

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
February 14, 2011
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, February 14, 2011 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 Lorabelle Behlmer 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 January 24, 2011 were approved as submitted.

Appointments

APPOINTMENTS:

- A. Civic Center Board
- B. Business Improvement District/Helena Parking Commission (BID/HPC)

Mayor Smith asked for Commission concurrence on the following appointments:

BID/HPC – Appointment of George G. Allen; term will begin upon appointment and expire October 31, 2014.

Civic Center Board – Appointment of Gayle Agostonelli and Trevor Parrish; terms will begin upon appointment and expire March 1, 2014. Re-Appointment of Brad Culver, Susan Dostal and Judy Kline; terms will expire March 1, 2014.

Public comment

Mayor Smith asked for public comment, none was received.

Discussion

Commissioner Elsaesser thanked Mr. Allen for applying to serve on the BID and spoke in support of the Civic Center Board appointments.

Motion

Commissioner Elsaesser moved approval of the appointments to BID/HPC and Civic Center as outlined above. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. CTEP Project Approval Agreement - Guardian Walkway
- C. Angle parking on Benton Avenue behind the City-County Building
- D. Utility bill insert - Growing Friends of Helena
- E. Acceptance of the 2011 Comprehensive Capital Improvement Program (CCIP)

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

Commissioner Elsaesser asked item E be removed for further discussion. Commissioner Cartwright asked item B be removed for further discussion.

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

Motion Commissioner Ellison moved approval of items A, C and D on the consent agenda. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Item B B. CTEP Project Approval Agreement - Guardian Walkway

Commissioner Cartwright expressed concern for the CTEP Project. It is a good project, but given other priorities and a draft easement pledging property owner responsibility for repairs, approval of the project was not good fiscal or transportation policy. He noted the project was originally estimated at \$70,000; it has been redesigned and will now cost \$36,000, which is good news.

Motion Commissioner Ellison moved approval of items B on the consent agenda. Commissioner Elsaesser seconded the motion. Motion carried 4-1, with Commissioner Cartwright voting no.

Item E E. Acceptance of the 2011 Comprehensive Capital Improvement Program (CCIP)

Commissioner Elsaesser expressed concern that major non-motorized projects were not included in the CCIP, such as Centennial Trail. He recommended tabling acceptance until the projects are added to the document. Commissioner Cartwright concurred with Commissioner Elsaesser.

Commissioner Thweatt commented acceptance of the CCIP is merely acknowledging the Commission has received the document; it does not mean the Commission is approving it. City Manager Alles agreed and spoke to the importance of the document and how it is crafted. The CCIP is meant to be a guide and does not bind the Commission. He noted the exclusion of Centennial Trail was an oversight by staff.

Commissioner Thweatt stated the document should express the desires of the Commission even though it is not a binding document; the public needs to be able to view a complete report.

Motion Commissioner Elsaesser moved to table item E on the consent agenda to the call of the City Manager. Commissioner Thweatt seconded the motion. Motion carried 4-1, with Mayor Smith voting no.

Bid Award

BID AWARD:

A. RECONSTRUCTION OF LEGRANDE CANNON BOULEVARD FROM THE END OF PAVEMENT TO THE ENTRANCE OF REBER SUBDIVISION, PROJECT NO. 08-12

Staff Report

City Engineer Ryan Leland reported as part of the development of the last phase of the Reber Subdivision the developer was responsible for construction of a bike path along the frontage of the subdivision. However, through an agreement with the City of Helena and the developer, the city agreed to reconstruct LeGrande Cannon Boulevard from the end of the pavement to the entrance of the Reber Subdivision. In the agreement the developer agreed to pay \$200,000 to the city once the project was completed and the city would pay for the rest of the project.

The city opened three bids on December 14, 2010. The lowest responsible bidder was Helena Sand & Gravel Inc. with a bid of \$466,585.40.

Mr. Leland recommended award of the bid to Helena Sand & Gravel as the project will extend a city standard street, including a bike path, from the end of the existing pavement to very close to the city limits.

Discussion

Commissioner Cartwright stated the developer is contributing \$200,000 and the city is using \$350,000 in gas tax money and \$150,000 from the city's general fund. He asked how many housing units are located in the most recent expansion of Reber Subdivision. Mr. Leland explained the subdivision is approved for 141 units. Commissioner Cartwright asked if the city would've needed to build this new portion of LeGrande if the subdivision hadn't been developed. Mr. Leland explained it is hard to say, the adjacent property owner is Mt. Helena Park so the city may have been responsible for improvements to the street depending on future developments. Commissioner Cartwright commented the city is paying \$500,000 for one developer to develop in this location; that funding could've gone to other transportation projects.

Commissioner Elsaesser stated the developer is paying for less than 30% of the project even though their development is driving the improvements. However, this is not a legacy going forward in other developments. He expressed appreciation for the acquisition of right-of-way (ROW) that will provide a bike lane.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved to award the contract for the reconstruction of LeGrande Cannon Boulevard from the end of the pavement to the entrance of the Reber Subdivision, City Project No. 08-12 to Helena Sand & Gravel Inc in the amount of \$466,585.40.

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison thanked the mystery citizen that gifted the Commission with Valentine's Day candy packages.

Commissioner Elsaesser thanked staff for working to produce a "recycling only" permit for renters.

Discussion was held on the current legislative session.

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 reported the city was selected to receive a highly competitive 2011 ACHIEVE grant from the National Parks and Recreation Association. The ACHIEVE Program seeks to empower local communities to promote policies, systems and environmental change strategies- focusing on issues such as physical fitness and obesity, nutrition, and tobacco cessation- to advance the nation's efforts to prevent chronic diseases and related risk factors. The three-year planning grant amount is \$40,000. He briefed the Commission on the activities that will be funded by the grant.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Lorabelle Behlmer reported elections for the HCC Executive Committee were held at the January 26, 2011 meeting. The officers are as follows: Chair – Jim McCormick, Vice-Chair – Lorabelle Behlmer, Treasurer – Ellen Bell, and Secretary – Olivia Tooley. Chair McCormick introduced the officers in attendance to the Commission.

Commissioner Cartwright spoke of the proposal to restructure some city boards and committees to include more involvement and participation by HCC members. Chair McCormick stated the HCC is reviewing the proposal.

Mayor Smith and the Commission members thanked the Executive Committee for their desire to serve the citizens of Helena.

K9's Roy & Chase

CONSIDER A RESOLUTION FOR THE DONATION OF K9 ROY TO OFFICER DANNY DAVID AND THE DONATION OF K9 CHASE TO OFFICER GARY HERBST.

Staff Report

Police Chief Troy McGee reported K9 Roy has been with the Helena Police Department (HPD) since March 2006. He is approximately 7 ½ years old. He will be retired as of March 1, 2011 due to his declining effectiveness brought on by age. Roy is certified in explosives recognition, tracking and apprehension.

K9 Chase has been with the Police Department since November 2004. He is approximately 9 years old. He is being retired as of March 1, 2011 due to age and health concerns. Chase is certified in drug recognition, tracking, and apprehension.

The Department has another K9 that is still in service. Mikey is certified in explosives recognition. There are numerous departments that can assist the HPD in drug recognition if required. Staff will be reviewing options in the upcoming budget for the department's K9 program.

Chief McGee recommended donation of the K9's to Officers David and Herbst as the dogs will go to good homes with people who want them and have a close relationship with each animal. Other options include euthanizing both dogs (not recommended by staff), or donation to someone who could provide a home to police dogs. The second option would not be an easy task or in the best interest of the animals.

Officers David and Herbst thanked the Commission for the opportunity to work with the K9's and provide them homes following their retirement.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion Commissioner Cartwright recommended providing the handlers and dogs with treats to celebrate their retirement. There was Commission concurrence for the expenditure.

Motion Commissioner Ellison moved approval of a resolution declaring HPD K9 Chase and HPD K9 Roy to be surplus property and authorized the City Manager to dispose of them to their respective handlers, Officer Gary Herbst and Corporal Danny David. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19810**

SLD No. 222 CONSIDER A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 222 AND SET A PUBLIC HEARING DATE OF MARCH 14, 2011.

Staff Report City Controller Glenn Jorgenson reported a petition has been signed and filed by R & D Partners, LLC requesting a light district be created in parts of the Antelope Trace Phase and Craftsman Village Phase I of the Crossroads at Mountain View Meadows Subdivision. R & D Partners, LLC own approximately 80% of the property within the proposed lighting district.

The proposed district will consist of 64 lighting units with underground wiring, fiberglass or metal poles with 16-foot mounting heights, and Lexington Colonial luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$48,046.08 with the estimated cost being \$.0417 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the City to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Mr. Jorgenson recommended approval of the resolution of intention and noted the benefits of street lighting are convenience, safety, and security of property and improvements.

Discussion Commissioner Cartwright asked if the proposed light fixtures comply with the city's dark skies ordinance. Mr. Jorgenson stated yes.

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

Motion Commissioner Cartwright moved approval for a resolution of intention to create Special Improvement Lighting District (SLD) No. 222 and set a public hearing date of March 14, 2011. Commissioner Thweatt seconded the motion. All voted aye, motion carried. **Res #19811**

Pool Fees CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES TO BE CHARGED FOR THE LAST CHANCE SPLASH WATER PARK AND POOL AND SET A PUBLIC HEARING DATE OF FEBRUARY 28, 2011.

Staff Report Parks & Recreation Director Amy Teegarden reported with the opening of the Last Chance Water Park & Pool in 2009, a new fee structure was instituted to reflect the facility's expanded services and operations. In 2010 the fee schedule was restructured to offer season

passes and other customer cost-savings incentives. City staff recommends staying with the existing fee schedule (2010) to further develop a multi-year baseline for future comparisons of use and revenue trends.

Director Teegarden recommended approval of the resolution of intention and noted it would aid in developing a baseline for patron use figures and revenue comparisons.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved approval for a resolution of intention to establish fees to be charged for the Last Chance Splash Water Park & Pool and set a public hearing date for February 28, 2011. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res #19812**

Garden Plot Fees

CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES TO BE CHARGED TO PLOT USERS IN THE WAUKESHA COMMUNITY GARDEN AND SET A PUBLIC HEARING DATE OF FEBRUARY 28, 2011.

Staff Report

Parks & Recreation Director Teegarden reported last summer a great deal of attention and discussion was generated pertaining to community gardens on both city public lands (parks and right-of-ways) as well as private lands. At an administrative meeting, the City Commission gave policy direction to city staff and members of the Growing Community Project (WEEL) that revenue from community garden plot fees should be set at a rate to off-set the cost of irrigation at community gardens. As new gardens are developed, rates will be set at an equitable rate based on garden plot sizes. Throughout these discussions it was noted by city staff and the public that the \$20.00 garden plot use fees at Waukesha Park had not increased since 1988 and these fees do not begin to cover the irrigation costs. Approximately \$860.00 is generated from the 43 usable plots and the annual costs for irrigation ranges from \$3,500 to \$4,000.

Due to a wet summer, the cost for irrigation in 2010 was \$2000 for an average cost of \$54 per plot. The average cost on a traditional growing season is \$65 per plot.

In addition to the proposal to increase plot fees at Waukesha Gardens, an evaluation of the current irrigation system will be made this summer and improvements will be implemented by the Parks Maintenance crew. If irrigation issues exceed the planned budget, improvements will be budgeted for the following field season. Hopefully with an increase in plot use fees and a more efficient irrigation system, the revenue will offset the irrigation costs.

For the past 7 to 10 years there has been a waiting list of people wanting to garden at Waukesha. Because of the high demand, city staff is recommending limiting garden use to city-residents only. Currently, there are two active Waukesha gardeners who reside outside the city limits that will be displaced. City staff will also ensure that the existing policy of two garden plots per family household is enforced.

Director Teegarden recommended approval of the resolution of intention as the increase in revenue generated from the fees will help off-set the costs the city pays for irrigation.

Discussion Commissioner Cartwright expressed concern that the garden is being overwatered. Director Teegarden stated staff will be reviewing all factors that could contribute to the amount of water being used; assessment of the irrigation system and gardener education will help to cut back on water usage.

Discussion was held on setting the proposed fees at a higher amount than recommended by staff for purposes of the public hearing. City Manager Alles explained the Commission could set the fees higher for advertising purposes then approve the rates at or below the advertised amount.

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

Motion Commissioner Ellison moved approval for a resolution of intention to establish fees to be charged to plot users in the Waukesha Community Garden at an amount not higher than \$40 and set a public hearing date for February 28, 2011. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.
Res #19813

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A VARIANCE FROM SECTION 11-4-2(E) OF THE HELENA CITY CODE TO EXCEED THE 60-FOOT HEIGHT LIMITATION FOR A TOWER LOCATED IN A CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT; FOR PROPERTY GENERALLY LOCATED EAST OF NORTH LAST CHANCE GULCH AND NORTH OF MEMORIAL PARK WITH A PROPERTY ADDRESS OF 1315 NORTH LAST CHANCE GULCH.

Staff Report

City Planner Elroy Golemon reported the applicant, Northwestern Energy (NWE), is requesting a variance to exceed the 60-foot maximum height limitation of the CLM District by an additional 50 feet, in accordance with Section 11-5-3(A) of Helena City Code. The City Commission is the body with the authority to grant height variances for towers. According to the applicant the additional 50 feet is needed to provide radio coverage for a Smart Grid project.

Per the applicant, the proposed variance would accommodate the construction of a single radio tower that can provide the required radio coverage. In addition, the proposed location would provide connections from the data network to the radio equipment. Smart Grid Energy Systems are intended to reduce peak demand by allowing customers to manage their energy consumption by using real-time distribution controls.

Mr. Golemon noted staff had no recommendation on the proposal.

Discussion

Mayor Smith asked why this proposal is not going before the city's Board of Adjustment. Mr. Golemon explained the requirements for tower approval were changed by the Commission when they adopted updates to the zoning ordinance in 2008; the Commission is now the approving body.

Mayor Smith asked if a variance was granted for the ballpark lights at Kindrick Legion Field. Manager Alles explained a variance was not granted because they are not a tower.

Public Testimony

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

Howard Skjervem, Northwestern Energy, 1315 N. Last Chance Gulch; urged the Commission to support the variance.

Mike Leone, Northwestern Energy; gave an overview of the Smart Grid Project and related tower.

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

Discussion

Commissioner Cartwright asked if the tower could be mounted on existing light poles in the area. Mr. Leone stated no, the tower needs to be located on NWE property in order to utilize the necessary radio equipment already located on the property. He added the most economical option is to locate the tower on NWE property.

Commissioner Elsaesser reviewed the criteria to allow the variance and spoke in support of the proposal. Commissioner Ellison spoke in support of the project and indicated he would support the variance.

Commissioner Cartwright urged the applicant to appeal the red light requirement to the FAA.

Motion

Commissioner Elsaesser moved approval of a variance from Section 11-4-2(E) of Helena City Code to exceed the 60-foot height limitation for a tower located in a CLM District by an additional 50 feet, to accommodate construction of a radio tower with an overall height of 110 feet; for property legally described in the staff report.

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

Public Communications

PUBLIC COMMUNICATIONS

Mark Simonich, Helena Area Housing Task Force; presented the Helena Area Housing Needs Assessment Report to the Commission and invited them to attend a community needs presentation on Wednesday, February 16th at 5:15 p.m. at the Myrna Loy or Thursday, February 17th at 7:00 a.m. at Hometown Helena.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is February 23, 2011 and the next Commission Meeting is February 28, 2010.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:36 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission