

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 21, 2010
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 21, 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 Dan Bernhardt 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 June 7, 2010 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution of intention to change the name of a portion of Getchell Street north of Lyndale Avenue to Learning Street and set a public hearing date of July 12, 2010 **Res #19738**
- C. Storm Drainage Agreement with MDT for the Custer Avenue Interchange project
- D. Ordering in of sidewalks at the Best Bet Casino in accordance with City Ordinance
- E. Agreement with the Helena National Forest District Resource Advisory Committee accepting funds in the amount of \$5,600 for the Archery Range/Davis Gulch Weed Control Project
- F. Agreement with the Montana Department of Agriculture accepting Noxious Weed Trust Fund Grant # MDA 2010-012 funds in the amount of \$10,051 for the Open Space Post Fuel Treatment Fuel Mitigation project
- ~~G. Resolution of intention to create a Business Improvement District within the City of Helena, Montana and setting a public hearing date of July 12, 2010~~
- H. Final passage of Ordinance No. 3125 amending Ordinance No. 2933 changing a pre-zoning designation of R-3 (Residential) District to R-2 (Residential), B-1 (Neighborhood Business), and PLI (Public Lands and Institutions) Districts for property generally located between Green Meadow Drive and Benton Avenue, north of Horseshoe Bend Road **Ord #3125**

City Manager Ron Alles recommended approval of the claims and the consent agenda. He noted item G has been removed from consideration.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved approval of items A through F and H on the consent agenda. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison congratulated Carroll College on receiving the Frontier Conference Bandi Award and the Independent Record for recent awards from the Montana Newspaper Association.

Commissioner Elsaesser concurred with Commissioner Ellison's comments and spoke in support of the University of Montana - Helena's upcoming expansion.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

A. Consider an easement agreement clarification with Yellowstone Pipe Line.

City Attorney Nielsen reported in 1953, Alice Laird granted a Right-of-Way Easement to Yellowstone Pipe Line Company ("YPL") for the construction, maintenance, repair, replacement, protection and operation of a pipe line for transportation of petroleum liquids and gases. This easement does not have a specified width. Alice Laird conveyed a portion of her property (3.14 acres) that was subject to YPL's easement to the City in 1980. The 3.14 acres is a part of the City's storm water detention pond system located off Custer Avenue. On the eastern portion of the 3.14 acres, YPL removed all trees located within 25 feet of the pipe line without notifying the City. The City filed a lawsuit for the damage to its property for the tree removal. The primary issue in the litigation is defining a reasonable use of the easement by YPL and what surface rights the City has over the easement property. In negotiating a settlement of the lawsuit, both parties agreed that for future use of the easement and City's property, amending the original easement and adding specificity on the dimension of the easement, reclamation responsibilities, and risk transfer was in the mutual interest of both parties.

The proposed amendment contains the following major changes:

1. Establishes a clear easement width that YPL can expect for its use, rather than the nebulous provision of "ingress and egress" for purposes of the easement.
2. Allows YPL to install warning signs and cathode protection devices on the surface of easement.
3. Requires YPL to give advance notice, except in emergencies, to City of work to be done in the easement.
4. Requires YPL to reclaim disturbed soils by re-seeding and repair damaged trails composed of natural materials.
5. Allows the City to construct non-motorized trails with natural materials.
6. Allows City to seek encroachment permission from YPL for trails with hard, paved surfaces.
7. Requires YPL to indemnify, defend, and hold City harmless from claims resulting from YPL's operation, maintenance, and use of the easement.

8. Allows YPL to remove or abandon its pipeline if easement rights are released back to the City. If the pipeline is removed, the land would be restored and reclaimed.

Attorney Nielsen recommended approval of the amendment to the easement agreement.

Discussion

Commissioner Elsaesser and Commissioner Cartwright discussed impounding water, stormwater and wetlands in the area. Attorney Nielsen noted none will be affected because of the agreement. Commissioner Cartwright referred to the lawsuit between the city and YPL and asked if the city's obligations to School District #1 would be affected by amendments? Attorney Nielsen stated no. Commissioner Cartwright asked if the School District has reviewed the amendments. Attorney Nielsen indicated they had and had no objection to the proposed amendments.

Mayor Smith and Commissioner Elsaesser thanked Attorney Nielsen for his work on clarifications to the easement.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved approval of an amendment to the Right-of-Way (ROW) Agreement with Yellowstone Pipe Line Company and authorized the City Manager to execute the same. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

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
No report was given.

Fire Code

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 9 (FIRE PREVENTION CODE) OF TITLE 3 OF THE HELENA CITY CODE, AND SET A PUBLIC HEARING DATE OF JULY 26, 2010.

Staff Report

Fire Marshal Craig Trapp reported in order to remain current with new technology and processes, stay consistent with State of Montana's adoption, and change to a fire code consistent with other adopted codes within the City of Helena, staff is recommending adoption of the 2009 International Fire Code and amending Chapter 9, Title 3 of the Helena City Code. Fire Marshal Trapp gave an overview of changes to the existing code.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Thweatt moved approval of first passage of an ordinance amending Chapter 9 (Fire Prevention Code) of Title 3 of the Helena City Code, and set a public hearing date for July 26, 2010. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ord #3126**

Nuisance Weeds

CONSIDER FIRST PASSAGE OF AN ORDINANCE PROHIBITING NUISANCE WEEDS BY AMENDING CHAPTER 7 OF TITLE 7 OF THE HELENA CITY CODE, AND SET A PUBLIC HEARING DATE OF JULY 12, 2010.

Staff Report

Parks & Recreation Director Amy Teegarden reported during the development of the cooperative weed agreement between the City of Helena and Lewis & Clark County, it was clarified that enforcement of noxious weeds is the responsibility of the county, while it is the city's responsibility to enforce nuisance weeds. City staff's review of the current ordinance found the existing definition of a weed is subjective and open for interpretation. Follow-up on recent complaints have identified that the ordinance definition does not support "alternative" landscaping practices that some residents use for water conservation and "defensible space landscaping". Further, the current code requires a cumbersome complaint-driven process.

Staff is recommending the following amendments:

1. Revise the definition of nuisance weeds to clarify that only vegetation that is not intended for landscaping and poses or creates an unsafe or hazardous condition to the public or property is prohibited. This change in definition would permit property owners to grow non-traditional vegetation.
2. Revise the notification and enforcement process to require a 15-day notice to clear the nuisance weeds. If they are not cleared after that time, the city may cite the property owner or occupant with a misdemeanor in Helena Municipal Court. Upon a finding of a violation by the court, the property owner or occupant would have 10 days to clear nuisance weeds. If the weeds remain un-cleared, the city then has the option to enter the property and take reasonable action to remove the nuisance weeds and assess the costs against the property.

Director Teegarden noted the proposed changes would clarify the definition of nuisance weeds and make enforcement more achievable.

Discussion

Commissioner Thweatt referred to page 2 of the ordinance and the definition of nuisance weed and recommended an amendment that would change "hazardous conditions affecting the public or property, or both, instead of public *and* property". Director Teegarden concurred with the amendment. Commissioner Ellison asked how the complaint process would change. Director Teegarden explained the current process only allows for written complaints; passage of the ordinance would allow citizens to report weed problems by phone. Commissioner Cartwright asked if passage of the ordinance would have any budget impacts as the county will be named responsible for noxious weeds. Director Teegarden explained by state law, the county has authority over the enforcement of noxious weeds. Noxious weeds were listed in the current city ordinance by error.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion Commissioner Elsaesser moved approval of first passage of an ordinance prohibiting nuisance weeds by amending Chapter 7 of Title 7 of the Helena City Code and set a public hearing date of July 12, 2010. Commissioner Cartwright seconded the motion.

Amendment Commissioner Thweatt moved amend the definition of nuisance weed to read “Any vegetation, not planted or intended for landscaping purposes, that poses or has the potential to create unsafe or hazardous conditions to the public and “or” property, “or both”. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Vote All voted aye, motion carried. Ord #3127

WQPD MOU CONSIDER A MEMORANDUM OF UNDERSTANDING (MOU) WITH WATER QUALITY PROTECTION DISTRICT (WQPD) REGARDING STORM WATER QUALITY PROTECTION AND COORDINATION.

Staff Report Utility Maintenance Supervisor Kevin Hart reported the City of Helena and Lewis & Clark County Water Quality Protection District (WQPD) are operating under an expired MOU regarding education, outreach and other related matters in regard to Helena’s MS4 stormwater permit.

Both parties agree a strategic partnership will provide for the improvement and protection of Helena stormwater quality and subsequent discharges of such water to either surface or ground water in the county. Consistent information about state regulation on stormwater as it applies to construction activity and stormwater quality protection and enhancement is a mutual goal of the parties. The proposed MOU is intended to formalize the agreement to cooperate, protect, maintain and improve storm water under Helena’s stormwater management program.

Approval of the MOU will provide a demonstrable commitment of the city and WQPD to the implementation of state and federal law and regulation addressing stormwater quality protection and enhancement. WQPD involvement provides expertise in public outreach and education and technical knowledge to assist the city in further stormwater management goals required under the city’s MS4 permit. Energy saving impacts will be diverse, indirect and mostly unquantifiable, but improvements in stormwater quality discharges will reduce long term potential that future stormwater quality treatment, such as mechanical treatment methods, will be required. Superintendent Hart recommended approval of the MOU.

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

Motion Commissioner Elsaesser moved approval of a MOU with the City of Helena/Lewis & Clark County WQPD and authorized the City Manager to sign and implement the MOU. Commissioner Ellison seconded the motion. All voted aye, motion carried.

IECC Adoption CONSIDER FIRST PASSAGE OF AN ORDINANCE ADOPTING THE 2009 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE AS AMENDED BY THE STATE OF MONTANA, BUILDING

CODES BUREAU OF THE DEPARTMENT OF LABOR AND
INDUSTRY, AND SET A PUBLIC HEARING DATE OF JULY 26, 2010.

Staff Report

Chief Building Official Brandt Salo reported the State of Montana, Building Codes Division of the Department of Labor and Industry; following an extensive series of public hearings and testimony taken from interested parties that began in October of 2008; has provided an amended 2009 International Energy Conservation Code (IECC); effective as of March 26th, 2010; for adoption by all local certified jurisdictions. The City of Helena remains on the 2003 energy code as the state did not adopt the 2006 and has moved directly to the 2009 edition. Helena's code enforcement authority through the state certification process is subordinate; as such, the city is required to adopt the energy code as amended by the state and may not exceed its provisions.

First passage of the ordinance sets in motion the process of requiring new and remodeled residential and commercial structures to conform to the updated and more conservation-conscious 2009 energy code standards; including the enhancement of basic wall and roof assembly insulation values, the use of more energy efficient building envelope components such as doors and windows, and more efficient mechanical equipment and appliances inclusive of controls such as dual switching and motion-sensitive devices for lighting systems. The code will result in local contribution to the overall reduction in the consumption of energy resources through conservation achieved by the code's requiring or allowing use of state of the art technology and through the encouragement of integration of active building systems with the use of passive design features to get more efficiency out of the energy consumed. The energy issues and "green building standards" advanced through adoption of the IECC have become a focus area for acquisition of "continuing education" for building review and field inspection personnel of the Building Division.

Discussion

Discussion was held on the building community's reaction to adoption of the proposed codes.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved approval of first passage of an ordinance adopting the 2009 Edition of the International Energy Conservation Code as amended by the State of Montana, and set a public hearing date of July 26, 2010. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord # 3128**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3124 AMENDING TITLE 6, PUBLIC UTILITIES, CHAPTER 4 AND INDUSTRIAL WASTEWATER REGULATIONS OF THE HELENA CITY CODE.

Staff Report

Water/Wastewater Superintendent Don Clark reported the the City's Industrial Pretreatment regulations were last updated January 14, 2002. In July of 2009 the Environmental Protection Agency (EPA) performed an audit of the program and determined that there were areas

that needed updated to align with federal regulations. The EPA's required amendments update definitions and deal mainly with the sampling and reporting requirements for industrial users. The City Attorney's Office has completed a draft ordinance intended to comply with all US EPA audit requirements.

Superintendent Clark recommended approval of final passage of the ordinance as it will allow the city to remain in compliance with the Clean Water Act and its authorized Industrial Pretreatment Program.

Discussion

Commissioner Thweatt asked if this would affect any existing industrial dischargers. Superintendent Clark noted staff is currently performing a complete inventory of all businesses and doesn't anticipate any big impacts to them. Commissioner Thweatt asked if the new requirements will require additional funding. Superintendent Clark stated staff is hoping to absorb any costs with existing staff and resources. Commissioner Thweatt asked if the city has a choice to adopt the regulations or not. Superintendent Clark stated to be in compliance the city must adopt the ordinance.

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 Ellison moved approval of final passage of Ordinance No. 3124 amending Title 6, Public Utilities, Chapter 4 and Industrial Wastewater Regulations of the Helena City Code.

Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3124**

B. CONSIDER A RESOLUTION VACATING A PORTION OF ITASCA STREET ADJACENT TO LOT 2 IN BLOCK 192 OF THE BRADFORD ADDITION AND THE PETERSON LOT DESCRIBED IN COS #313756.

Staff Report

City Engineer Ryan Leland reported the City of Helena is designing the reconstruction of LeGrande Cannon Boulevard from the end of the existing pavement to the entrance to the Reber Subdivision. An existing portion of LeGrande Cannon Boulevard is currently located on private property owned by Nancy and Dennis Peterson.

City staff is recommending vacation of a portion of Itasca Street that would revert to the Petersons and become part of their property. In exchange, the Petersons are willing to convey portions of their property to the city as new right-of-way (ROW). The new design of LeGrande Cannon Boulevard will require that the city acquire Petersons' Lots 1 and 2 in Block 192 of the Bradford Addition and a portion of the Peterson's lot as defined in COS #313756. Mr. Ralph Van Daele, the owner of the lots abutting Itasca Street on the north, has consented to the partial vacation of Itasca Street and agrees that he portion that would normally revert to his property may revert instead to the Petersons. The additional LeGrande Cannon Boulevard ROW to be acquired is approximately the same acreage as the portion of Itasca proposed to be vacated, with the city receiving slightly more. Staff will present, at a future date, a proposed buy-sell agreement consummating the city's acquisition of the

LeGrande Cannon Boulevard ROW needed for the reconstruction project.

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 Thweatt moved approval for a resolution vacating a portion of Itasca Street, as described in the ROW Exhibit, adjacent to Lot 2 in Block 192 of the Bradford Addition and the Peterson Lot described on COS #313756. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19739**

- C. CONSIDER AN AMENDED PRELIMINARY PLAT FOR THE CROSSROADS AT MOUNTAIN VIEW MEADOWS MAJOR SUBDIVISION ELIMINATING 49 LOTS TO ALLOW FOR A LARGER, 5.25-ACRE NEIGHBORHOOD PARK AND TRANSFERRING THE DEVELOPMENT POTENTIAL FROM THOSE 49 LOTS TO OTHER AREAS WITHIN THE SUBDIVISION ALL IN AN R-4 (RESIDENTIAL) DISTRICT FOR PROPERTY GENERALLY LOCATED NORTH OF RUNKLE PARKWAY AND ON BOTH SIDES OF ALICE STREET.

Staff Report

Community Development Director Sharon Haugen reported the applicant is requesting a change to the preliminary plat that would impact street layout, parkland, and water and wastewater plans which constitute a material change to the approved preliminary plat for the Crossroads at Mountain View Meadows Major Subdivision. Therefore, staff has determined that the proposed changes are material and that the application must be presented to the City Commission for approval.

Staff requested this item be tabled until the July 12, 2010, City Commission meeting to allow more time for staff and Commission review. The applicant has agreed to the change in the public hearing date. The item was advertised for a public hearing and area property owners were notified. The city has not received any comments regarding the proposed changes. Tabling the item to a date certain would eliminate the obligation to re-advertise the public hearing.

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 to table the public hearing for the amended preliminary plat of the Crossroads at Mountain View Meadows major subdivision to the July 12, 2010 City Commission Meeting. Commissioner Ellison seconded the motion. All voted aye, motion carried.

- D. CONSIDER A RESOLUTION AUTHORIZING THE CONVEYANCE OF SURPLUS REAL PROPERTY OWNED BY THE CITY OF HELENA - SOUTH CRUSE AVENUE & WEST BROADWAY STREET.

Staff Report

City Controller Glenn Jorgenson reported in 1975 the city sold the Boston Block (Lot 21 and north 35' of Lot 20) located at 23 S Last Chance Gulch to a private party. The intent of the sale was to sell the building and enough adjacent land to add a brick veneer and a covered sidewalk on the south side of the building. The deed filed showed 945 square feet was being added to the Boston Block building, but the metes and bounds only deeded 534 square feet. This resulted in the building's additions encroaching on city property. The owner's, Bob Kiesling and Larry and Terri Middagh, are requesting the city correct what is believed to be a mistake in the deed so that they can receive clear title. The City would need to give the owners of the Boston Block an additional 413 square feet from Lot 50, which is the city's property, to clear the title.

Staff is recommending the city convey the remaining portion of the property, which is also a portion of city's Lot 50 that is inside the sidewalk and adjacent to the two buildings. The owners of the Boston Block would receive an additional 361 square feet. The total property to be conveyed to the Boston Block owners is the 413 square foot portion and the 361 square foot portion, both of which are shown on Attachment 1 as #1 ("Tract 1").

Staff is also recommending that Aspen Court, LLC, owner of Lots 19 and the south 15' of Lot 20, at 33 S Last Chance Gulch, receive 370 square feet, shown as #2 on Attachment 1 ("Tract 2"). Staff feels it is in the city's best interest to convey these additional lands to adjacent property owners as they have no functional benefit to the city parking lot on Lot 50, have marginal economic value, are difficult to maintain (cutting grass on a steep slope), and have liability exposure to the city due to the steep slope.

The Parking Commission that maintains the parking lot also recommended transferring these portions of Lot 50 to the two adjacent land owners at no cost. The landowners will pay all costs of surveying and deed closing.

Mr. Jorgenson recommended approval of the resolution as it would remove any city liabilities and maintenance expenses, and provides clear title to the Boston Block building owners and Aspen Court, LLC.

Discussion

Commissioner Cartwright thanked staff for their work on the conveyance and urged approval of the resolution.

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 for a resolution authorizing conveyance of surplus real property owned by the City of Helena, being a portion of Lot 50, called Tract 1 on Attachment 1, to Bob Kiesling and Larry and Terri Middagh, and the portion of Lot 50, called Tract 2 on Attachment 1 to Aspen Court, LLC.

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

E. CONSIDER A RESOLUTION SETTING FEES CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION FOR FISCAL YEAR 2011.

Staff Report

Assistant Public Works Director Phil Hauck reported the City of Helena and Lewis & Clark County jointly analyze and agree each year on a recommended tipping fee for the operation of the City Transfer Station and the Lewis & Clark County Landfill. The tipping fee also supports the community's recycling program. The Public Works Department is recommending a Transfer Station fee increase for fiscal year 2011 not to exceed \$7.50/ton to the current \$61.25/ton rate to defray the costs of operations.

Assistant Director Hauck recommended approval of the resolution of intention to set fees charged for disposal of garbage and refuse, recyclable materials and diverted materials at the City of Helena Transfer Station.

Discussion

Commissioner Cartwright commented this fee increase is more of a bookkeeping exercise and doesn't flow through to the residential or commercial rates.

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 to set fees charged for disposal of garbage and refuse, recyclable materials and diverted materials at the City of Helena Transfer Station for FY2011. Commissioner Thweatt seconded the motion. All voted aye, motion carried. **Res #19741**

F. CONSIDER A RESOLUTION BUDGETING ADDITIONAL PROPERTY TAX REVENUE FOR FISCAL YEAR 2011.

Staff Report

Administrative Services Director Tim Magee reported state statute allows the City to budget additional property tax revenues over the prior year level as specified in 15-10-420, MCA. In accordance with 15-10-203, MCA the City is required to hold a public hearing before budgeting any increase in total property tax revenues.

The City intends to budget tax revenue increases over the total property tax revenue levied in the prior year, as follows:

\$ 73,271	0.89%	for the CPI-U based Inflation Factor of	1.15%
-	0.00%	for the tax revenue authorized but not levied in the prior year	
78,062	0.95%	for the increase in group benefit premiums	
-	0.00%	for the projected State Personal Property Tax Reimbursement decrease	
<u>\$ 151,333</u>	<u>1.84%</u>	Subtotal	
18,861	0.23%	for the increase in voter-approved 1997 general obligation bond levies	
242,900	2.95%	for the increase in voter-approved 2008 general obligation bond levies	
<u>\$ 413,094</u>	<u>5.02%</u>	Total increase over the property tax revenue levied in the prior year	

The total property tax revenue levied in the prior year was \$ 8,222,660

Director Magee recommended approval of the resolution of intention and noted these tax revenue increases are necessary to preserve the present level of services to the community.

Discussion

Discussion was held on the two general obligation (GO) bonds. Mayor Smith asked what the 1997 GO bond debt was incurred for. Director Magee explained fire equipment and open space.

Commissioner Cartwright noted two-thirds of the increase was voted on by the general public. He commented that city commissions are limited in the amount of tax revenues they can raise by the legislature, but the legislature is not limited to an amount of unfunded obligations they can force on cities. He gave an example of state laws related to staffing swimming pools that resulted in higher costs to operate the Last Chance Splash Water Park.

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 Ellison moved approval for a resolution of intention to budget additional property tax revenue of up to 5.02% for fiscal year 2011. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res #19742**

G. CONSIDER A RESOLUTION ADOPTING FINAL BUDGETS, BUDGET AUTHORITIES AND ANNUAL APPROPRIATIONS FOR FISCAL YEAR 2011.

Staff Report

Administrative Services Director Tim Magee reported The Local Government Budget Act, MCA, Title 7, Chapter 6, Part 4, requires the City to develop and adopt an annual budget. The annual budget development process has encouraged public participation and included:

- City Manager presentation of the Preliminary Budget to the City Commission on June 7, 2010;

- A series of City Commission work sessions in which the entire Preliminary Budget was reviewed;
- Public Hearing Notices published in accordance with MCA 7-1-4127; and,
- A list of amendments to the Preliminary Budget provided prior to the public hearing on June 21, 2010.

In order to conclude the budget development process:

1. Conduct the Public Hearing on the Preliminary Budget to receive public input.
2. Determine if there are any additional changes to be added to the list of amendments to the Preliminary Budget.
3. Defer adoption of the Annual Budget Resolution for the final budget as amended, until the July 12, 2010 regular Commission Meeting.

Discussion

Commissioner Cartwright noted he was absent for the last two Budget Work Sessions. He referred to the size of the budget deficit and gave an overview of proposed cuts to city services. He commented if the Commission were to take out funding for the Civic Center and pool the budget would be balanced. He referred to proposed cuts in the Police Department; one of the positions currently enforces soft services, such as abandoned vehicles and sidewalk clearing. It has been suggested that the city cut its second Animal Control Officer, which was recently added in response to an increase in complaints, instead of the soft services Officer.

He referred to the Parks Department and explained there has been an increase in the amount of parkland to maintain and no increase in staffing levels. He proposed the Parks Department save the long-lasting landscaping, trees and bushes, but that means the grass will not look as good as it usually does.

He noted because of a process established by the legislature, the Firefighters Union has received larger annual increases than other city employees get. If they had received the same percentage increase as non-union employees had, the savings would be about equal to the amount that is being cut from the Fire Department budget. He listed ways to fund the Fire Department and asked for suggestions from the audience.

Commissioner Elsaesser requested that comments on the budget received via email be included in the minutes. A list of email correspondence is located at the end of public testimony.

Public Testimony

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

Dan Bernhardt, 1805 Peosta, HCC Chair; read the HCC's budget recommendations. A copy of the council's recommendations are included in the Commission packet as part of the official record.

Tawna Pariso, Helena Symphony; asked the Commission to vote against requiring all users of the Civic Center to use the center's ticketing system.

Joy Novota, Live! at the Civic; concurred with Ms. Pariso's comments and urged the Commission to vote against raising any fees at the Civic Center.

Jim Barngrover, Growing Communities Project; urged the Commission to provide funding for community gardens in Janet Street and Selma Held parks and submitted written testimony. A copy of this testimony is included in the Commission packet as part of the official record.

Ann Wilsnack, 715 Highland; urged the Commission to provide funding for community gardens.

Cindy Holcomb, 1009 9th Avenue; urged the Commission to provide \$9,000 in funding for community gardens.

Jim Burton, 2732 Beltview Drive; urged the Commission to provide water to the community garden at Selma Held Park.

Anne Wakeman, Helena Food Share; urged the Commission to support community gardens.

Katie Knight, 707 Highland Street; urged the Commission to provide funding for community gardens.

Kathy Scheck, 440 N. Park; spoke of the importance of community gardens.

Sean Logan, 1954 Stuart Street; urged the Commission to fund all firefighter positions.

Erin Frisbee, Premier Dance Company; urged the Commission to vote against fee increases at the Civic Center.

Julia Gustafson, 904 11th Avenue, Our Redeemers Lutheran Church; spoke in support of community gardens.

Layna George, 422 Hayes; urged the Commission to support community gardens and provided written testimony. This testimony is included in the Commission packet as part of the official record.

Sarah Coffey, Helena; spoke in support of community gardens and submitted written testimony. This testimony is included in the Commission packet as part of the official record.

Brent Sarchet, Lewis & Clark County Extension Agent; spoke of the importance of community gardens.

Stan Bradshaw, 430 South Lamborn; submitted written testimony for the record and urged the Commission to fund the requested \$9,000 for community gardens. Mr. Bradshaw's testimony is included in the Commission packet as part of the official record.

Jonda Clark, AERO; encouraged the Commission to financially support community gardens and submitted written testimony. A copy of this testimony is included in the Commission packet as part of the official record.

Rachael Conn, Breckenridge Street; spoke in support of community gardens at Selma Held and Janet Street parks.

Mary Caferro, WEEL; spoke of the importance of community gardens and urged the Commission to fund water for the gardens.

Stan Johnson, 520 Logan Street; requested the Commission fund the downtown trolley.

Suzie Wolcott, 201 Jefferson Street; encouraged the Commission to prudently spend money on priority items.

Albert Clark, 1411 Cherry Avenue; stated most HATS users are on fixed incomes and asked the Commission to use caution when raising rates.

The following persons submitted comment on the budget via email: Lynne Boone, Kathleen McDeown, Deanne Moore, Wendy Fox, Tricia Hayes, John Ilgenfritz, Gabriel Furshong, Suzanne Mannix, Brian Shovers, Jessica Peterson, Chip Clawson, Lorelle Demont and Cathy

Barker. A copy of these emails is included in the Commission packet as part of the official record.

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

Discussion

Commissioner Cartwright noted non-union employees have not received a cost-of-living-adjustment (COLA) for the past two years. He commented withdrawing funding for the LeGrande Cannon Boulevard Project would take money from one project and put it in another road project. He asked Ms. Pariso for ideas on how to get more groups to use and fill the Civic Center more frequently and provide written testimony to the Commission when ready. He asked Mr. Barngrover how many plots are anticipated for Janet and Selma Held Parks. Mr. Barngrover stated he was unsure of the amount but there should be at least as many as at the Waukesha gardens. Commissioner Cartwright asked what would happen if the water meters are not hooked up until next spring. Mr. Barngrover explained work could be done to prepare for next season.

Commissioner Ellison asked for the HCC's rationale for cutting an Animal Control Officer while not filling a firefighter position that has already been vacant for some time. HCC Chair Bernhardt stated the Fire Department attended HCC meetings and provided the council with an alternate proposal which was recommended to the City Manager. The council found one Animal Control Officer would be sufficient when reviewing other budget cuts. Commissioner Ellison asked for more information on the alternative savings proposed by the Firefighters Union. HCC Chair Bernhardt indicated he did not have the proposal with him and could not provide the information. Mayor Smith explained City Manager Alles had characterized the Firefighters Union proposal to be more appropriate for labor management consideration. Commissioner Ellison stated he did not understand why the HCC would unanimously offer a budget proposal to the City Commission that the HCC spokesman could not explain, and agreed with Mayor Smith's comments that the Firefighters Union proposal does not belong in this budget hearing. It is not appropriate for discussion by the HCC or the Commission at this time, but belongs instead in the ongoing contract negotiations between the City's management team and the bargaining unit team. He noted he had additional questions to ask. Commissioner Ellison thanked citizens in attendance for their input on the budget and community gardens. He asked Director Teegarden if the HCC's proposal to cut watering by 8% would result in a total reduction of 16%. Director Teegarden stated yes; however, the proposals have not taken new parkland into account.

Commissioner Elsaesser asked if it costs \$5,000 per acre to maintain city parkland. Director Teegarden explained that is the estimated cost staff uses and noted that figure includes all maintenance, not just water costs.

Mayor Smith spoke on the budget and budget process and thanked members of the public who provided testimony.

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is July 7, 2010 and the next Commission Meeting is July 12, 2010.

Adjournment

There being no further business to come before the Commission,
the meeting was adjourned at 8:41 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission