for property generally located south of Highway 12, east of Crossroads Parkway, southwest of East Helena, west of Highway 282 and north of Jefferson County
C. Final passage of Ordinance No. 3109 pre-zoning, prior to annexation into the City of Helena, Crossroads at Mountain View Meadows Subdivision and two off-site parkland areas to R-4/R-O (Residential- Office) and B-2(General Commercial); for property generally located south of Highway 12, east of Crossroads Parkway, southwest of East Helena, west of Highway 282 and north of Jefferson County **Ord #3109**
D. Proposed FY10 Helena Area Transit Service (HATS) preliminary budget and Section 5311 Transportation Assistance Job Access Reverse Commute (JARC), New Freedoms Grant applications
E. Agreement between the City of Helena and Montana Department of Transportation for acquisition of asphalt millings
- City Manager Tim Burton recommended approval of the claims and the consent agenda.
- Public Comment** Mayor Smith asked for public comment, none was received.
- Commission comment** Commissioner Elsaesser asked that items B and C be removed for further discussion.
- Motion** **Commissioner Peura moved approval of items A, D and E on the consent agenda.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.
- Discussion** Commissioner Elsaesser noted he would not support items B and C because of the amount of B-2 zoning in the subdivision.

Commissioner Peura spoke in support of items B and C.

Motion **Commissioner Peura moved approval of item B on the consent agenda.** Commissioner Cartwright seconded the motion. Motion carried 4-1, with Commissioner Elsaesser voting no.

Motion **Commissioner Peura moved approval of item C on the consent agenda.** Commissioner Cartwright seconded the motion. Motion carried 4-1, with Commissioner Elsaesser voting no.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser announced the next community plastics drive will be held March 6-9, 2009 at the YMCA parking lot.

Commissioner Cartwright spoke about an article in the Independent Record regarding climate change.

Commissioner Peura referred to the federal stimulus package and gave the history of the city's resolution prioritizing infrastructure projects. He referred to the final Montana appropriations and asked for more information on any deadlines associated with submitting the City's list of projects and the ability to add items to the priority list. Manager Burton spoke of HB 2 which will allocate the states money from the stimulus package to local government. Commissioner Shropshire reported the Senate Finance Committee would be seeking input from local governments on stimulus funding during the week of March 2, 2009.

Discussion was held on what to add to the stimulus resolution.

Motion **Commissioner Elsaesser moved to include the following topics on its stimulus funding priority list, either through the city or in partnership with community non-profits or other programs: alternative energy, energy efficiency and conservation, public art, parks, and low income projects and any other projects that otherwise may not be completed on the city's typical funding schedule.** Commissioner Shropshire seconded the motion.

Comment Commissioner Cartwright indicated he would not support the motion as he would like to be able to add substantial projects to the list rather than generic good ones. He expressed the desire to discuss the issue at an upcoming Administrative Meeting.

Vote Motion carried 4-1, with Commissioner Cartwright voting no.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
No report given.

Report of the City Manager REPORT OF THE CITY MANAGER
Manager Burton invited Fire Chief Steve Larson to explain the Chief Fire Officer Award received by Assistant Fire Chief Glenn Davis. The Commission members congratulated Assistant Chief Davis on receiving the award.

Manager Burton asked City Controller Glenn Jorgenson to update the Commission on the sale of the city's Certificates of Participation (COPs) for the construction of the 15th Street Parking Facility. A copy of the report is included in the Commission packet as part of the official record. Commissioner Peura spoke in support of the

project. Commissioner Cartwright thanked staff for their work, which resulted in the city's higher bond rating.

Manager Burton announced staff has been notified by MDT that the city's new transit facility is number one on the priority list. He noted the city needs to provide \$48,000 as a match for the grant for the final design and asked for Commission approval. There was Commission concurrence to provide the funding.

Mayor Smith reported he, Manager Burton, Public Works Director John Rundquist and Assistant Public Works Director Phil Hauck would be travelling to Washington D.C. to meet with Montana's Congressional Delegation February 24-26, 2009; Administrative Services Director Tim Magee will be Acting City Manager.

***Report from the
Helena Citizens***

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Larry Mitchell announced the HCC's city-wide neighborhood fair would be held on March 5, 2009 at the University of Montana-Helena College of Technology at 6:30pm. He also reported the Executive Board is working on writing the grant for the 2009/2010 HCC VISTA.

Colwell Building

CONSIDER A REQUEST TO ALTER THE EXTERIOR OF THE COLWELL BUILDING TO ACCOMMODATE BALCONIES ON THE SOUTH EXTERIOR WALL. (Tabled on February 9, 2009)

Staff Report

Community Development Director Sharon Haugen reported city staff has been forwarded a request from the condominium owners at the Colwell building to construct balconies for their units. The Colwell Building is located on the downtown walking mall at 62 S. Last Chance Gulch.

In 1977 James Conley, James Brown and Charles Hauge, also known as Commercial Construction, the then owners of the building, requested assistance from the City of Helena for the restoration and rehabilitation of this building. The assistance was in the form of both a Historic Preservation Grant and HUD "312" loan. The owners were initially granted \$125,000 in a Historic Preservation grant (50% HUD funds and 50% National Park Service money) to complete the exterior work on the property. They received an additional \$4,830 when additional structural issues were found with the building. They also receive \$270,000 in a HUD "312" loan for the rehabilitation and restoration of the building's interior. Both of these funding sources were part of the city's Urban Renewal efforts for Helena's downtown. One of the requirements for obtaining the funds is that a "scenic easement" be placed on the property. A copy of the easement was included in the Commission packet. There were no renderings attached to either the filed copy or any office copies of the easement, as referred to in the document. The easement states that no "construction, alteration or remodeling of the exterior can take place without the written consent of the city.

The condominium owners are requesting that they be allowed to place a balcony on their units. An architectural depiction was presented to the Commission. According to the applicants, "the balconies were designed not only to be safe but also to enhance the ambiance of Helena's downtown that is increasingly emerging as a high quality, mixed-use, residential area". Director Haugen noted staff had no recommendation on the proposal.

Public comment

Mayor Smith called for public comment.

Kate Hampton, Historical Preservation Alliance, 120 Reeder's Alley; urged the Commission to table the proposal to allow for further discussion on the design.

Marshall Mayer, 524 Clark Street, representing the condominium association, applicant; spoke in support of the project.

Susan Bjerke, 545 South Harris, architect for the project; explained the design of the balconies.

Theresa Lightbody, 23 Carriage Lane, representing Steve and Judy Browning, condominium owners; spoke in support of the project.

Pam Attardo, chair of the Historic Preservation Commission (HPC); reported the HPC has voted against the proposal and explained their recommendation for denial.

Pete Brown, 423 5th Avenue; spoke in opposition to the proposal.

Sandy Shull, 412 5th Avenue; spoke in support of improvements to the Colwell Building.

Discussion

Commissioner Peura asked Mr. Mayer if the existing construction to the outside of the building was done under permit. Mr. Mayer explained one of the condominium owners was also a contractor and was doing the work without a permit. The condominium association stopped construction as soon as they found out. It was when the association applied for a building permit that they were notified of the scenic easement.

Commissioner Shropshire asked Ms. Bjerke if her design is or would be consistent with the second empire style. Ms. Bjerke explained the design was preliminary in nature; it was used as a tool to present to the condominium association in order to judge interest. She noted the association is very open to design revisions and wants the balconies to look historic.

Commissioner Elsaesser asked if the commercial tenants are agreeable to the balconies. Mr. Mayer stated yes and noted all residential and commercial owners are supportive of the proposal.

Commission comment

Commissioner Peura referred to written testimony from Mr. Browning and spoke of balancing the historic nature of downtown and the need for vitality. He spoke in support of the proposal and indicated he would vote to approve the balconies.

Motion

Commissioner Peura moved approval for the alteration of the exterior of the Colwell Building, to accommodate a balcony for Apartment No. 3, 62 S Last Chance Gulch. Commissioner Elsaesser seconded the motion.

Friendly Amendment

Commissioner Cartwright moved to amend the motion to add "subject to consultation with the HPC on the design". Commissioner Peura did not accept the amendment.

Amendment

Commissioner Cartwright moved to amend the motion to add "subject to consultation with the HPC on the design". Commissioner Shropshire seconded the motion. Motion carried 3-2, with Mayor Smith and Commissioner Peura voting no.

Comment

Commissioner Peura noted he while he agrees with the spirit of the amendment, he trusts the applicant's desire to keep the building's historic nature and expressed concern the amendment doesn't give the HPC any real authority and is unenforceable. Mayor Smith concurred with Commissioner Peura's comments. Commissioner Elsaesser indicated he supported the amendment as he doesn't believe it cedes any real authority. Commissioner Shropshire encouraged the architectural elements of the second empire be considered in the design. Commissioner Elsaesser noted the applicants could appeal to the Building Board of Appeals.

Vote

All voted aye, motion carried.

Centennial Park

CONSIDER THE DESIGN AND DEVELOPMENT PHASES FOR CENTENNIAL PARK.

Staff Report

Parks & Recreation Director Amy Teegarden reported the final design and cost estimate have been completed and are awaiting approval before moving forward with development of construction documents.

Last spring Carl Thuesen, ASLA, was contracted to complete a master planning process and to develop construction plans and bid documents for Centennial Park. Over the course of the year, planning efforts and multiple meetings with stakeholder groups and city staff have resulted in the attached plans and cost estimates.

The design is organized into development phases, which will ensure that improvements made during Phase 1 include the entire park "footprint", and additional phases will include added amenities to the base park improvements. The colored site plans (Exhibit 1) show the development of the park in three phases. Each plan adds to the previous. Cost estimates are organized by phases as well as potential partner contributions. All of the remaining OSBAC and GO Bond funds (\$3,800,000) will be allocated to Phase 1. Total implementation of the park design will rely heavily on future partner contributions.

Phase 1 includes; earthwork and associated storm drainage, utilities and electrical work, parking lot demolition and construction, trail construction, fencing, irrigation, turf and non-irrigated grass, trees and landscaping. Phase 1 also includes improvements to the added acreage of the leased property from the state of Montana. The estimated cost for Phase 1 is \$4,257,774. Of that amount, \$3,712,846.18 is from GO Bonds; \$381,156 from CTEP, \$91,632 from the state of Montana, and potentially \$72,000 in other partnership contributions. Phase 2 and 3 construction items and cost estimates are identified in Exhibit 2.

Throughout the process key decisions have been made that are reflected in the design and cost estimates;

1. Development of the park will be from the "ground-up", not one section at a time.
2. The design of a water system to connect well water to the park was cost prohibitive. Potable water will be used in lieu of well water.
3. The trails are designed to support mixed-use transportation and will be asphalted. Cyclists will share the road with vehicular traffic in parking lots and gravel

access roads around the softball fields. Traffic calming circles have been incorporated. Signage will be installed for safety and awareness purposes. The final grading plan will incorporate some slope and trail alignment concerns regarding the trail system.

4. Vehicular ingress and egress to the park will be from Main and Lyndale. There will be no connection to the undeveloped road behind Carroll College
5. The city is entering into a lease agreement with the state of Montana for the armory property. As part of the agreement, the city agreed to design and cost-share construction for additional parking. The second parking lot will not be part of the lease, however it may be used for park parking.
6. A soil testing of the railroad bed on the north end of the property revealed high levels of lead and arsenic. Two feet of topsoil will be incorporated into the grading plan.

Director Teegarden reviewed the following potential trail adjustments:

- Designate and sign Centennial trail through the Park
- Establish a N-S commuter trail through the park – 10' wide for main trails, 8' for other trails
- Option for the main trails to be asphalt and interior/loop trails to be decomposed granite
- "T" intersections can be curved to create "Y" intersections to lessen abrupt approaches (pros & cons)
- Traffic calming measures have been designed to protect trail users
- Signs will serve an important role in mitigating potential conflicts

Director Teegarden recommended approval of the design and development phases and stated following Commission approval of the design, the consultants will prepare the construction documents and secure the required DEQ permits and reviews. Following reviews, bid documents will be developed and the bid process will be initiated. Construction could likely begin this summer.

Discussion

Commissioner Elsaesser asked if revisions to the trails and landscaping would still be allowed in the construction documents without formally amending the plan tonight. Director Teegarden stated yes the design can be modified; the general master plan and phases are the only items under consideration tonight.

Commissioner Cartwright explained his concern with the term "commuter traffic" and the sight distance from the tunnels.

Public comment

Mayor Smith called for public comment.

Patrick Judge, 409 Dearborn Ave, Helena Vigilante Runners; spoke in support of the Centennial Park plan but urged the installation of a parallel type trail system.

Bruce Clark, 1411 Cherry Avenue; urged the Commission to move forward on the project.

Discussion

Commissioner Shropshire asked Mr. Judge if there are volunteers willing to help with the trail projects. Mr. Judge stated yes. Manager Burton stated volunteer labor has been used on city projects in the past but noted the city has to be careful to comply with contractors and insurance.

Commissioner Cartwright stated partnership funding in the first phase of the design is estimated at a little over \$500,000 and asked for alternative funding options should that funding not come through. Director Teegarden explained the figures stated are more like a funding/partnership menu; they are listed in order for staff to let the partner organizations know the amounts that are needed related to desired amenities.

Commissioner Cartwright reviewed his understanding of design changes that would be made: improved sight distance from the tunnels to the trails; trail on the westside of the parking lot; different widths for main and subsidiary trails; crushed granite on some trails; direct connections to different amenities from the each of the entrances; and the maximization of low water landscaping. He added the engineers should decide whether "T" or "Y" intersections would be most appropriate. Manager Burton explained many of the discussed changes can be worked out moving through to final design. He expressed concern with the proposed trail on the westside of the parking lot as it tends to go into other people's property. He confirmed the final details of the design would be reviewed at Administrative Meeting before it is bid out.

Commissioner Peura thanked Director Teegarden for her work addressing the Commission's concerns.

Motion

Commissioner Peura moved approval of the development design and development phases for Centennial Park as presented in Exhibit 1 and amended in the staff presentation on February 23, 2009. Commissioner Cartwright seconded the motion.

Comment

Commissioner Shropshire asked for confirmation that the suggested non-paved components of the trail system can be incorporated into the design with approval of the proposed motion. Director Teegarden agreed. Commissioner Shropshire noted the BMX/freeride community has stated it could provide quantities of earth necessary for their park that could potentially be incorporated into Phase I of the design. Commissioner Elsaesser expressed excitement for the project.

Vote

All voted aye, motion carried.

Zderic Land Exchange CONSIDER A LAND EXCHANGE BETWEEN THE CITY OF HELENA AND TOM AND LINDA ZDERIC.

Staff Report

Director Teegarden reported the Prickly Pear Land Trust (PPLT) approached the city with a proposal to trade city land for private land to

improve trail access on Helena Open Lands. The Helena Open Lands Management Advisory Committee (HOLMAC) supports the land exchange. A survey was conducted and a land exchange agreement will be completed by the City Attorney's office.

The properties lie on Helena's East side above Gold Rush Avenue between Crystal Drive and South Hills Drive. The Zdericks are willing to trade 7.219 acres of their tract for 5.51 acres of city owned open space property currently adjoining their property.

Zderick's currently own Tract 8-A of COS #208556 (situated in Jefferson County, Montana) and the city owns Tract 1 and Government Lot 10 in Lewis and Clark County, Montana, Fraction Lode MS #5493, which is in both Lewis and Clark and Jefferson Counties, and Government Lot 15 in Jefferson County, Montana. The parties have a Certificate of Survey to be prepared to relocate the common boundary between Fraction Lode MS #5493 and Tract 8-A, creating new parcels Tract 8-A-1 (City) and Tract 8-A-2 (Zderick).

Director Teegarden recommended approval of the land exchange and noted it will benefit both parties by providing improved access and additional cultural resources to the open land trail system. The city will gain land that is more accessible than the land it exchanges. This will allow for more effective land management including fuel reduction and weed control. In addition it will allow for the continuation of a trail from Crystal Drive up to South Hills Drive. The land the city will be exchanging out of is too steep and narrow to accomplish this. The new trail will also provide an important connection to other area trails. The proposed new parcel also features a historic lime kiln.

Public comment

Mayor Smith called for public comment.

Andy Bauer, PPLT Director; spoke in support of the land exchange.

Dawn North, HOLMAC; reported HOLMAC is recommending approval of the land exchange.

Motion

Commissioner Shropshire moved approval to exchange the eastern portion of Fraction Lode MS #5493 in Lewis & Clark County and Jefferson County, Tract 1 and Government Lot 10 in Lewis & Clark County, and Government Lot 15 in Jefferson County for the western portion of Tract 8-A in Jefferson County. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING DISTRICT (SLD) NO. 221 ALONG THE STREETS AND AVENUES IN PARTS OF WEST RIDGE HEIGHTS.

Staff Report

Accounting Supervisor Brandi Pierson reported a resolution to create SLD No. 221 was passed by the City Commission on January 26, 2009.

The proposed facilities will consist of thirty units, with underground wiring, fiberglass or metal poles for 16-foot mounting heights, and Lexington Colonial luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$21,434.80 with the estimated cost

being \$.0340 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 year's assessment. Thereafter, the annual assessment will be approximately on-half of the first year's assessment.

Ms. Pierson recommended approval of the resolution creating SLD No. 221 and noted the benefits of street lighting are the convenience, safety, and security of property and improvements. Specific benefits include: enhanced deterrence of crime and aid to police protection; increased nighttime safety on roads; improved ability of pedestrians, cyclists, and motorists to see; and improved ingress and egress to property.

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 of a resolution creating Special Improvement Lighting District No. 221.

Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19627**

B. CONSIDER A REQUEST FOR A PROPERTY TAX ABATEMENT FOR THE REHABILITATION, RESTORATION, EXPANSION OR NEW CONSTRUCTION OF AN HISTORIC PROPERTY LOCATED AT 433 CLARKE STREET.

Staff Report

Community Development Director Sharon Haugen reported Pamela Attardo and William Tonidandel, owners of the residence located at 433 Clark Street, are applying for tax abatement under provisions of state law for restoration, rehabilitation, expansion, and new construction of certified residential and commercial properties located within national register historic districts and properties listed in the National Register of Historic Places (MCA 15-24-16 et seq.). This location is legally described as on Lot 10A, Block 55 of the original Helena Townsite (geocode number 05-1887-25-4-07-17-0000). The work has been completed on the house and staff is processing the application after completion.

Under these provisions of MCA 15-24-1603, historic property undergoing rehabilitation, restoration, expansion, or new construction that meets criteria established by the review process described in 15-24-1605 or 15-24-1606 may receive a tax abatement up to 5 years following completion of the construction. The tax abatement is limited to 100% of the increase in taxable value caused by the rehabilitation, restoration, expansion, or new construction.

Both City and the County Commissions are holding public hearings to consider the tax abatements. Director Haugen noted staff has no recommendation on the proposed abatement.

Commission comment

Commissioner Peura asked who grants the school abatement? Director Haugen stated under state law, if either government grants the abatement the school taxes are abated too. Commissioner Peura asked if abatements are usually applied for before construction. Director

Haugen stated yes and explained the reasons behind the delayed application consideration.

Public Testimony

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

Pam Attardo, 433 Clarke Street; urged approval of the abatement.

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

Discussion

Commissioner Peura asked Ms. Attardo if there is still construction work to be done? Ms. Attardo stated yes and explained it should be finished in the next year; they now have a temporary certificate of occupancy.

Motion

Commissioner Cartwright moved to approve a resolution granting the tax benefits to Pamela Attardo and William Tonidandel for the property located at 433 Clarke Street in Helena Montana for the increase in taxable value to be assessed for tax years 2009 – 2014 pursuant to the taxable value scheduled outlined in 15-24-1601. Commissioner Shropshire seconded the motion.

Comment

Commissioner Peura indicated he would support the abatement because there is still construction to be done and spoke of the importance of the intent of tax abatements, which is to incentivize improvements to property. Commissioner Shropshire indicated she would support the motion and commended the applicants for their work.

Motion

All voted aye, motion carried. **Res #19628**

C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3107 AMENDING TITLE 7 OF THE HELENA CITY CODE TO REGULATE THE PRIVATE USE OF PUBLIC RIGHTS-OF-WAY BY ADDING A NEW CHAPTER 13, AND AMENDING SECTIONS 7-9-4 AND 7-9-12.

D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3108 REPEALING SECTION 5-9-1: STREET STANDS, HELENA CITY CODE.

Staff Report

City Manager Burton recommended the Commission table public hearings C and D to March 9, 2009 as they were not properly advertised.

Motion

Commissioner Cartwright moved to table final passage of Ordinance No. 3107 amending Title 7 of the Helena City Code to regulate the private use of public rights-of-way by adding a new Chapter 13, and amending sections 7-9-4 and 7-9-12 to March 9, 2009. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Motion

Commissioner Cartwright moved to table final passage of Ordinance No. 3108 repealing Section 5-9-1: Street Stands, Helena City Code. to March 9, 2009. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

**Public
Communications**

PUBLIC COMMUNICATIONS
None communications were given.

**Meetings of
Interest**

MEETINGS OF INTEREST
The next Administrative Meeting is March 4, 2009, the Joint
Work Session is March 5, 2009 and the next regular Commission
Meeting is March 9, 2009.

Adjournment

There being no further business to come before the Commission,
the meeting was adjourned at 8:55 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission