

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
February 28, 2011
6:00 P.M.**

- Time & Place*** A regular City Commission meeting was held on Monday, February 28, 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.
- Pledge of Allegiance*** Mayor Smith asked the members of Boy Scout Troop #208 to lead those persons present in the pledge of allegiance.
- Minutes*** The minutes of the regular City Commission meeting of February 14, 2011 were approved as submitted.
- Consent Agenda*** CONSENT AGENDA:
A. Claims
B. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property (Elgin Eagle mechanical sweeper #391)
Res #19814
- City Manager Ron Alles recommended approval of the claims and the consent agenda.
- Public Comment** Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Ellison moved approval of items A and B on the consent agenda.** Commissioner Thweatt seconded the motion. All voted aye, motion carried.
- Communications*** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Elsaesser wished all traveling legislators safe travels.
Mayor Smith thanked city staff for their work plowing streets, and residents for shoveling their sidewalks. He also thanked Public Works staff for the ADA report given at the February 23, 2011 Administrative Meeting.
Mayor Smith reported he, City Manager Alles, Public Works Director John Rundquist, and Assistant Public Works Director Phil Hauck would be traveling to Washington D.C. March 1-3, 2011 to meet with Montana's congressional delegation.
- Report of the City Attorney*** REPORT OF THE CITY ATTORNEY
No report was given.
- Report of the City Manager*** REPORT OF THE CITY MANAGER
A. Honor and Remembrance Ceremony

City Manager Alles asked Fire Chief Steve Larson to report on the Honor and Remembrance Ceremony. Chief Larson and Fire Department Captain Sean Logan gave an overview of the ceremony to be held March 3, 2011 at 2:00 p.m. at the Civic Center honoring September 11, 2001.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Vice-Chair Lorabelle Behlmer reported the HCC is currently reviewing its membership on city boards and committees.

HATS Budget

CONSIDER THE PROPOSED FY2012 HELENA AREA TRANSIT SERVICE (HATS) PRELIMINARY BUDGET, TRANSPORTATION COORDINATION PLAN AND SECTION 5311 TRANSPORTATION ASSISTANCE, JOB ACCESS REVERSE COMMUTE (JARC) AND NEW FREEDOMS GRANT APPLICATIONS.

Staff Report

HATS Superintendent Ed Robinson reported The FY2012 Section 5311 Transportation Assistance Grant is a primary funding source for the HATS bus system. In FY2012, HATS will be requesting \$514,191 in 5311 operation funds and \$72,000 in capital funding for a new bus. In addition, HATS will be requesting funding of \$70,050 in JARC funding for the East Helena Bus Service. As the state designated lead agency for the Helena area, HATS will also include requests for grant funding from other agencies: Rocky Mountain Development Council (RMDC) is applying for a New Freedoms Grant of \$29,027 and capital funding of \$58,000 for a new bus. Applications are due by March 1, 2011. Public notice of the grant request was advertised January 26, 2010 and February 3, 2011. Approval of the preliminary budgets for grant submittal purposes is necessary for grant purposes only. These budgets will be reviewed and may be changed by the City Commission during the regular budget process.

The preliminary budget covers the costs of operations for HATS, East Valley Bus, Rimrock, Neighborhood Transportation and contracted services for FY2012. The total proposed operating budget for FY2012 is \$1,385,643. The requested Federal match for operations for the projected budget is \$613,268. Capital expenditures proposed for HATS include one (1) new bus at \$72,000 and RMDC one (1) new bus at \$58,000 for a total Federal appropriation of \$130,000. The objective is to obtain Commission approval of the preliminary FY2012 HATS budget and proposed Transportation Plan allowing staff to complete the FY2012, Section 5311 Transportation Assistance, Job Access Reverse Commute and New Freedoms grant applications.

The proposed budget is based on historical costs. This budget provides the city with the necessary funding to continue to provide transit service to Helena area residents, the East Valley and contracted services. Funding of bus operations provides Helena area residents with the option to reduce energy consumption and green house gases by using public transportation instead of personal vehicles.

Discussion

Commissioner Ellison noted he had posed several questions about the HATS budget via email and thanked public works staff for their prompt response. This correspondence is included in the packet as part of the official record.

Commissioner Cartwright noted this budget is based on historical costs; if funding changes it will be brought back before the Commission.

Commissioner Elsaesser thanked Lewis & Clark County and RMDC for their involvement in HATS and spoke in support of increasing public transit service for residents.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Thweatt moved approval of the proposed preliminary operating budget for the Helena Area Transit Service and the FY2012 Transportation Coordination Plan and authorized staff to complete and submit the FY2012 Section 5311 Transportation Assistance, Job Access Reverse Commute and New Freedoms Grant applications. Commissioner Ellison seconded the motion. All voted aye, motion carried.

HAZMAT Grant

CONSIDER ACCEPTANCE OF A 100% FEDERALLY FUNDED HOMELAND SECURITY GRANT PROGRAM 2010 IN THE AMOUNT OF \$600,000 FOR THE PURPOSE OF PURCHASING FOUR HAZARDOUS MATERIALS REGIONAL RESPONSE VEHICLES.

CONSIDER AN INTERLOCAL AGREEMENT BETWEEN CITY OF BOZEMAN, CITY OF HELENA, CITY OF GREAT FALLS, AND MISSOULA RURAL FIRE DISTRICT FOR THE PURPOSE OF PURCHASING HAZARDOUS MATERIALS REGIONAL RESPONSE VEHICLES.

Staff Report

Fire Department (FD) Chief Steve Larson reported the cities of Helena, Bozeman and Great Falls Fire Departments, and Missoula Rural Fire District, are using different hazmat vehicles that have been provided by each department.

The Homeland Security Grant Program has awarded Helena, Bozeman, Great Falls and Missoula \$600,000 for the purpose of purchasing four hazardous materials regional response vehicles. Staff is recommending the city accept, administer and distribute the grant funds.

Chief Larson stated the vehicles will be similar and adequate for the purpose of pulling the hazmat trailers that are maintained and staffed by each department for hazmat response capabilities. He added the four vehicles will meet the 2010 EPA diesel engine specifications.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved to authorize the City Manager to accept and sign the 100% federally funded Homeland Security Grant Program 2010 for the purposes of purchasing four hazardous materials regional response vehicles. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Motion

Commissioner Elsaesser moved approval of an Interlocal Agreement between the City of Bozeman, City of Helena, City of Great Falls and Missoula Rural Fire District, for the purposes of purchasing four hazardous materials regional response vehicles. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Sidewalk Variance CONSIDER A SIDEWALK VARIANCE FOR 920 STATE STREET.

Staff Report

City Engineer Ryan Leland reported the property at 920 State Street is currently an empty lot but has an approved site plan for a building permit showing sidewalks and curb and gutter. The adjacent streets are unpaved without curb and gutter.

The property owner, Mark Meloy, has a building permit for 920 State Street and is requesting a sidewalk variance to defer the installation of sidewalk, drive approach, and curb and gutter, until State Street is constructed to city standards.

Mr. Leland noted staff has no recommendation on this proposal.

Discussion

Commissioner Ellison stated the staff report lists a disadvantage that if the sidewalk variance is granted it will force people into the street. He asked where they walk presently. Mr. Leland explained they currently walk in the street.

Commissioner Ellison asked if the adjacent property owners were granted variances for sidewalks when they built their houses. Mr. Leland stated they most likely were but he would check on that.

Commissioner Cartwright asked if there would be any merit to requiring installation of curb and gutter at this time since it exists across the street. Mr. Leland stated it would certainly help with drainage in the area but there is a chance that when the road is designed and upgraded it would need to be removed and re-installed.

Commissioner Thweatt asked about the possibility of conditioning that the applicant sign a waiver of right to protest a Special Improvement District (SID) to run with the property. Attorney Nielsen explained waivers of right to protest SIDs have been done in the past; however, since no one knows the cost the question of whether it's a "knowing waiver" arises.

Commissioner Thweatt noted the nearest sidewalk is a curbside sidewalk; when the applicant installs the sidewalks in the future would the proposed variance allow for curbside instead of boulevard sidewalks? Mr. Leland stated no.

Commissioner Elsaesser asked if granting a variance would preclude the Commission from ordering in sidewalks at a later date. Attorney Nielsen stated no.

Mayor Smith asked for the disadvantage of ordering in sidewalks at this time. Mr. Leland explained the applicants would install their sidewalk in accordance with the current grade of the street. In the future when the street is improved to city standards, that grade may need to be altered and may require re-installation of the sidewalk and/or curb and gutter.

Commissioner Thweatt asked if it would be appropriate to approve the variance subject to the applicant waiving the right to protest a future SID. Attorney Nielsen stated yes, that condition could be imposed as part of the variance.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Elsaesser moved to approve deferring the installation of sidewalks at 920 State Street until such time the streets are constructed to city standards. Commissioner Ellison seconded the motion.

- Amendment** Commissioner Thweatt moved to condition approval on the applicant waiving the right to protest creation of a future Special Improvement District. Commissioner Cartwright seconded the motion. All voted aye, motion carried.
- Discussion** Commissioner Elsaesser indicated he felt comfortable granting the variance. Mayor Smith stated he would not support the variance as he believes the city should be constructing the road to city standards and require the installation of sidewalks.
- Vote on original motion as amended** Motion carried 4-1, with Mayor Smith voting no.
- Public Hearings** PUBLIC HEARINGS:
A. CONSIDER A RESOLUTION ESTABLISHING FEES TO BE CHARGED FOR THE LAST CHANCE SPLASH WATER PARK AND POOL.
- 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-saving incentives. City staff is recommending 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 proposed resolution.
- Discussion** Commissioner Thweatt asked why the entry charge is \$1 less on the weekends. Director Teegarden explained the hours of operation are less on the weekends; the pool is open from 1:00 – 5:00 p.m. versus 1:00 – 7:00 p.m. on weekdays.
Commissioner Elsaesser asked if the pool was at capacity at any time during last season. Director Teegarden stated no. The capacity of the pool is 750 persons, that amount has yet to be reached.
- 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 to establish fees to be charged for the Last Chance Splash Water Park & Pool. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19815**
B. CONSIDER A RESOLUTION ESTABLISHING FEES TO BE CHARGED TO PLOT USERS IN THE WAUKESHA COMMUNITY GARDEN.
- Staff Report** 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 fee at Waukesha Park had not increased since 1983 and these fees do not begin to cover the irrigation costs. Approximately \$860.00 is generated from the 43 usable plots (20' x 36') and the annual costs for irrigation ranges from \$3,500 to \$4,000.

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 recommends limiting garden use to city-residents only. Currently, there are two active 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.

At the February 14, 2011 Commission meeting, the Commission increased the staff proposed fee amount of \$30.00 to \$40.00 in the resolution of intention.

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

Discussion

Commissioner Elsaesser asked for more information on what is allowed at the gardens. Director Teegarden explained the gardeners must sign an annual contract that includes guidelines and rules for use of the garden so they are aware of the practices to follow. By working with the Growing Communities Project (GCP) and WEEL organization there will be garden managers to ensure appropriate use. Commissioner Elsaesser expressed appreciation for the city's partnership with GCP and WEEL.

Commissioner Ellison asked for the length of the waiting list. Director Teegarden stated in the past it has ranged from eight to twelve people/households.

Public Testimony

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

Kendra Byrom, WEEL; spoke in support of the resolution.

Jim Barngrover, 312 Pine Street; spoke in support of reducing water usage at the garden. He recommended gardener education, redesign of portions of the garden, and dedicating one plot to Food Share of Helena.

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

Discussion

Discussion was held on the possibility of dedicating one plot to Food Share. Director Teegarden stated Food Share will be considered a

resident and placed on the waiting list as past gardeners have first rights to the plots.

Commissioner Cartwright commented if the plots are resized then the rates should change again next year. He emphasized the importance of reducing excess water use at the garden and noted he is okay with the gardeners not paying the full cost of irrigation as the city would be watering grass if there were not a garden there anyway.

Motion

Commissioner Ellison moved approval for a resolution establishing fees at the rate of \$40 to be charged to plot users in the Waukesha Community Gardens. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res #19816**

- C. CONSIDER THE ENLARGEMENT OF THE CITY'S WASTEWATER SERVICE AREA TO INCLUDE LOTS 13, 16 AND 18 OF THE COUNTRY CLUB PARK SUBDIVISION, GENERALLY LOCATED NORTH OF COUNTRY CLUB AVENUE AND EAST OF HEAD LANE.

Staff Report

City Planner Dustin Ramoie reported Brian and Carrie Drinville, James and Priscilla Drinville, and Martin and Christine Bindl, have made application to the City to enlarge its Wastewater Service Area to include the properties legally described as Lots 13, 16, and 18 of the Country Club Park subdivision, located in Section 14, T. 10 N, R 4 W, Lewis and Clark County, Montana. Lot 13 is adjacent to a city wastewater main, but Lots 16 and 18 are not adjacent to the city wastewater main. Lot 13 is approximately 9.5 acres, Lot 16 is approximately 10.8 acres, and Lot 18 is approximately 12.8 acres. It is the applicant's intention to develop lot 13 with a single family home, and to develop lots 16 and 18 for future use or sale. All three of the lots are located about .36 of a mile outside the city limits; however there is a City of Helena wastewater main that runs adjacent to the northern boundary of Lot 13. All of the lots could potentially be served with a wastewater main extension. Emergency Services are problematic as the properties are not adjacent to the City of Helena and are north of the railroad tracks, which is an issue for both the City of Helena Police and Fire Departments.

Lot 15 of Country Club Park owned by Brad and Maureen Drinville was included in the City's Wastewater Service Area, in January of 2007. Lot 12, owned by Robert Barrett was also added to the Wastewater Service Area in 2008, and The Meadow Mountain Inn along with another other property on Head Lane, owned by Mary Lynn Donnelly, and Fred and Patricia Jense was also added to the Wastewater Service Area in 2006. All lots listed in this memo are accessed from the same shared drive off of Head Lane.

Section 6-5-4 of the Helena City Code sets out the requirements for consideration of the enlargement of the water and/or wastewater service area. If the City Commission wishes to approve the enlargement of the Wastewater Service Area, staff recommends a motion to table this action so that an agreement can be drafted to include all of the appropriate provisions to address the concerns associated with the properties. The conditions in the agreement will govern any further development of the property, will ensure that further development will be built to the appropriate city standards and will guarantee that the new wastewater system will be constructed to the appropriate standards and plumbing codes.

Mr. Ramoie stated staff is recommending denial of the enlargement. The Wastewater Service Area enlargement would occur outside of the proposed "Urban Standards Boundary" set forth in the draft City of Helena Growth Policy Update, and outside of the Helena City Boundary. The properties are north of the railroad tracks and have no legal or physical access which causes an issue for Police and Fire services. Development of the properties may encourage installation of exempt 35 gpm wells in close proximity to Ten Mile Creek where the City has surface water rights. Also, approving the Wastewater Service Area enlargement will use capacity at the Wastewater Treatment Plant.

Discussion

Commissioner Cartwright asked if there are currently houses on the lots. Mr. Ramoie confirmed there are no dwellings on any of the lots.

Commissioner Elsaesser asked how far a wastewater main would need to be located from the creek. City Engineer Leland explained certain provisions would need to be followed to stop infiltration and exfiltration. The location of the main would be dependent on the specifics of the creek

Public Testimony

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

Brad Drinville, applicant; gave the history of water issues on the property and asked for approval of the enlargement.

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

Discussion

Mayor Smith asked Mr. Drinville if he signed a waiver of annexation when they hooked into the city's system. Mr. Drinville stated yes.

Manager Alles noted one of the requirements of extending services is a reasonable expectation of annexation in the future. According to the Urban Services Boundary currently under discussion, this area is not expected to be annexed. He recommended the Commission table the application if they do not deny it so staff may write conditions for the enlargement.

Commissioner Cartwright indicated he would support staff's recommendation for denial. He discussed how the city has worked to promote responsible development and noted the denial would not cause anyone to be displaced from their home.

Commissioner Thweatt concurred with Commissioner Cartwright and discussed the proposed Urban Services Boundary.

Commissioner Elsaesser referred to capacity issues at the wastewater plant and indicated he would vote to deny the proposal.

Commissioner Ellison explained he would support denial of the proposal as he does not believe the area will be able to receive emergency and other city services in the foreseeable future.

Mayor Smith indicated he would deny the proposal as it does not follow the work the city has done to create a good growth planning policy.

Motion

Commissioner Elsaesser moved denial of enlargement of the City of Helena Wastewater Service Area to include all of Lot 13 of the Country Club Park Subdivision, located in Section 14, T. 10 N, R 4 W, Lewis & Clark County, Montana. Commissioner Cartwright seconded the motion. All voted aye, motion carried

Motion Commissioner Elsaesser moved denial of enlargement of the City of Helena Wastewater Service Area to include all of Lot 16 & 18 of the Country Club Park Subdivision, located in Section 14, T. 10 N, R 4 W, Lewis & Clark County, Montana. Commissioner Ellison seconded the motion. All voted aye, motion carried

**Public
Communications**

PUBLIC COMMUNICATIONS

The Commission members announced various upcoming speaking engagements.

**Meetings of
Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is March 9, 2011 and the next Commission Meeting is March 14, 2011. The monthly City/County Joint Work Session will be held March 3, 2011.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:27 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission