

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
July 12, 2010
6:00 P.M.

- Time & Place*** A regular City Commission meeting was held on Monday, July 12, 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 Jim Penner 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 21, 2010 were approved as submitted.
- Proclamation*** PROCLAMATION:
A. Tenmile Day – “Running Water for Helena Day”

Mayor Smith read the proclamation designating July 31, 2010 as “Running Water for Helena Day” celebrating the Tenmile 10-miler and 5k Road Run. Water/Wastewater Superintendent Don Clark thanked Mayor Smith for the proclamation and gave an overview of events being held to promote education and stewardship for the Tenmile watershed.
- Appointments*** APPOINTMENTS:
A. Tourism Business Improvement District (TBID)

Mayor Smith asked for Commission concurrence on the following appointments:

Tourism Business Improvement District – Reappointment of Cindy Dallas to the TBID. Second term will begin upon appointment and expire April 20, 2014.
- Public comment*** Mayor Smith asked for public comment, none was received.
- Motion*** **Commissioner Ellison moved approval of the appointment to the TBID as outlined above.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.
- Consent Agenda*** CONSENT AGENDA:
A. Claims
B. Utility bill insert – Angel Fund
C. A one-year time extension for final plat approval for the Simmons Minor Subdivision; generally located south of Highway 12 (Euclid Avenue) and west of Broadwater Avenue with a property address 2707 Broadwater Avenue

- D. Acceptance of Montana Board of Crime Control funding and Highway Traffic Safety funding for the Montana Law Enforcement 2010 Pocket Guides
- E. Project Incentive Agreement with Montana Department of Environmental Quality (DEQ) for the American Recovery and Reinvestment Act to offset charges to install a water source heat pump and heat recovery system at the Tenmile Water Treatment Facility
- F. Temporary Easement on City property, Tract 1 COS# 3137037 to the NPNK, LLC, owners of the Marriott Inn
- G. Traffic Control Maintenance Agreement between the City of Helena and the Montana Department of Transportation (MDT)
- H. Resolution of intention to create a Business Improvement District within the City of Helena, Montana and setting a public hearing date of July 26, 2010

City Manager Ron Alles recommended approval of the claims and the consent agenda and asked that item H be moved to the report of the city manager.

Discussion Commissioner Cartwright asked that Item G be removed for further discussion; Commissioner Thweatt asked that item F be removed.

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

Motion Commissioner Cartwright moved approval of items A through E on the consent agenda. Commissioner Thweatt seconded the motion. All voted aye, motion carried.

Item F F. TEMPORARY EASEMENT ON CITY PROPERTY, TRACT 1 COS# 3137037 TO THE NPNK, LLC, OWNERS OF THE MARRIOTT INN

Commissioner Thweatt referred to the proposed easement and asked if there is compensation to be paid to the city. City Engineer Ryan Leland stated the city will receive a one-time payment for 50% of the appraised value of the surrounding property set by the MT Department of Revenue (DOR).

Motion Commissioner Thweatt moved approval of item F on the consent agenda. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Item G G. TRAFFIC CONTROL MAINTENANCE AGREEMENT BETWEEN THE CITY OF HELENA AND THE MONTANA DEPARTMENT OF TRANSPORTATION (MDT)

Commissioner Cartwright asked if this agreement would give the city control over the timing of the signals and audio signals on the lights. Public Works Director John Rundquist stated no, the State of Montana retains control of the timing and accessories associated with the signals; however, the city is allowed to maintain the lights in an operable condition.

Motion **Commissioner Cartwright moved approval of item G on the consent agenda.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

Bid Awards BID AWARDS:
A. 2010 Chip & Seal Project, Project No. 10-6

Staff Report City Engineer Ryan Leland reported the 2010 Chip & Seal – City Project #10-6, will add a new wear surface and pavement sealer by applying a single application of asphalt material followed by spreading a 3/8-inch gravel chip.

City staff opened bids for this project on June 22, 2010 and two bids were received. Pavement Maintenance Solutions, Inc. of Columbia Falls, Montana was the lowest responsible bidder for Schedules: A – selected upper west side streets, B – Brady Street/Valley Drive and Custer Avenue, C – selected central area streets, E – West Broadway, and G – selected north east streets for a total of \$210,181.50. This is at a unit price of \$1.50 per square yard.

Mr. Leland recommended awarding schedules A, B, C, E and G to the lowest responsible bidder, Pavement Maintenance Solutions, who submitted the low bid of \$210,181.50. The chip & seal project will extend the life of the identified streets. Mr. Leland noted Pavement Maintenance Solutions successfully completed the 2007 Chip & Seal for the City of Helena.

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

Motion **Commissioner Cartwright moved to award schedules A, B, C, E and G of the 2010 Chip & Seal Project to the lowest responsible bidder, Pavement Maintenance Solutions, for the amount of \$210,181.50.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

B. Knight Street Sidewalks, Project No. 09-2

Staff Report Mr. Leland reported the Knight Street Sidewalk Project is a CTEP and Safe Routes to School funded project. The match for the project comes for the school district and the adjacent property owners. All of the adjacent property owners have agreed to sign a contract with the City of Helena to pay their portion of the match for sidewalk adjacent to their property. The owners of the Best Bet Casino originally declined to participate in the match but after the Commission ordered in the sidewalk on June 21, 2010 the owner has agreed to participate in the project.

The Safe Routes to School competitive grant is \$50,000 for this project. This will be the second Safe Routes to School grant the City of Helena has received.

Staff opened bids on June 15, 2010. The City of Helena received five bids and the lowest responsible bidder for the base bid and additive Alternate A was Pioneer Mountain Substructures, Inc. of Gallatin Gateway, Montana. The base bid was \$85,088.15 and additive Alternate A was \$5,087.50 for a total bid of \$90,175.65.

Mr. Leland recommended award of the base bid and additive Alternate A to the lowest responsible bidder, Pioneer Mountain Substructures, LLC. This company has not worked for the City of Helena

but has successfully completed projects of the same size and complexities for other municipalities. This project will allow the completion of the sidewalk network around the school and complete part of the Safe Routes to School Plan. The project also uses federal funds with private property and school district match.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved to award the base bid and additive Alternate A of the Knight Street Sidewalk, City Project #09-2 to Pioneer Mountain Substructures, LLC in the amount of \$90,175.65. Commissioner Thweatt seconded the motion. All voted aye, motion carried.

C. Veteran's Memorial Park Band Shell Mural Painting Contract

Staff Report

Parks & Recreation Director Amy Teegarden reported the band shell at Veteran's Memorial Park is a community icon. The existing band shell mural was painted in 1997 and is the third mural located in the band shell. The first mural was painted in 1984, the second in 1993. In the last few years the mural has experienced an increasing amount of graffiti and vandalism. The mural is in need of repair and is listed in the CCIP for replacement in 2011.

Last summer, city staff received a request by the Capital City Band to install acoustical tiles in the band shell. The request corresponded at the same time city staff was defining the Centennial Park scope of work for American Recovery and Reinvestment Act (ARRA) grant funds. Being opportunistic, a request was made to the Department of Commerce to incorporate band shell improvements into the grant funds. Out of the total \$498,776 ARRA funds, \$43,000 was identified for the band shell (\$18,500 for the mural project and the remaining for acoustical tiles, and miscellaneous repairs). In the meantime, it was determined that the proposed sound tiles would adversely alter the band shell structure and concerns over the historical integrity were brought forward. It has been determined not to proceed with sound tiles at this time and divert a portion of the ARRA funds back to the Centennial Park project. The other \$18,500 would be used to fund the mural project.

The City Parks Department and the Helena Public Arts Committee hosted a public meeting to discuss the mural project. Members of the veteran's group, the artist community and Capital City Band attended and helped define the scope of the project. The project consists of four phases: 1) preparation of a work-plan to repair the mural surface; 2) surface repair work; 3) mural design; 4) mural painting, and 5) application of a protective sealant. The RFP specified that the mural design should incorporate or represent Helena community elements or icons and be visually effective from a distance. It also suggested that the lower part of the mural be a solid light color to assist with lighting of the performers and limit the potential for radiant heat. The RFP is attached for additional information.

There was an overwhelming response to the RFP from the professional artist community. The review committee, (Parks Director and members of the Helena Public Arts Committee) reviewed 12 proposals. The proposals ranged in variety and creativity. Proposals were evaluated based on submittal of required materials and selection

criteria. After initial review, 8 of the 12 proposals were taken out of consideration. The remaining 4 designs were discussed and ranked. By a unanimous decision, the selection committee agreed that the design submitted by Carol Poppenga best meets the project criteria. Because the funding for the mural project must be expended by September 30, 2010 it is important the contract be awarded and the work begin this summer season. Director Teegarden recommended approval of the bid award.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved to award the bid for the band shell mural to Carol Poppenga for the bid price of \$18,500.00. Commissioner Thweatt seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

A. Recognition of HCC Coordinator/VISTA Bonnie O'Neill

Mayor Smith announced Thursday, July 15, 2010 would be Ms. O'Neill's last day working for the Helena Citizens Council. Mayor Smith and Commissioners Cartwright, Ellison, Thweatt and Elsaesser thanked her for her service to the City of Helena.

Commissioner Cartwright stated he had gone on a tour of the Helena Regional Airport and commended the operation of the airport.

Commissioner Ellison referred to funding for the downtown trolley and stated he asked the Downtown Business Improvement District and the Chamber of Commerce to solicit feedback on the future of the trolley. The Chamber posed a survey to Helena area residents and received 273 responses in a 48-hour period; Commissioner Ellison read some of the responses to the survey.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Alles announced Police Chief McGee had been awarded "Administrator of the Year" by the MT Chiefs of Police Association. Chief McGee was nominated for the award by Helena Police Department command staff. Mayor Smith and the Commission members congratulated Chief McGee on his accomplishment.

Consent Agenda Item H

H. RESOLUTION OF INTENTION TO CREATE A BUSINESS IMPROVEMENT DISTRICT (BID) WITHIN THE CITY OF HELENA, MONTANA AND SETTING A PUBLIC HEARING DATE OF AUGUST 9, 2010

City Manager Alles asked for Commission consensus to sign the petition to create a BID on behalf of City of Helena property; there was Commission consensus. Mayor Smith and the Commission members spoke in support of the creation of a BID.

Motion **Commissioner Ellison moved approval for a resolution of intention to create a Business Improvement District and set a public hearing date of August 9, 2010.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Report from the Helena Citizens Council REPORT FROM THE HELENA CITIZENS COUNCIL
HCC member Jim Penner reported the HCC is currently doing a survey on "quiet zones". He commented it was a pleasure to supervise and work with Ms. O'Neill over the past year.

Civic Center Fees CONSIDER A RESOLUTION OF INTENTION TO INCREASE THE FEES CHARGED BY THE HELENA CIVIC CENTER AND SETTING A PUBLIC HEARING DATE OF JULY 26, 2010.

Staff Report Civic Center Manager Diane Stavnes reported the current fee schedule for rental of the Civic Center facility was adopted prior to the 2008-2009 season. A fee increase is now necessary to generate additional revenue for the City of Helena. The proposed increase would still leave us competitively priced with similar facilities in the region based on a survey of regional rental facilities. The Civic Center Board in conjunction with Civic Center staff developed the proposed rate schedule. At the Civic Center Board's June 10, 2010 meeting, the Board recommended approval of the proposed rates. The increase would affect both facility rental fees and equipment rental fees and would take effect on September 1, 2010.

Manager Stavnes recommended approval of the resolution of intention as an increase in fees is necessary to have users of the building assume more of the cost of the operation of the facility, thus decreasing the general fund support for operation of the Civic Center. She noted as it is practicable to administer, users of the building will assume a pass through cost for their use of energy for their events.

Discussion Commissioner Cartwright asked how much additional revenue the fee increases would bring in. Manager Stavnes estimated \$15,000. Commissioner Thweatt referred to a letter expressing concern for the cost of the use of the equipment/facility. Manager Stavnes explained the users are charged by unit/item to keep it equitable as all shows don't use the same amount of equipment.

Commissioner Cartwright noted he would support the resolution of intention as it is setting a hearing date and advertises the proposed rates. The Civic Center is a jewel and underutilized and asked for advice from the community on how to increase use of the Civic Center. Mayor Smith announced the Commission would be reviewing all fees charged by the City of Helena.

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

Motion **Commissioner Cartwright moved approval for a resolution of intention to increase the fees charged by the Helena Civic Center for facility and equipment rental and set a public hearing date of July 26, 2010.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19744**

- Benton Trail ROW** CONSIDER A RESOLUTION OF INTENTION TO CLOSE A PORTION OF BENTON TRAIL RIGHT-OF-WAY (ROW) ADJACENT TO LOTS 19, 20, 25, 26 AND 27 IN BLOCK 61 OF THE ORIGINAL HELENA TOWNSITE AND SETTING A PUBLIC HEARING DATE OF JULY 26, 2010.
- Staff Report City Engineer Ryan Leland reported the Benton Trail, from the end of Benton Avenue to Reeder's Alley, was temporarily closed to vehicle traffic in the spring of 2007. The closure was done as a safety measure because of the condition of the road and the failure of the guard rail.
- Staff is proposing to permanently close Benton Trail to vehicle traffic. The trail will still be open to non-motorized uses and staff is proposing to construct a chain link fence along the closed street for pedestrian safety. Mr. Leland recommended approval of the resolution of intention in order to prohibit vehicle traffic on a dangerous road.
- Discussion Commissioner Cartwright spoke in support of the resolution of intention and encouraged staff to provide an aesthetically pleasing fence.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** Commissioner Cartwright moved approval for a resolution of intention to close a portion of Benton Trail right-of-way (ROW) adjacent to Lots 19, 20, 25, 26 and 27 in Block 61 of the Original Town Site of the City of Helena and set a public hearing date of July 26, 2010. Commissioner Thweatt seconded the motion. All voted aye, motion carried. Res #19745
- Final Budget** CONSIDER A RESOLUTION ADOPTING FINAL BUDGETS, BUDGET AUTHORITIES AND ANNUAL APPROPRIATIONS FOR FISCAL YEAR 2011 (A PUBLIC HEARING WAS HELD ON JUNE 21, 2010.)
- Staff Report City Manager Alles stated this has been a difficult budget process for all involved. As a city, try as we might, we must recognize the city cannot be all things, to all people, all of the time. It has become apparent as citizens have had to tighten their wallets and still take care of business; the city must do the same thing and provide the best service with the resources it has. He thanked city Directors for their assistance in developing the budget. None of the decisions made or that the Commission will make will be easy; they all impact city services to some degree.
- Manager Alles thanked the Police Officers Association for their unqualified notice withdrawing the opening of their labor agreement and acknowledging they will continue to perform their duties at the same rate of pay to the best of their ability.
- He announced there is \$250,000 in savings from the FY2010 budget and the Commission may add that into the FY2011 budget or save it for the future.
- 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 the Commission must:

1. Determine if there are any additional changes to be added to the list of amendments to the Preliminary Budget.
2. Adopt the annual budget resolution for the final budget as amended.

State law requires the Commission's approval of the annual budget. Approval of the annual budget resolution enhances the city's ability to conduct business in a timely and efficient manner, while maintaining effective budgetary controls.

Motion

Commissioner Thweatt moved approval for a resolution relating to final budgets, budget authorities and annual appropriations for the fiscal year beginning July 1, 2010 and ending June 30, 2011, as amended. Commissioner Ellison seconded the motion.

The Commission members offered the following amendments. Discussion was held and comment given during consideration of the amendments.

Amendments

Commissioner Ellison moved to amend the FY2011 proposed budget to limit the personnel reductions in the police and fire departments to one position in each department, with City Manager discretion to determine which positions to retain and timing to fill the restored positions. Commissioner Elsaesser seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Commissioner Ellison moved to amend the FY2011 proposed budget by discontinuing the Helena Trolley service, and revert approximately \$37,000 to the HATS Federal Transportation 5311 grant, and to direct the City Manager to pursue a lease arrangement with the Downtown BID to operate and manage the trolley for special events. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Commissioner Ellison moved to amend the budget by eliminating the requirement for mandatory use of the Civic Center central ticketing system by clients and user organizations. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Commissioner Cartwright moved to appropriate \$5,000 to be used as a potential match to maintain limited use of the trolley for "Trolley to Trails" and other special events. Commissioner Thweatt seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Commissioner Cartwright moved to reduce the election expense line item in the City Commission budget by \$30,000, leaving \$5,000 in funding. Commissioner Thweatt seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Commissioner Cartwright moved to eliminate the City Commission budget's contribution of \$750 to the State Capital Band. Commissioner Elsaesser seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Ellison voting no.

Commissioner Cartwright moved to add \$73,000 to both the Police and Fire Department with the understanding the City Manager will use it to best fit community needs and according to labor contracts. Commissioner Elsaesser seconded the motion.

Friendly Amendment **Commissioner Thweatt offered a friendly amendment to add up to \$73,000 to both the Police and Fire Department.** The amendment was denied.

Vote Motion failed 1-4 with Mayor Smith and Commissioners Ellison, Thweatt and Elsaesser voting no.

Commissioner Cartwright moved to add \$10,000 to Police Department overtime. Commissioner Thweatt seconded the motion. Motion failed 2-3 with Mayor Smith and Commissioners Ellison and Elsaesser voting no.

Commissioner Cartwright moved to add \$750 to the Helena International Affairs Council budget. Commissioner Thweatt seconded the motion. Motion failed 2-3 with Mayor Smith and Commissioners Ellison and Elsaesser voting no.

Commissioner Cartwright moved to restore \$5,000 to the Historic Preservation Office budget. Commissioner Thweatt seconded the motion. Motion failed 2-3 with Mayor Smith and Commissioners Elsaesser and Ellison voting no.

Commissioner Cartwright moved to restore water meters for community gardens at a cost of \$9,000. Commissioner Elsaesser seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Commissioner Elsaesser moved to cancel the increase in positions in the Solid Waste and Street Department from one to two and the funds from the street utility go into trail maintenance and the funds for solid waste utility going into the recycling fund. Commissioner Cartwright seconded the motion.

Withdrawn **Commissioner Elsaesser withdrew the above motion.**

Commissioner Elsaesser moved to withdraw the City Manager's proposal to create two FTE's for Superintendent positions in Solid Waste and Streets from the current one FTE that maintains those two programs. Commissioner Cartwright seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Thweatt voting no.

Commissioner Elsaesser moved to restore the amount created by elimination of the proposed position in street utility to go towards upkeep of the trail network along city right-of-way (ROW). Commissioner Ellison seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Commissioner Elsaesser moved to restore a minimum of \$40,000 in funding created by the elimination of the proposed position in solid waste utility go into a residential recycling fund for existing or other residential programs discussed at the city level. Commissioner Cartwright seconded the motion.

Friendly Amendment

Commissioner Cartwright recommended adding the language "a minimum of" to the above motion. The amendment was accepted.

Vote

Motion carried 4-1 with Mayor Smith voting no.

Commissioner Elsaesser moved to approve amendments to the HATS budget as proposed in the staff report. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Commissioner Elsaesser moved to allocate \$2,000 in funding for HATS to join the Yellowstone Business Partnership. Commissioner Cartwright seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Commissioner Elsaesser moved to eliminate one proposed FTE in the Water Division for FY2011. Commissioner Ellison seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Thweatt voting no.

Commissioner Elsaesser moved the Water Department set aside \$20,000 for projects associated with the Tenmile Watershed Agreement. Commissioner Cartwright seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Ellison voting no.

Commissioner Elsaesser moved to continue to provide office space to the Sustainability Coordinator. Commissioner Cartwright seconded the motion.

City Manager Alles noted the city will continue to provide free office space with or without the amendment.

Withdrawn

Commissioner Elsaesser withdrew the above motion.

Commissioner Cartwright moved to allocate \$10,000 to the Parks & Recreation Department for water and seasonal maintenance at the City Manager's discretion. Commissioner

Thweatt seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Commissioner Cartwright moved to direct the City Manager to direct Parks & Recreation staff to install new or replacement trees and shrubs only where absolutely necessary, remove trees and shrubs killed by last fall's weather as expeditiously as possible, and concentrate watering on long-lived vegetation, watering grass less than has been our standard. Commissioner Thweatt seconded the motion. Motion failed 1-4 with Mayor Smith and Commissioners Ellison, Thweatt and Elsaesser voting no.

Commissioner Cartwright moved to direct the City Manager to direct the Civic Center to put into its budget any net profits from increased usage without reducing the general fund contribution, Commissioner Thweatt seconded the motion. Motion failed 2-3 with Mayor Smith and Commissioners Ellison and Elsaesser voting no.

Commissioner Cartwright moved to direct the City Manager to direct 5% of the Street and Traffic budget (fund 201) go to supplies, materials and purchased services budget for non-motorized uses, including traffic calming. Commissioner Thweatt seconded the motion. Motion failed 2-3 with Mayor Smith and Commissioners Ellison and Elsaesser voting no.

Commissioner Cartwright moved to adopt the remaining administrative amendments for FY2011 as listed in the staff report. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Final Motion

Commissioner Ellison moved approval for a resolution relating to final budgets, budget authorities and annual appropriations for the fiscal year beginning July 1, 2010 and ending June 30, 2011, as amended. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

SID No. 081

CONSIDER A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT AND MAINTENANCE DISTRICT NO. 081 TO UNDERTAKE AND FINANCE THE ACQUISITION, IMPROVEMENT, AND ANNUAL MAINTENANCE OF A CITY PARK THROUGH ANNUAL ASSESSMENTS, AND THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND SETTING A PUBLIC HEARING DATE OF AUGUST 9, 2010.

Staff Report

Parks & Recreation Director Teegarden reported two property owners have offered to sell a pair of vacant lots to the city for the purpose of creating a new park. The lots are located at the corner of Bull Run Drive and South California. The Park Board has reviewed the offer and determined that a City park at that location is not necessary, but is reasonable, provided it is improved and maintained by a Special Improvement and Maintenance District (SID). Based on the 1998 Comprehensive City/County Parks Plan, a mini-park is defined as a 1-acre minimum requirement. However on December 17, 2001 the commission approved an amendment to the Parks Plan policy "that there

are circumstances where the development of smaller mini-parks is appropriate and the city should assist in the development and maintenance of these parks”.

At a March 2010 Administrative Meeting, the City Commission determined that the option to create such a district should be offered to the residents in the benefitted area. As shown in the attached Resolution of Intention to Create a Special Improvement and Maintenance District, staff has developed improvement and maintenance cost estimates and identified the potentially benefitted area for such a special district.

Excluding park land, open space and common areas, 186 benefitted/assessable properties have been identified as shown in the attachments. Estimated costs are:

\$241,525	Estimated Total Improvement Cost
\$ 12,750	Estimated Annual Assessment for Debt Payments on the Improvement Costs
\$ 6,974	Estimated Annual Maintenance Cost

This results in estimated annual costs to each benefitted property of:

\$ 68.55	per property for improvements for 15 years
\$ 37.50	per property for maintenance in perpetuity

For an estimated Total Annual Assessment per property of - \$ 106.05.

Director Teegarden noted passage of the proposed resolution of intention will allow staff to advertise the intention to create the SID for a new park on Bull Run Drive. Creation of such a district will allow staff to proceed with an independent appraisal of the property, negotiations to purchase the property, and funded follow through for improvement and maintenance. All of the property owners in the proposed district will be provided the opportunity to protest the creation of the district.

Discussion

Commissioner Cartwright asked if less than half of the property owners protest out of the SID, is the Commission obligated to create it? Director Teegarden stated no, the Commission has the discretion to decide whether or not to create it. Commissioner Thweatt referred to the SID revolving fund and asked how much of its capacity would be used by this district, if created. Director Magee explained how the fund would be used. Commissioner Ellison disclosed he lives two blocks from the subject property and would be included in the petition area.

Commissioner Elsaesser stated the proposed SID is an appropriate solution to funding the city’s parks.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Elsaesser moved approval for a resolution of intention to create SID No. 081 to undertake and finance the acquisition, improvement, and annual maintenance of a city park through annual assessments, and the issuance of SID bonds secured by the city’s SID revolving fund and set a public hearing date of August 9, 2010. Commissioner Cartwright seconded the motion. Motion failed 2-3 with Mayor Smith and Commissioners Ellison

and Thweatt voting no.

Our Redeemers

CONSIDER A MAJOR SUBDIVISION/PRELIMINARY PLAT CREATING A TOTAL OF 23 LOTS FOR OUR REDEEMERS SUBDIVISION GENERALLY LOCATED BETWEEN GREEN MEADOW DRIVE AND BENTON AVENUE, NORTH OF HORSESHOE BEND ROAD (TABLED ON JUNE 7, 2010).

Staff Report

City Planner Kathy Macefield reported on May 18, 2010 the Consolidated Planning Board unanimously (7:0 vote) recommended APPROVAL for a major subdivision creating 16 lots that would be located in the R-2 (Residential) District; 3 lots in the B-1 (Neighborhood Business) District; and 4 lots in the PLI (Public Lands and Institutions) District for a total of 23 Lots for Our Redeemers Subdivision. Said property is legally described as Lot 6 per COS #501240/E, Lewis and Clark County, Montana.

On June 7, 2010 the City Commission changed the rezoning on the property from R-3 (Residential) to R-2 (Residential), B-1 (Neighborhood Business) and PLI (Public Lands and Institutions) Districts. The Commission also considered the subdivision application at the same time and tabled action to allow time to resolve questions related to pedestrian access due to the length of the block located between North Brookside Loop and the Stone Meadows Subdivision located to the north. On June 22, 2010 the applicant submitted a letter stating their intent to voluntarily provide a non-motorized access for use by the public from North Brookside Loop through Lot 22 to the alley right-of-way (ROW) between Lots 9 and 10 of the Stone Meadows Phase I Subdivision. Since this information will be included in the findings (#3.V and 3.W., #6.M.) as a voluntary action, it will not be a condition.

Additionally, the 1.543-acre Benton Ave. ROW was annexed with Resolution #19602 in 2008. A certificate of survey (COS) was attached to this Resolution showing the dedication of the Benton Avenue ROW. This COS has not yet been filed with the Clerk and Recorder. Therefore, the final plat must show Benton Avenue as dedicated ROW; this requirement has been added to the findings (#3.X, #6.R., #11.A.) and the conditions (Condition #1.C.) for preliminary plat approval.

Since a wetlands area is located in the southeast portion of the property and a stormwater detention basin will also be located in this area, a statement has been added to the findings (#4.V.) and a condition (Condition #2.A) has been added to address compatibility between stormwater drainage and the wetlands.

The applicant has submitted a petition for annexation for the 20.02-acre property. A Resolution of Intention to Annex this property was approved in 2002 by Resolution No. 11730. The Resolution of Annexation will be considered by the City Commission with the final plat for Our Redeemers Subdivision in the future.

Ms. Macefield recommended approval of the preliminary plat noting this proposed major subdivision conforms to the 2001 Growth Policy, to the City's Subdivision and Zoning Regulations, and will meet the requirements of the Montana Subdivision and Platting Act after the conditions are met. The proposed subdivision could facilitate new development located between two residential subdivisions that have installed city water, sewer and paved streets. Encouraging infill development for the beneficial concentration of mixed uses in the vicinity would assist walking and promote public health. Allowing the major

subdivision would be a logical expansion of the city, an opportunity to promote compatible urban growth, and would be consistent with efficient use of land, infrastructure, energy and resources. Also, infill mixed use development such as this could encourage non-motorized traffic and reduce the amount of vehicle miles travelled (vmt).

Discussion

Commissioner Elsaesser referred to finding 4.V to address Condition 2.A and commented his intent was for the stormwater detention design to mimic wetlands. Ms. Macefield explained the condition was intended to address Commissioner Elsaesser's concerns at the June 7, 2010 Commission Meeting.

Commissioner Cartwright thanked the applicant for including the pedestrian access discussed on June 7, 2010. He encouraged the applicant to obtain another 20-feet of ROW to the north of the subdivision to facilitate another 20-foot wide street in the area. Finally, he spoke of the City working with the County on water quality and reminded the public the city isn't here to bailout mistakes by citizens that could be avoided.

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 conditional approval of the preliminary plat for Our Redeemers Major Subdivision, creating 23 lots from 20.02 acres, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact. Commissioner Elsaesser seconded the motion.

Amendment

Commissioner Elsaesser moved to add to condition V. on page 12 "and best simulate natural wetland conditions" and strike minimize the impact. Commissioner Thweatt seconded motion. Motion failed 2-3 with Mayor Smith and Commissioners Ellison and Cartwright voting no.

Vote

Motion carried 4-1 with Commissioner Cartwright voting no.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION CHANGING THE NAME OF A PORTION OF GETCHELL STREET NORTH OF LYNDALE AVENUE TO LEARNING STREET.

Staff Report

Address Coordinator John Hinshaw reported Getchell Street intersects with Lyndale Avenue to the south of the Carroll College campus. Two unnamed streets run through the college campus, creating problems for police and other emergency vehicles.

Staff is recommending changing the name of a portion of Getchell Street north of Lyndale Avenue to Learning Street and name the two main streets on the Carroll College campus for E-911 purposes. The unnamed street running through the Carroll campus off Benton Avenue in an easterly direction would be named Hunthausen Avenue and the portion of Getchell Street north of Lyndale Avenue, plus the unnamed street that connects to Getchell Street on the campus and runs generally north and south, would be named Learning Street. Establishing names

for the streets on Carroll's campus will allow all the main buildings on the campus to have physical addresses for emergency facilitation and reverse E-911, which will include cell phones. Carroll College staff provided the proposed street names. City Commission authorization is required only to change the name of the portion of Getchell Street noted in the proposal.

Mr. Hinshaw recommended approval of the resolution and noted Learning Street is consistent with addressing standards and was suggested by Carroll College. There are no readdressing issues with other landowners. It would also facilitate notification of staff and students in an emergency, thus cutting down on response times.

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 changing the name of a portion of Getchell Street north of Lyndale Avenue to Learning Street. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19747**

B. CONSIDER AN AMENDMENT TO THE PRELIMINARY PLAT FOR THE CROSSROADS AT MOUNTAIN VIEW MEADOWS MAJOR SUBDIVISION IN AN R-4 (RESIDENTIAL) DISTRICT FOR PROPERTY GENERALLY LOCATED NORTH OF RUNKLE PARKWAY AND ON BOTH SIDES OF ALICE STREET (TABLED ON JUNE 21, 2010).

Staff Report

City Planner Lucy Morell-Gengler reported on February 12, 2009 the Helena City Commission conditionally approved the preliminary plat for the Crossroads at Mountain View Meadows major subdivision. The applicant is now preparing a portion of that subdivision for final plat and is requesting an amendment to the preliminary plat. The amendment would eliminate 49 lots in the R-4 zoning district to allow for a larger, 5.25 acre neighborhood park. The developable area associated with those 49 lots, equaling 193,833 square feet, would be transfer to lots within the same subdivision also zoned R-4.

The conversion of these lots into parkland would result in a change in the street layout impacting a section of Holly Street and Ascent Avenue and the water and wastewater network. Preliminary plans have been submitted showing the new infrastructure design.

The City Subdivision Regulations provide guidance for amending preliminary plats after they have received approval from the City Commission. Section 12-2-13 requires a determination if the proposed changes are material; Section 12-2-14 lists the changes that may be considered material. The change in street layout, parkland, and water and wastewater plans are on the list of items that may be considered material changes. Therefore, staff has determined that the proposed changes are material and that the application must be presented to the City Commission for approval.

One of the conditions of the original preliminary plat approval states "The parkland located on Lot 42 Block 40 must be enlarged to a minimum of one acre." Based on meetings with the city Parks Department, the developer is proposing a park much larger than the one-

acre minimum required by the condition. The applicant is requesting that the development potential lost by converting the 49 lots to parkland be transferred to other areas of the subdivision.

The proposed parkland would meet the Parks Department's recommendation for a larger park in this area. Access to the parkland, both motorized and non-motorized, would be improved by locating the park next to Alice Street and the adjacent bike/pedestrian path. Therefore, the revised parkland proposal provides more functional space with better access than was previously proposed as parkland. The relocation of the residential density to other areas of the subdivision would have minimal impact based on the subdivision review criteria. Ms. Morell-Gengler recommended approval of the amended preliminary plat.

Discussion

Commissioner Thweatt asked who would be responsible for maintaining the pedestrian ways. Ms. Morell-Gengler explained either the Public Works or Parks & Recreation Department. Commissioner Cartwright asked if the pedestrian way is designated ROW. Ms. Morell-Gengler stated it is undedicated at this time and could be designated as ROW with final plat approval. Commissioner Thweatt asked if the applicant could enlarge the path and make a street. Ms. Morell-Gengler stated that would be a transportation issue; there would be no connectivity to the north or the south. Commissioner Cartwright noted the city allows a pavement width of 20 feet if the applicant should desire to turn the path into a street. He urged the developer to look at the length of the blocks in the subdivision and create smaller, shorter blocks without limiting future development.

Commissioner Thweatt noted he would not support the amended plat because of connectivity issues; he would like to see a street punched through at Stacia and Ascent because of the existing block length. Commissioner Elsaesser indicated he would support the subdivision.

Public Testimony

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

Mark Runkel, Mountain View Meadows, applicant; explained the pedestrian ways were created because of recommendations by the City Commission and urged approval of the amended preliminary plat.

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

Motion

Commissioner Cartwright moved approval for the amended preliminary plat of the Crossroads at Mountain View Meadows Major Subdivision located in the R-4 (Residential) District, and to adopt the amendments to the Findings of Fact for property legally described in the Findings of Fact. Commissioner Ellison seconded the motion. Motion carried 4-1 with Commissioner Thweatt voting no.

D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3123 PERMITTING AND REGULATING THE KEEPING OF APIARIES AND SETTING A FEE FOR AN APIARY LICENSE BY AMENDING SECTIONS 5-2-1 AND 5-3-5 AND ADDING A NEW SECTION 5-3-7 TO THE HELENA CITY CODE.

Staff Report

City Attorney Nielsen reported city code currently allows the keeping of one observational beehive for exhibition purposes. All other

bee keeping within the city is prohibited. There has been an interest by private citizens to keep and maintain beehives for the purpose of producing their own honey.

Following first passage of the ordinance the City Attorney's Office removed the requirement to state how many bees a hobbyist beekeeper intends to have in their application for an apiary license. The reason for removing that provision is that it is impossible to quantify how many bees a hobbyist beekeeper has.

Attorney Nielsen noted passage of this ordinance would allow citizens to keep a hobbyist apiary for the purpose of producing honey.

Discussion

Commissioner Ellison expressed concern with the wording of the ordinance related to the cost of the fee being the same as a neutered male dog. Mr. Nielsen explained the fee is \$15.00.

Public Testimony

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

Pam Dale, 514 North Rodney; urged the Commission to deny the apiary ordinance.

Jessica Allwald, Helena; spoke in support of the ordinance.

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

Motion

Commissioner Elsaesser moved approval of final passage of Ordinance No. 3123 permitting and regulating the keeping of apiaries and setting a fee for an apiary license by amending Sections 5-2-1 and 5-3-5. Commissioner Ellison seconded the motion.

Amendments

Commissioner Cartwright moved to acknowledge the amendment removing the requirement to state how many bees a hobbyist beekeeper intends to have in their application for an apiary license, in Section 5-3-7B.3. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Commissioner Cartwright moved to amend section 5-3-7B. by striking a neutered male dog under Title 5, Chapter 2, of the Helena City Code and add "is \$15.00" after the word "licensing". Commissioner Ellsaesser seconded the motion. All voted aye, motion carried.

Commissioner Thweatt moved to amend 5-3-7(c). to strike the word "or" and insert "and" after ". . . .property owned by another person". Commissioner Ellison seconded the motion. Motion carried 4-1 with Commissioner Cartwright voting no.

Motion

Commissioner Ellison moved approval of final passage of Ordinance No. 3123 permitting and regulating the keeping of apiaries and setting a fee for an apiary license by amending Sections 5-2-1 and 5-3-5, as amended. Commissioner Elsaesser seconded the motion. Motion carried 4-1 with Mayor Smith voting no.
Ord #3123

E. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3127 PROHIBITING NUISANCE WEEDS BY AMENDING CHAPTER 7 OF TITLE 7 OF THE HELENA CITY CODE.

Staff Report

Parks & Recreation Director Amy Teegarden reported on June 21, 2010 the City Commission approved first passage of an ordinance prohibiting nuisance weeds and set a public hearing date of July 12, 2010. During the development of the 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

Discussion was held on enforcement of the ordinance.

Public Testimony

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

Mark Simonich, 509 3rd Street; requested the Commission table the ordinance and submitted written comments for the record.

Jessica Allwald, Helena; commented the city has brought in noxious and invasive weeds by performing remediation on beetle-killed trees.

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

Discussion

Following public testimony, Director Teegarden recommended tabling the ordinance to allow staff to work on strengthening the language in the ordinance.

Motion

Commissioner Cartwright moved to table final passage of Ordinance No. 3127 prohibiting nuisance weeds by amending

Chapter 7 or Title 7 of the Helena City Code to the call of the City Manager. Commissioner Ellison seconded the motion. Motion carried 3-2, with Mayor Smith and Commissioner Thweatt voting no.

***Public
Communications***

PUBLIC COMMUNICATIONS

David Nielsen, 1170 Mendocino Drive; gave the history of the State Capital Band and announced the band would be playing six free concerts this summer on Thursdays at 8:00pm in Memorial Park.

***Meetings of
Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is July 21, 2010 and the next Commission Meeting is July 26, 2010.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 10:35 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission