

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**January 11, 2010**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, January 11, 2010 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, Ellison, Thweatt and Elsaesser were present. City Manager Ron Alles, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Randy Phillips 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 December 21, 2009 were approved as submitted.

***Oath of Office***

OATH OF OFFICE:

A. Helena Citizens Council

The following newly elected members of the Helena Citizens Council were given the oath of office and sworn-in by Mayor Smith: District #1 – Winston Greely, Lorabelle Behlmer; District #2 –David Scrimm, Bobebette Madonna; District #3 – Olivia Tooley, Eric Woodland, Jim McCormick; District #4 – Dan Bernhardt, Ellen Bell; District #5 – Albert Bruce Clark, Roy Hemry, Eric Ball, Randy Phillips; District #6 – James Penner; District #7 – John Forbes, Sande Wilson.

***Appointments***

APPOINTMENTS:

- A. 2010 City Commission Appointments
- B. Helena International Affairs Council
- C. Transportation Coordinating Committee

Mayor Smith made the following recommendations for the 2010 City Commission appointments, Helena International Affairs Council and Transportation Coordinating Committee:

**2010 City Commission Appointments**

MAYOR PRO TEM

Paul Cartwright

ADA COMPLIANCE COMMITTEE

Two-year term – expires September 1, 2011  
James E. Smith

BOARD OF ADJUSTMENT

One year term - expires December 31, 2010  
Dick Thweatt

AUDIT COMMITTEE

One-year term - expires December 31, 2010

James E. Smith  
Paul Cartwright  
Dan Ellison

BUSINESS IMPROVEMENT DISTRICT BOARD OF DIRECTORS/HELENA PARKING COMMISSION

No specific term  
Dan Ellison

CITY-COUNTY ADMINISTRATION BUILDING BOARD OF DIRECTORS

One-year term - expires December 31, 2010

Matt Elsaesser  
City Manager Ron Alles - standing member

CITY-COUNTY BOARD OF HEALTH

No specific term  
James E. Smith

CITY-COUNTY PARKS BOARD

No specific term  
Paul Cartwright

CITY-COUNTY WEED BOARD

No specific term  
Matt Elsaesser

CIVIC CENTER BOARD

No specific term  
James E. Smith

HELENA CHAMBER OF COMMERCE LIAISON- Local Government Committee

No specific term  
Dan Ellison

INFORMATION TECHNOLOGY COMMITTEE

No specific term  
Dick Thweatt

INFRASTRUCTURE COMMITTEE

No specific term  
Matt Elsaesser

INTERGOVERNMENTAL TRANSIT COMMITTEE

One year term – expires December 31, 2010  
Dan Ellison

MONTANA BUSINESS ASSISTANCE CONNECTION

No specific term  
Matt Elsaesser

MONTANA LEAGUE OF CITIES AND TOWNS

No specific term  
James E. Smith

NON-MOTORIZED TRAVEL ADVISORY BOARD

One year term – Expires December 31, 2010  
Paul Cartwright

PRE-RELEASE SCREENING COMMITTEE

No specific term  
Dan Ellison

PUBLIC ART COMMITTEE

No specific term  
Dick Thweatt

TRANSPORTATION COORDINATING COMMITTEE

One year term - expires December 31, 2009  
Dick Thweatt  
Matt Elsaesser

Helena International Affairs Council - Appointment of Michaela Wolfinger to an unexpired term on the HIAC; term will begin upon appointment and expire October 28, 2010. Appointment of Stephen Cocca to a first term on the HIAC; term will begin upon appointment and expire October 28, 2012.

Transportation Coordinating Commission - Reappointment of Patricia Johnson to a second term on the TCC; term will begin upon appointment and expire December 31, 2011.

Public comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Ellison moved approval of the 2010 Commission appointments and appointments to the Helena International Affairs Council and Transportation Coordinating Committee as outlined above.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Acceptance of the South Helena Watershed Stewardship Restoration & Protection Grant from the Forestry Division of the State of Montana (DNRC)
- C. CTEP Project Agreement for C.R. Anderson Middle School sidewalk project
- D. Acceptance of DEQ Renewable Air & Clean Air Program monitoring supplies and installation for the Stirling Engine generator

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

***Communications***

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith and Commissioners Cartwright and Elsaesser welcomed Commissioners Thweatt and Ellison to the Commission.

Commissioner Cartwright referred to the U.S. Conference of Mayors Climate Protection Agreement and distributed a graph showing a decrease in Helena Heating Degree Days and noted it would be on the city's website under Commissioner Cartwright's page.

Mayor Smith spoke of attending the opening of Phase III of the Eagles Penkay Manor and noted the residents are very pleased with the project.

Commissioner Ellison thanked current and former Commission members for taking the time to provide advice and guidance about running for City Commission. He also thanked Helena voters for their support.

***Report of the City Attorney***

REPORT OF THE CITY ATTORNEY

A. Acknowledgment of Burlington Northern Santa Fe (BNSF) property donation

City Attorney Nielsen reported BNSF owned railroad spur line right-of-way (ROW) in the City of Helena that ran from Montana Avenue to Benton Avenue. Since 1999, the city has negotiated with Montana Rail Link and BNSF for the acquisition of this spur line. This spur line is a key link for use as a cross-town non-motorized trail and bisects Centennial Park and the city's solid waste transfer station. The value of the property was appraised at \$1,023,000. The City Commission approved the city's acceptance of this donation on October 19, 2009. On December 14, 2009, BNSF delivered the Donation Deed to the City Attorney's Office for recordation.

Attorney Nielsen invited BNSF Representative Barbara Ranf to be recognized by the City Commission for their generous donation. Ms. Ranf commented it was a pleasure to provide the donation and BNSF is excited to partner in the Centennial Park Project.

**Motion**

**Commissioner Cartwright moved to thank BNSF for their donation.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

***Report of the City Manager***

REPORT OF THE CITY MANAGER

City Manager Alles asked Public Works Director John Rundquist to report on the re-lining of the city's 54-inch stormwater drain located downtown at Lawrence and Fuller Street. Director Rundquist gave an overview of the project and explained the curing process creates styrene gas, which has a strong odor. City staff hired Bison Engineering to take air samples in the Power Block area and the concentration of styrene gas was below protective standards set by OSHA. He added the contractor was originally scheduled to perform the work on the weekends because of the associated odor, but because of the recent extremely cold weather was behind schedule.

Commissioner Cartwright thanked staff and the contractor for performing the work after the holiday shopping season.

**Report from the  
Helena Citizens  
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Randy Phillips reported the first HCC meeting of 2010 will be held January 27, 2010.

**Golf Course Fees**

CONSIDER A RESOLUTION OF INTENTION ESTABLISHING FEES TO BE CHARGED FOR THE BILL ROBERTS GOLF COURSE FOR THE 2010 SEASON.

Staff Report

Parks & Recreation Director Amy Teegarden reported operational authority for the Bill Roberts Golf Course (BRGC) has been delegated to the Parks & Recreation Director. BRGC is an "enterprise program" which is expected to establish and maintain self-sustaining operations. In the past, BRGC has encumbered debt, borrowed from the general fund and has had difficulty in establishing a capital reserve program.

During the past year, city staff has been working with the Golf Advisory Board (GAB) in the development of a business management plan in an effort to provide guidance for maintenance, operations and fiscal management of the course. Staff and the GAB have analyzed the existing fiscal situation and have developed alternatives for reducing costs, improving cash flow and establishing a capital reserve program. Administrative policies have been reviewed and changes made as well.

Based on planning and review of the current fiscal situation, city staff and the GAB are recommending rate increases for the 2010 season. Proposed rate-based revenue increases total approximately \$47,975. In addition to rate increases, city staff will be pursuing new revenue generating activities in the form of sponsorships, increased tournaments, advertising, etc. totaling approximately \$47,550. With the combined fee increases and expected additional revenue, approximately \$95,525 is projected for capital reserves.

The combined efforts to reduce costs and increase revenue will help continue the current level of maintenance and operation standards that the golfers have come to expect at BRGC. These efforts will also assist in funding the debt service for capital repairs, replacements and improvements that have been done. Even with the fee increases, BRGC is still the best golfing value in the area. Director Teegarden recommended approval of the resolution of intention to establish the subject fees for the 2010 season.

Commission comment

Commissioner Thweatt asked for the non-resident fees at local privately owned golf courses? Director Teegarden stated Green Meadow Country Club charges \$45 if you are from the area and you must play with a member; it is \$55 for out-of-town golfers. She noted players may play up to 36 holes. Fox Ridge Golf Course charges \$16 for 9 holes and \$30 for 18 holes. Director Teegarden added Fox Ridge allows you to play both the par 3 and standard course.

Public comment

Mayor Smith called for public comment.  
Sheila Hill, Lewis & Clark County resident, Golf Advisory Board Member; stated the GAB agreed on a 3% increase and 5% may make golfing unaffordable to many citizens.

Jim Hill, Lewis & Clark County resident; spoke against charging non-residents more than city residents.

John Pallister, GAB member; commented the GAB has worked very hard to get the golf course out of financial trouble and noted the 3% increase was a unanimous decision by the board. Mr. Pallister cautioned the Commission against setting different fees for residents and non-residents.

Discussion

Mayor Smith recommended the Commission decide whether or not to include the non-resident fees in the advertisement for the January 25<sup>th</sup> public hearing. Commissioner Cartwright concurred with Mayor Smith for purposes of setting the public hearing. Commissioner Elsaesser indicated he would probably not support differing rates based on residency without further discussion on the issue.

Motion

**Commissioner Cartwright moved approval for a resolution of intention establishing fees to be charged for the Bill Roberts Golf Course for the 2010 season, to include non-resident rates, and set a public hearing date of January 25, 2010.** Commissioner Thweatt seconded the motion. All voted aye, motion carried. **Res #19716**

*Municipal Court*

CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3121 ABOLISHING THE HELENA CITY COURT, ESTABLISHING A MUNICIPAL COURT AND THE POSITION OF MUNICIPAL COURT CLERK, AND SETTING COURT CIVIL FEES. (TABLED ON DECEMBER 21, 2009)

Staff Report

City Attorney Nielsen reported Helena currently has a city court that adjudicates certain civil cases and misdemeanor crimes committed in the city limits. When there is a criminal conviction in city court, the defendant can appeal to district court and get a trial de novo—a new trial. This means the case starts all over again. In a municipal court, the trial proceeding is recorded and when there is a conviction, the appeal to district court is only on the trial record. There is no right to a new trial simply because of the appeal. At present, there are 32 pending criminal convictions from City Court that are on appeal to district court and all will receive a new trial. The prosecutor must try the case a second time. All the witnesses, including police officers, must come and testify a second time. If our police officers go to district court during their time off, they are deprived of much needed rest from work and the City pays them a minimum of four hours of overtime. Lay witnesses are inconvenienced a second time. There are currently 7 license suspension cases pending in district court that require a hearing, including officer and prosecutor time. Five large cities in Montana use a municipal court. Two have one full-time judge (Great Falls and Kalispell), one has one and three-quarter time judges (Missoula), one has one and a part-time judge (Bozeman) and one has one and one-half time judges (Billings). When Kalispell converted to a municipal court, its civil case filings increased by less than 5 per year. After Billings converted, the increase in number of civil case filings was negligible. Helena had 51 civil case filings in 2009, 10 of which were collection actions filed by the City, and 41 were filings for orders of protection. The collection actions filed by the City use the same type of pleadings as private parties would use in a civil case.

The current fees set by ordinance for civil cases for City Court are higher than the amount a municipal court can legally charge, so in

transitioning to a municipal court, the civil case fees must be adjusted to comply with state law.

On December 21, 2009, the City Commission tabled approval of second passage of this ordinance until the January 11, 2010 meeting. The ordinance tabled changed the effective date to July 1, 2010, rather than the March 1, 2010 contained in draft of ordinance on first passage.

Attorney Nielsen recommended approval of the ordinance as it will save time that prosecutor, police officers, victims, and lay witnesses spend on trials de novo and reduce the appeal caseload of the district court by narrowing appeals to issues on the record and not allowing trials do novo. He also recommended the effective date of the ordinance be March 1, 2010.

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

**Motion** Commissioner Cartwright moved approval of final passage of Ordinance No. 3121, to be effective March 1, 2010, abolishing the Helena City Court, establishing a municipal court and the position of Municipal Court Clerk, and setting court civil fees. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3121**

**Public Communications** PUBLIC COMMUNICATIONS  
No public communications were given.

**Meetings of Interest** MEETINGS OF INTEREST  
The next Administrative Meeting is January 20, 2010 and the next Commission Meeting is January 25, 2010.

**Adjournment** There being no further business to come before the Commission, the meeting was adjourned at 7:12p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission