

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

- Time & Place*** A regular City Commission meeting was held on Monday, March 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 Peura, and Elsaesser were present. Commissioners Cartwright and Shropshire were excused. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Marshall Gingery 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 March 9, 2009 were approved as submitted.
- Consent Agenda*** CONSENT AGENDA:
A. Claims
B. Utility Agreement with MDT for the Williams Street bridge
C. Utility Adjustment Agreement for the reconstruction of Custer Avenue between Green Meadow and Montana Avenue.
D. Asphalt Millings Agreement with MDT

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 Elsaesser moved approval of items A through D on the consent agenda.** Commissioner Peura seconded the motion. All voted aye, motion carried.
- Bid Awards*** BID AWARDS:
A. Police Department cold storage building
- Staff Report** Community Facilities Director Gery Carpenter reported bids were opened on February 25, 2009 for a 4,241 square foot cold storage building for the Police Department. The bid sheet consisted of a base bid, four alternates and four unit prices; the bid sheet was included in the Commission packet. The base bid provided the minimum space, insulation and doors needed by the Police Department. The alternates and unit prices allowed for increased space, better insulation, more and larger doors, a wider concrete apron and natural light panels. There were ten bidders; the low bidder for the base bid and alternates one through four is Wadsworth Builders Co.
Director Carpenter recommended awarding the base bid and alternates one through four, along with some unit price increases. This will increase the total square footage from 2,883 square feet to 4,241 square feet, add a third overhead door and provide a higher quality insulation system on the roof. Staff is also recommending the following:

1) increase the concrete apron from two feet wide to six feet wide or an additional 264 square feet of concrete using the unit price #1 cost; 2) Increase the door height to 14 feet for all three doors using the unit price #3 costs; 3) Use the Unit price #4 cost to install three fiberglass-sandwich (natural light) panels. The total cost for the base bid, four alternates and three recommended unit price increase is \$178,834 and is within current funding. He noted the proposal would provide the most storage space possible for the least cost and will also match the appearance of the existing nearby structures.

Commission comment Commissioner Elsaesser asked where the building will be located? Director Carpenter explained the building will be located just east of the Utilities building on Custer Avenue. Discussion was held on Senate Bill 447 regarding storage of evidence.

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

Motion **Commissioner Peura moved to award the bid for the Police Department cold storage to Wadsworth Builders Co. in the amount of \$178,834, including the alternates and the unit prices recommended by staff and listed in the proposal.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

B. Semi-tractors for Solid Waste and Wastewater Divisions

Staff Report Fleet Manager Ed Robinson reported bids were received for two (2) new semi-tractors to replace units #229, a 1993 Freightliner, and #476, a 1982 Ford LTL 9000. The low bid that met specifications was received from Montana Peterbilt. Montana Peterbilt bid two 2010 Peterbilt 386's at a combined cost of \$217,921.16. This cost is below the FY2009 budget appropriation for the replacement of these units.

Manager Robinson recommended the purchase of the units as it will allow the city to continue to upgrade its Solid Waste and wastewater fleets providing reliable equipment and reducing maintenance costs.

Commission comment Commissioner Elsaesser asked if the 2010 vehicles will have the newer clean diesel engines? Manager Robinson stated yes. Commissioner Peura asked how the new vehicles will be used. Manager Robinson explained one will be used for hauling transfer trailers for the Solid Waste Department; the other will be used by the Wastewater Department to haul sludge.

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

Motion **Commissioner Elsaesser moved to award the bid to Montana Peterbilt for two (2) new semi-tractors for the bid price of \$217,921.16.** Commissioner Peura seconded the motion. All voted aye, motion carried.

C. California Street Water Main Replacement, Project No. 08-7

Staff Report City Engineer Ryan Leland reported the California Street Water Main Replacement Project consists of replacing the water main from Illinois Avenue to Belt View Drive, which is approximately 1500 feet of 8"

PVC water main. There have been multiple leaks on this portion of the water main in the past few years and the ductile iron main is being corroded by soils.

The city opened thirteen bids on February 24, 2009. Hard Rock Road Building & Utilities Inc. of Helena submitted the lowest bid of \$188,150. Mr. Leland recommended approval of the proposed bid award to the lowest bidder, Hard Rock Road Building & Utilities, Inc.

Commission comment Commissioner Peura asked where this project is on the CCIP list? Mr. Leland explained the project was one of the highest priorities last year but wasn't completed based on funding. He added the project is a very high priority because of the property damage associated with it. Commissioner Peura commended the project for coming in under budget.

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

Motion **Commissioner Peura moved to award the contract for the California Street Water Main Replacement Project, City Project No. 08-7, to the lowest responsible bidder, Hard Rock Road Building & Utilities Inc. in the amount of \$188,150.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

D. Sanders Street Water Main Replacement, Project No. 08-8

Staff Report City Engineer Ryan Leland reported the Sanders Street Water Main Replacement Project consists of replacing the water main from Illinois Avenue to Virginia Dale Street, which is approximately 1500 feet of 8" PVC water main. There have been multiple leaks on this portion of the water main in the past few years and the ductile iron main is being corroded by soils.

The city opened thirteen bids on February 24, 2009. Hard Rock Road Building & Utilities Inc. of Helena submitted the lowest bid of \$142,980. Mr. Leland recommended approval of the proposed bid award to the lowest bidder, Hard Rock Road Building & Utilities, Inc.

Commission comment Mayor Smith asked for the length of construction time? Mr. Leland stated construction is estimated at 60 days; the most disruption will occur in the first 45 days with the remaining 15 days being used for clean-up and paving. Discussion was held on the reasons for the difference in cost between the California Street and Sanders Street main replacements.

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

Motion **Commissioner Elsaesser moved to award the contract for the Sanders Street Water Main Replacement Project, City Project No. 08-8, to the lowest responsible bidder, Hard Rock Road Building & Utilities Inc. in the amount of \$142,980.** Commissioner Peura seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Mayor Smith noted all of tonight's agenda items must be approved by unanimous vote due to the absence of Commissioners Cartwright and Shropshire.

Commissioner Peura indicated he would recommend tabling agenda item 15, the proposed resolution of intention to set fees at Memorial Park Pool, until the April 6, 2009 Commission Meeting. He noted he is not prepared to make a decision and thanked staff for their work exploring alternative funding possibilities. Commissioner Elsaesser concurred with Commissioner Peura. Mayor Smith asked if the intent of the postponement of the agenda item was to review the alternative funding options provided by staff. Commissioners Peura and Elsaesser concurred. Manager Burton noted the pool season would not be affected by tabling the resolution of intention.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Peura moved to table a resolution of intention to establish fees to be charged for the Memorial Park Pool for the 2009 season to April 6, 2009. Commissioner seconded the motion. All voted aye, motion carried.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney David Nielsen updated the Commission on the status of a lawsuit regarding Aspen Trails Ranch Subdivision. District Court Judge Jeffrey Sherlock has decided the Environmental Assessment did not address probably impacts coming from surface pollution and entering the groundwater and Prickly Pear Creek, and did not present available groundwater information. The Aspen Trails Subdivision preliminary plat has been voided; the developer could re-apply for preliminary plat approval with a new Environmental Assessment.

Discussion was held on the lawsuit. Manager Burton stated this is a very significant decision and spoke of water quality related to groundwater. Commissioner Peura spoke in support of Judge Sherlock's decision, as he feels this area is not where the city should grow and shares concerns about groundwater in the area. Attorney Nielsen commented about the city being more diligent in the future regarding these issues.

Report of the City Manager

REPORT OF THE CITY MANAGER

A. Historic Preservation Commission – trolley restoration project update

Historic Preservation Commission member Wilbur Rehmann gave a powerpoint presentation and thorough update to the Commission on the status of the trolley restoration project. George Hoff asked the Commission to be prepared to house the trolley once it's completed.

Mayor Smith and Commissioners Peura and Elsaesser thanked the Historic Preservation Commission for their work on the project.

Manager Burton explained issues related to the proposed relocation of the Farmers Market for the 2009 season from Fuller Street to the Walking Mall. He indicated he had spoken with a member of the Farmers Market Board and they have expressed a desire to remain at the Fuller Street location and indicated if they were not issued a permit for Fuller Street they could not guarantee that they would relocate to the Walking Mall.

Commissioner Peura requested a detailed report from the BID and Farmers Market Board before making a decision on the location of the market. He suggested issuing a permit for Fuller Avenue for the early spring season in order to allow the market to open, and also to provide time for further discussion with the interested parties before issuing a permit for the remainder of the season. Commissioner Elsaesser recommended issuing a permit for the Farmers Market to remain located on Fuller Avenue as is their desire. Mayor Smith commented the current location of the Farmers Market creates a public safety issue and noted the Commission has been weighing this issue for a year. He recommended discussing the issue further with a full Commission on April 6, 2009. Mayor Smith indicated he would support either Manager Burton making a decision within the next two weeks or waiting two weeks to discuss the issue. Manager Burton noted Commissioner Cartwright indicated support for issuing the permit on Fuller Avenue at the March 18, 2009 Administrative Meeting. He explained it is the Commission's decision on whether or not to move forward, but he feels the majority of the Commission wants him to issue the permit for Fuller Avenue.

Further discussion was held on the permit. Manger Burton noted he would speak with Commissioners Shropshire and Cartwright upon their return and based on their recommendations, issue or not issue the permit for Fuller Avenue.

Manager Burton updated the Commission on Senate Bill 95 and stimulus package discussions.

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

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Marshall Gingery spoke of a recent recommendation by the HCC regarding the Resolution of Commission Intent for Fiscal Year 2010 and reported the HCC has applied for a third-term VISTA volunteer. He also reported on updates to the HCC's website. Mr. Gingery introduced members of the HCC's Executive Board in attendance.

GO Bond Issuance

CONSIDER A RESOLUTION RELATING TO GENERAL OBLIGATION BONDS (OPEN SPACE PROJECTS), SERIES 2009, DETERMINING THE FORM AND DETAILS; AUTHORIZING THE EXECUTION, DELIVERY, ESCROWING AND INVESTMENT OF PROCEEDS FOR THE PAYMENT THEREOF; AND PROVIDING FOR THE REDEMPTION OF BONDS FUNDED THEREBY.

Staff Report

Administrative Services Director Tim Magee reported on May 9, 2008 the City Commission authorized staff to proceed with refunding the 1997 and 2001 general obligation bonds. There is a total of \$2,905,000 of bonds outstanding for both issues. This resolution authorizes a bond committee of the Mayor, City Manager and City Controller which approves the final sale of the 2009 bonds and all documents necessary to finalize the refunding: the official statement, escrow agreement and miscellaneous bond sale documents.

The city's financial advisors estimate we can save approximately \$230,000 in interest expense over the life of the bonds, or approximately \$23,000 per year, by refunding these bonds based on current interest rates. Rates are volatile and actual savings will depend on the rate obtained on the date of sale. Interest rates are currently 5% for the 1997

bonds and 4.5% for the 2001 bonds, with an estimated interest rate of 2.64% for the new bonds.

Director Magee recommended approval of the proposed resolution as its passage will save taxpayers money.

Commission comment Commissioner Peura asked how local citizens could invest in these bonds? Director Magee asked interested persons to contact his office for more information.

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

Motion **Commissioner Peura moved approval of a resolution, as amended in Section 1.02 substituting "City Controller" for "Administrative Services Director" as part of the award committee, relating to General Obligation Bonds (Open Space Projects), Series 2009; determining the form and details; authorizing the execution, delivery, escrowing and investment of proceeds for the payment thereof; and providing for the redemption of bonds refunded thereby.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19632**

LeGrande Cannon CONSIDER AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT FOR THE DESIGN OF LEGRANDE CANNON BOULEVARD, PROJECT NO. 08-12.

Staff Report City Engineer Ryan Leland reported on May 5, 2008 the City Commission awarded Robert Peccia & Associates a professional service contract for the design of LeGrande Cannon Boulevard for the amount of \$138,000. During the design of the project it was determined that a retaining wall will be needed for a portion of the north side of the street. As a result, a budget amendment of \$10,124 is needed to complete the design of the retaining wall. The construction estimate for LeGrande Cannon Boulevard is \$485,000 with design the total cost is approximately \$633,000. The funding for LeGrande Cannon Boulevard is \$200,000 from the developer, \$250,000 from General Fund and \$250,000 from Gas Tax.

The City Commission directed staff to estimate the construction costs of constructing Glendale Street from the existing pavement to LeGrande Cannon Boulevard. In addition to the retaining wall, this amendment could include an additional \$19,451 for the design of Glendale Street. The preliminary construction estimate for Glendale Street is \$110,000 bringing the total cost of Glendale to approximately \$130,000. Funding for Glendale has not been identified.

Mr. Leland recommended approval of the proposed amendment as the design work, traffic study and public outreach will help to complete the extension of appropriate infrastructure to an existing subdivision with developer participation.

Manager Burton recommended not moving forward with improvements to Glendale Street to allow for discussion of the project during the budget review process.

Commission comment Commissioner Peura asked for the funding options for the ultimate construction of Glendale Street? Manager Burton explained staff will work toward identifying the available options and report back to the Commission at a later date. Commissioner Elsaesser asked if the

retaining wall would create drainage issues for Glendale Street? Mr. Leland explained the drainage design. He also explained the status of right-of-way in the area that still needs to be obtained.

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

Motion **Commissioner Elsaesser moved approval of an amendment to the professional services contract with Robert Peccia & Associates for the design of LeGrande Cannon Boulevard in the amount of \$10,124.** Commissioner Peura seconded the motion. All voted aye, motion carried.

Alley Vacation CONSIDER A RESOLUTION OF INTENTION TO VACATE THE ALLEY WITHIN BLOCK 24 OF THE GRAND AVENUE ADDITION; GENERALLY LOCATED BETWEEN KNOX FLOWERS AND GARY'S AUTO SALES.

Staff Report City Engineer Ryan Leland reported Knox Flower Shop, Inc. and Troy Gary of Gary's Auto Plaza have applied to vacate the closed alley that divides their respective businesses in Block 24 of the Grand Avenue Addition. Gary's Auto Plaza is located on Lots 4-6 of Block 24 and Knox Flower Shop is located on Lots 7-11 of Block 24. The alley is generally located north of Last Chance Gulch and South of Aspen Street. The alley was closed many years ago and the Department of Revenue assigned GEO codes to each half of the alley and sent tax bills to the adjacent property owners who paid taxes on the closed alley.

The applicant proposes the city vacate the 16-foot wide closed alley in Block 24 of the Grand Avenue Addition. There are no utilities in this right-of-way. The western portion of the closed alley adjacent to Knox Flowers is 1136 square feet. The eastern portion of the alley adjacent to Gary's Auto Plaza is 1102 square feet. Upon vacation, the ROW would be deeded to the adjacent property owners. Because property owners have been paying taxes and maintaining the property for over 20 years, it is recommended that the city waive the property vacation fee in this instance.

Mr. Leland recommended approval of resolution of intention as it would clean up the property boundaries and provide title to property the owners have been using for which they have paid taxes.

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

Motion **Commissioner Peura moved approval of a resolution of intention to vacate the closed alley in Block 24 of the Grand Avenue Addition, and set a public hearing date of April 6, 2008.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19633**

Alley Vacation CONSIDER A RESOLUTION OF INTENTION TO VACATE AN ALLEY SOUTH OF LOTS 12-16, BLOCK 3 AND THE EASTERN 35 FEET OF THE CLOSED PORTION OF COOKE STREET IN THE NORTHERN PACIFIC ADDITION; BORDERED BY HELENA AVENUE, EAST OF THE CLOSED PORTION OF COOKE STREET AND SOUTH OF GALLATIN AVENUE.

Staff Report

Mr. Leland reported the Montana Credit Unions League building is currently located at 1236 Helena Avenue. The applicants, the League Service Group, owners of the property at 1236 Helena Avenue, and Region IV Family Outreach, Inc., are requesting the proposed ROW vacations so the Montana Credit Unions League existing building may be expanded and to accommodate the associated parking and landscaping requirements.

The proposal is to vacate the 20-foot wide closed east-west alley adjacent to Lots 12-15 in Block 23 and the west 35 feet of closed Cooke Street in Block 23, both in the Northern Pacific Addition. There are no utilities in the ROWs. Upon vacation, the ROW would be deeded to the League Service Group. The square footage of the proposed alley vacation is 1387.3 with a calculated fee of \$15,454.52. The square footage for the proposed closed Cooke Street vacation is 3969 square feet, with a calculated fee of \$25,695.17. The total fee to be paid to the City for both property vacations is \$41,149.69.

Mr. Leland recommended approval of the vacations as they would provide revenue to the city and allow the use of previously closed ROW.

Public comment

Mayor Smith called for public comment.

Rick Schlenker, Schlenker & McKittrick Architects, representing the applicants; spoke in support of the resolution of intention.

Motion

Commissioner Elsaesser moved approval for a resolution of intention to vacate the closed alley and the west 35 feet of closed Cooke Street, both in Block 23 in the Northern Pacific Addition to the City of Helena, and set a public hearing date of April 6, 2009.
Commissioner Peura seconded the motion.

Discussion

Commissioner Elsaesser expressed concern for pedestrian crossing in the area related to the future transit site. Commissioner Peura spoke of the increase in development of the neighborhood and urged the Commission to support the creation of a Tax Increment Finance (TIF) District in the area.

Vote

All voted aye, motion carried. **Res #19634**

Pool Name Change

CONSIDER CHANGING THE NAME OF MEMORIAL PARK POOL TO "LAST CHANCE SPLASH" WATER PARK AND POOL.

Staff Report

Parks & Recreation Director Amy Teegarden reported the city is nearing completion of the \$2.8 million pool renovation and construction of a water park at Memorial Park Pool. With the 2009 summer opening of the water park and renovated pool, city staff is recommending re-naming the facility to improve marketing potential and redefine the product that is being offered. Once a name is selected, the Parks Department will consult with a marketing/communications firm to develop a logo to be incorporated into the name, signs and advertising materials.

City staff met with representatives of the Veteran's Memorial group in January regarding the re-naming of Memorial Pool. The veterans group gave their support for the name change. In February the Parks Department initiated a naming contest with Helena Middle School students and the public. As a result, over 60 suggested were received.

In March, the City/County Parks Board narrowed the list to three to the following three:

- Capital City Water Park
- Sleeping Giant Water Park
- Last Chance Splash Water Park

Staff is recommending the name and tagline of “Last Chance Splash” Water Park and Pool. In an effort to incorporate local icons and historical themes, prominent water park features could be informally named and signed. For instance, the lazy river could be named the “Sleeping Giant Lazy River”; the water slides could be named “Mt. Helena and Mt. Ascension” and the splash deck could be named “Vigilante Splash Deck”.

Director Teegarden stated the proposed name change will raise public awareness and generate excitement for the new facility and has more marketing potential than the existing name; it would provide an association with Helena history and the facility’s location on Last Chance Gulch.

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

Motion Commissioner Peura moved approval of changing the name of Memorial Park Pool to “Last Chance Splash” Water Park and Pool. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Pool Fees CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES TO BE CHARGED FOR THE MEMORIAL PARK POOL FOR THE 2009 SEASON.

This item was tabled to April 6, 2009 under the agenda item “Communications from Commissioners”.

Tourism BID CONSIDER A RESOLUTION OF INTENTION TO CREATE A TOURISM BUSINESS IMPROVEMENT DISTRICT FOR THE PURPOSE OF PROMOTING TOURISM WITHIN THE CITY OF HELENA, MONTANA.

Staff Report City Attorney Nielsen reported a signed petition has been submitted to the City of Helena requesting the city create a Tourism Business Improvement District (TBID). Staff has verified the petition meets the requirements of state law. Before the district can be created the Commission must first pass a resolution of intention to create the district and set a public hearing date. Also, a fifteen day protest period between the passage of the resolution of intention and the public hearing date is required.

Attorney Nielsen recommended approval of the resolution of intention as a TBID would promote tourism and market the City of Helena through the advertising of conventions, trade shows, and major sporting events that benefit the City of Helena and lodging businesses within the district.

Public comment Mayor Smith called for public comment.
Barb Morris, Jorgensons; spoke in support of the proposed district.

Cathy Burwell, Helena Chamber of Commerce; spoke in support of the proposed district.

Marty Bartel, Best Western Great Northern; spoke in support of the proposed district.

Jeff Kurtz, Fairfield Inn; spoke in support of the proposed district.

Discussion

Commissioner Peura and Mayor Smith spoke in support of the TBID. Commissioner Elsaesser asked when the district would take effect. Attorney Nielsen explained a reporting effective date will be set and the first collection will be on the November tax bill.

Motion

Commissioner Elsaesser moved approval for a resolution of intention to create a TBID and set a public hearing date of April 20, 2009. Commissioner Peura seconded the motion. All voted aye, motion carried. **Res #19635**

Public Communications

PUBLIC COMMUNICATIONS

Commissioner Elsaesser spoke of successful plastics recycling in Helena.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is April 1, 2009 and the next Commission Meeting is April 6, 2009. The City/County Commission Joint Work Session will be held April 2, 2009.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:23p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission