

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

Time & Place

A regular City Commission meeting was held on Monday, November 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 Ron Alles, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Janet Hess-Herbert 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 2, 2009 were approved as submitted.

Appointments

APPOINTMENTS:

- A. Bill Roberts Golf Advisory Board
- B. Helena International Affairs Council
- C. City-County Planning Board
- D. Urban Wildlife Advisory Committee

Mayor Smith asked for Commission concurrence on the following appointments:

Bill Roberts Golf Advisory Committee - Appointment of Jonathan Pallister to the Golf Advisory Board. First term will begin upon appointment and expire October 30, 2012.

Helena International Affairs Council - Reappointment of Erson Ozer and Anthony Warren to first full terms. Terms will begin upon appointment and expire October 28, 2012.

City-County Planning Board - Appointment of Alicia Pichette to the City-County Planning Board as the joint member. First term will begin upon appointment and expire September 1, 2012.

Urban Wildlife Advisory Committee - Appointment of Melissa Broch, HOLMAC representative, term will begin upon appointment and expire November 30, 2012. Appointment of Randy Phillips, HCC representative, term will begin upon appointment and expire November 30, 2012. Appointment of Eric Woodland, HCC representative, term will begin upon appointment and expire November 30, 2011. Appointment of Stephanie Knisley, community representative, term will begin upon appointment and expire November 30, 2012. Appointment of Helen Rietz, community representative, term will begin upon appointment and expire November 30, 2011.

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

Motion Commissioner Peura moved approval of the appointments to the Golf Advisory Board, Helena International Affairs Council, City-County Planning Board and Urban Wildlife Advisory Committee as outlined above. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution declaring certain personal property to be abandoned and unclaimed (bicycles) **Res #19708**
- C. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property (ballfield lights) **Res #19709**
- D. State bid for police patrol and administrative and service fleet purchases
- E. Resolution declaring equipment from the Tenmile Water Treatment Plant and the Wastewater Treatment Facility to be surplus property and authorizing the disposal of that property **Res #19710**
- F. Installation of 4-way stop traffic control at the intersection of Saddle Drive and Winne Avenue
- G. Right-of-way dedication for Washington Street as indicated on the proposed amended plat for Lot 5-C of the Amended Skyway Regional Shopping Center Plat - Phase I

City Manager Ron Alles recommended approval of the claims and the consent agenda.

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

Motion Commissioner Peura moved approval of items A through G on the consent agenda. Commissioner Shropshire seconded the motion. All voted aye, motion carried.

Commission Comment It was noted the surplus ballfield lights would be given to Lincoln Public Schools.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser congratulated the HCC on the recent election which resulted in 4 out of 7 districts being filled. He thanked the members of the newly formed Urban Wildlife Advisory Committee for their desire to serve on the committee.

Commissioner Cartwright announced property taxes are due at the end of November and noted his taxes went up by \$60.00, with \$40.00 being increases by the city and \$20.00 by the state re-appraisal; he noted this increase is less than what he has paid in increases to the oil companies over the past year. Commissioner Peura spoke of the Department of Revenue appraisal process.

Mayor Smith referred the Commission to a memo from Rocky Mountain Development Council Executive Director Gene Leuwer titled "Caird NSP Application Considerations" and spoke of past hearings about the proposal. He referred to an article about the project not meeting criteria for NSP funding in the Helena Independent Record, and

asked Commission members if there was a desire to reconsider the previous motion to deny the project. Commissioner Cartwright explained this is the first time he had seen the memo from Mr. Leuwer and spoke of the commercial use of the project not complying with NSP funding standards. He indicated he would read the memo to allow for further discussion.

Commissioner Peura asked that an email from the Department of Housing and Urban Development (HUD) and Montana Department of Commerce (DOC) that spoke to the eligibility of the Caird Project be included in the Commission packet as part of the official record. He stated he would have no interest in reconsidering the project as correspondence from HUD indicated the project would not comply with funding.

Commissioner Shropshire spoke against the proposal as the property isn't currently zoned for housing. Commissioner Cartwright commented about other possible uses for the Caird property. Commissioner Elsaesser asked that his email response regarding the eligibility of the project be added to the record.

Mayor Smith noted Lewis & Clark County could also sponsor the NSP grant application.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen reported Burlington Northern- Santa Fe has signed the land donation agreement with the city that was approved in September; staff will proceed with setting a closing date for the property.

Attorney Nielsen also reported the city received an order from Federal Court to restate the status of Yellowstone Pipeline lawsuit. He gave an overview of recent mediation on November 6, 2009 in Missoula; Yellowstone Pipeline/Conoco Phillips did not send a representative with settlement authority which is in violation of federal rules. Sanctions have been placed against Yellowstone Pipeline and they have been ordered to reimburse the city and school district for attorney's fees, time and expenses for the November 6, 2009 and upcoming December 11, 2009 hearing. Commissioner Cartwright thanked staff for their work on the lawsuit.

Report of the City Manager

REPORT OF THE CITY MANAGER

No report was given.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Janet Hess-Herbert reported the HCC cancelled its November 18, 2009 Community Forum on the Global Climate Change Task Force recommendations due to issues with the meeting location; the forum will be rescheduled. Commissioner Peura thanked the HCC for their work in promoting the Task Force's recommendations. Ms. Hess-Herbert gave an overview of the HCC's December meeting agenda.

Lighting Standards

CONSIDER FIRST PASSAGE OF AN ORDINANCE REQUIRING THAT STREET LIGHTING REPLICAS COMPLY WITH LIGHTING STANDARDS, ELIMINATING THE JANUARY 1, 2011 DEADLINE FOR STREET LIGHTING FIXTURES TO CONFORM TO CITY CODE, AND ELIMINATING THE REQUIREMENT THAT THE CITY MANAGER

SUBMIT A PLAN FOR COMPLIANCE BY AMENDING SECTIONS 10-1-3 AND 10-3-2, HELENA CITY CODE.

Staff Report

Deputy City Attorney Thomas Jodoin reported the current definition of historic streetlight includes streetlights that are manufactured after January 1, 1950, and are designed to replicate streetlights that were manufactured prior to January 1, 1950. This definition permits replica streetlights that don't comply with City Code with respect to horizontal cut-off requirements.

City Code also requires that all street lighting fixtures that are not exempt and do not comply with the code must be brought into compliance by January 1, 2011. In furtherance of that goal, the City Manager was required to submit a plan to the City Commission by January 1, 2001, for bringing street lighting fixtures into compliance. Ten percent (10%) of nonconforming street lighting fixtures identified in that plan were required to be retrofitted each year.

Staff is recommending the ordinance require that all street lighting fixtures, except historic street lights, comply with street lighting standards by eliminating historic replicas from the definition of historic streetlights. Eliminate allowing non-exempt, nonconforming street lighting fixtures and eliminate the requirement that the City Manager submit a plan for bringing nonconforming fixtures into compliance and that 10% of nonconforming fixtures be retrofitted to comply with city code each year.

Deputy Attorney Jodoin recommended approval of first passage of the proposed ordinance as it would require all non-exempt street lighting fixtures to comply with the City Code when they are replaced. Historic streetlights could still be repaired and replaced and maintain their nonconforming status.

Commission comment

Commissioner Cartwright thanked staff for bringing this ordinance change forward for consideration. Commissioner Peura asked if existing historic lights will continue to be allowed and replaced in their historic nature. Deputy Attorney Jodoin stated yes.

Public comment

Mayor Smith called for public comment.
Helen Reitz, 1105 LeGrande Cannon; asked how often lights need to be replaced.

Discussion

Deputy Attorney Jodoin explained the light fixtures themselves are what need to be updated; it is estimated 10-20 light fixtures per year will be replaced. Commissioner Cartwright spoke of the possibility of the city using LED lights or similar technology in the future because of the reduction in energy costs.

Motion

Commissioner Cartwright moved approval of first passage of an ordinance requiring that replicas of historical fixtures comply with lighting standards, eliminating the January 1, 2011 deadline for street lighting fixtures to conform to City Code, and eliminating the requirement that the City Manager submit a plan for compliance by amending Sections 10-1-3 and 10-3-2, Helena City Code and set a public hearing date of December 7, 2009. Commissioner Peura seconded the motion.

Amendment

Commissioner Elsaesser moved to amend 10-3-2 Section B, to read "The City Manager shall submit an updated plan and regular updates to the City Commission for its approval to bring street lighting fixtures into compliance with the requirements of this title." and strike all other language following the amendment.

Commissioner Peura seconded the motion.

Discussion

Commissioner Shropshire spoke in support of the amendment. Commissioner Peura stated regular updates on how many fixtures have been replaced would be good and aid the city in implementing LED lights in the future. Elsaesser spoke of involving the HCC. Mayor Smith indicated he would not support the amendment. Commissioner Cartwright commented the frequency of the report should be under the discretion of the City Manager.

Vote on amendment

Motion carried 4-1, with Mayor Smith voting no.

Vote

All voted aye, motion carried. **Ord #3119**

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION ANNEXING A 20-ACRE PARCEL OF LAND KNOWN AS THE LABORERS AGC TRAINING PROGRAM SITE AND THE FULL WIDTH OF HORSESHOE BEND ROAD AND CRYSTAL SPRINGS ROAD ADJACENT THERETO, INTO THE CITY OF HELENA.

B. CONSIDER A RESOLUTION ANNEXING A 40-ACRE PARCEL OF LAND KNOWN AS THE WOODLAWN PARK SUBDIVISION AND THE GREEN MEADOW MARKET AND ALL ADJACENT RIGHTS-OF-WAY THERETO LOCATED IN LEWIS AND CLARK COUNTY INTO THE CITY OF HELENA.

C. CONSIDER A RESOLUTION ANNEXING CONTIGUOUS GOVERNMENT PROPERTY, BEING LOTS 5-20 AND 30-48 IN BLOCK 7 OF THE WOODLAWN PARK SUBDIVISION LOCATED IN LEWIS AND CLARK COUNTY INTO THE CITY OF HELENA.

D. CONSIDER A RESOLUTION ANNEXING CONTIGUOUS GOVERNMENT PROPERTY, BEING A 160-ACRE PARCEL KNOWN AS THE LEWIS AND CLARK COUNTY FAIRGROUNDS LOCATED IN LEWIS AND CLARK COUNTY INTO THE CITY OF HELENA.

Staff Report

City Planner Dustin Ramoie reported on October 19, 2009, the Helena City Commission adopted a Resolution of Intention (#19701), to annex a 20-acre parcel of property known as the Laborers AGC Training Program Site and the full width of Horseshoe Bend Road and Crystal Springs Road adjacent thereto, all located in Lewis and Clark County, into the City of Helena. On the same date the Helena City Commission passed an Ordinance (#3117) pre-zoning this parcel to PLI (Public Lands and Institutions) District prior to annexation.

The Laborers AGC Training Program Site is used for educating students in skill trades such as masonry work, electrical linemen, cell tower repair and machine operations etc. The identified uses are permitted by right under the proposed PLI (Public Lands and Institutions)

District zoning. In addition, the Laborers AGC Training Program Site is currently receiving city water and sewer services and fire protection is provided by the City of Helena through the Westside Fire Service Area.

The property is served by city water, sewer and fire services, making efficient use of land, infrastructure, energy and other resources. Annexation of the property is consistent with city policy, and consistent with the policy of annexing properties contiguous with city boundaries.

On October 19, 2009, the Helena City Commission adopted a Resolution of Intention (#19700), to annex a 40-acre parcel of property known as the Woodlawn Park Subdivision and the Green Meadow Market, the full width of all platted streets and alleys in Woodlawn Park subdivision, and the full width of Green Meadow Drive and Silsbee Avenue adjacent thereto, all located in Lewis and Clark County, into the City of Helena. On the same date the Helena City Commission passed an Ordinance (#3118) pre-zoning these parcels R-4/R-O, B-2, and CLM prior to annexation.

The properties are currently developed and are used for residential, commercial, and light industrial uses. The properties are adjacent to Green Meadow Drive to the east and Custer Avenue to the south. The annexation of the Woodlawn Park subdivision and Green Meadow Market is part of the ongoing effort that was started several years ago when the decision was made to extend water and sewer to the Laborers AGC Training Facility, Woodland Dunbar area and Fairgrounds property. City staff conducted several public informational meetings regarding the annexation and pre-zoning process and to answer any questions that the property owners may have concerning these processes.

The properties are served by city water and sewer making efficient use of land, infrastructure, energy and other resources. Annexation of the property is consistent with city policy, and consistent with the policy of annexing properties contiguous with city boundaries.

On October 19, 2009, the Helena City Commission adopted a Resolution of Intention (#19702), to annex contiguous government property, being lots 5-20 and 30-48 in Block 7 of the Woodlawn Park subdivision located in Lewis and Clark County, into the City of Helena. On the same date the Helena City Commission passed an Ordinance (#3118) pre-zoning this parcel R-4/R-O prior to annexation.

The property currently has city water and sewer services available but is not being served since it is open space. Fire protection is from the Westside Fire Service Area. The city of Helena acquired these lands in a project with conservation organizations to help preserve open space, wetlands, and critical wildlife habitat. The properties have effectively been maintained as open space and preserved from future development.

The City of Helena made an official request to annex these properties into the City of Helena in accordance with 7-2-4403, MCA. In addition, the full width of the adjacent rights-of-way of the property being annexed must also be included in the annexation.

The property could be served by city water and sewer making efficient use of land, infrastructure, energy and other resources. Annexation of the property is consistent with city policy, and consistent with the policy of annexing properties contiguous with city boundaries.

On October 19, 2009, the Helena City Commission adopted a Resolution of Intention (#19699), to annex contiguous government property, being a 160-acre parcel known as the Lewis and Clark County

Fairgrounds located in Lewis and Clark County Montana, into the City of Helena, Montana and set a November 23, 2009 public hearing date for this annexation. On the same date the Helena City Commission passed an Ordinance (#3116) pre-zoning this parcel to PLI (Public Lands and Institutions) District prior to annexation.

The Lewis and Clark County Commissioners made a formal request on August 31, 2009 to annex the Lewis and Clark County Fairgrounds into the City of Helena in accordance with 7-2-4403, MCA.

The Lewis and Clark County Fairgrounds buildings and property are used for government offices and both indoor and outdoor public events such as fairs, rodeos, shows and concerts. All of the identified uses are permitted by right under the proposed PLI (Public Lands and Institutions) District zoning. In addition, the Lewis and Clark County Fairgrounds is currently receiving city water and sewer services and fire protection is currently provided through the Helena Fire Department Contract Service Area.

The property is served by city water, sewer and fire services, making efficient use of land, infrastructure, energy and other resources. Annexation of the property is consistent with city policy, and consistent with the policy of annexing properties contiguous with city boundaries.

Mr. Ramoie recommended approval of the proposed annexations.

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 Peura moved approval of a resolution annexing a 20-acre parcel of property known as the Laborers AGC Training Program Site and the full width of Horseshoe Bend Road and Crystal Springs Road adjacent thereto, as legally described in the attached resolution, located in Lewis & Clark County, Montana, as shown on Exhibit "A". Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19711**

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 Peura moved approval of a resolution annexing a 40-acre parcel of property known as the Woodlawn Park Subdivision and Green Meadow Market, the full width of all platted streets and alleys in Woodlawn Park Subdivision, and the full width of Green Meadow Drive and Silsbee Avenue adjacent thereto, as legally described in the resolution, located in Lewis & Clark County, Montana, as shown on Exhibit "A". Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19712**

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 Elsaesser moved approval of a resolution annexing a 1.89-acre parcel of contiguous government property, being lots 5-20 and 30-48 in block 7 of the Woodlawn Park Subdivision, into the City of Helena, as legally described in the resolution, located in Lewis & Clark County, Montana, as shown on Exhibit "A" attached hereto. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res #19713**

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 Elsaesser moved approval of a resolution annexing contiguous government property, being a 160-acre parcel known as the Lewis & Clark County Fairgrounds as legally described in the resolution, located in Lewis & Clark County, Montana as shown on Exhibit "A". Commissioner Peura seconded the motion. All voted aye, motion carried. **Res #19714**

Public Communications PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest MEETINGS OF INTEREST
The next Administrative Meeting is December 2, 2009 and the next Commission Meeting is December 7, 2009.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 6:58 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission