

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**December 5, 2011**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, December 5, 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 Janet Hess-Herbert representing the Helena Citizens Council.

***Pledge of Allegiance***

Mayor Smith asked the members of Webelo Pack #206 to please stand and lead the pledge of allegiance.

***Minutes***

The minutes of the regular City Commission meeting of November 21, 2011 were approved as submitted.

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Acceptance of the October 2011 pledged collateral report
- C. Utility bill insert request - City of Helena Transfer Station
- D. Utility bill insert request- City Parks & Recreation, Snow/Ice Removal
- E. Void stale dated checks

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 through E on the consent agenda.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

***Bid Award***

BID AWARD:

- A. One (1) new, current model, 2011/2012 hydraulic truck-mounted sewer jet cleaner for the Wastewater Division

***Staff Report***

Fleet Superintendent Ben Sautter reported one bid was received for one (1), new 2011/2012 truck-mounted hydraulic sewer jet cleaner from Utility Specialties, Inc. in the amount of \$189,360.00. The FY2012 budget appropriation for this piece of equipment was \$145,680.00. EPA emission requirements on new truck models have contributed to significant price increases that were not anticipated in the Capital Plan. The bid did contain two truck chassis options with the lowest cost chassis included in the recommended bid. The analysis of the bid indicates the submitted items meet specification and is a reasonable bid. A budget amendment has been approved for the purchase of the sewer jet cleaner with the quoted Freightliner Cab/Chassis, Model M2 106. This amendment did not increase the overall wastewater or storm water budgets.

Superintendent Sautter recommended approval of the proposed bid award as purchase of the unit will allow the city to continue to upgrade the wastewater maintenance fleet providing reliable equipment and reducing maintenance costs. He noted EPA emission requirements will contribute to fewer emissions but minimal gains in fuel economy. The city is attempting to build a drive-train package (engine, transmission and rear-end gear ratios) that are more suited to urban applications and should contribute to better fuel economy overall.

**Discussion**

Commissioner Elsaesser asked for an explanation of how the equipment works. Utilities Superintendent Kevin Hart gave a detailed explanation of how a sewer jet cleaner works and the current demand for its use in the city.

**Public Comment**

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Thweatt moved approval of the bid award to Utility Specialties, Inc. for one (1) new, current model, 2011/2012 truck-mounted hydraulic sewer jet cleaner in the amount of \$189,360.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

**Communications****COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS**

Commissioner Cartwright reported he had met with Mike Daulton of Mountain West Bank, Andy O'Neill of Valley Bank and Pete Johnson of American Federal Savings Bank to discuss his prior comments related to Wall Street bankers. To summarize, he agreed he was referring to Wall Street, not community banks, in his comments and they agreed that what Wall Street had done was inexcusable. He commented they also discussed morality and community leaders and elected official's responsibility to speak up when things are going wrong. He noted overall it was a great meeting.

Commissioner Elsaesser congratulated the Carroll College Saints for making it into the NAIA championship game. He also spoke in support of the utility bill insert for the City of Helena Transfer Station on the consent agenda.

Commissioner Ellison spoke of the recent retirement of Carroll College President Dr. Thomas Trebon. He commended Dr. Trebon for his career at Carroll College and wished him and his family well. Mayor Smith concurred with Commissioner Ellison's comments.

**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 he would appear before the Fish, Wildlife and Parks Commission this week to request the City of Helena be allowed to cull 175-200 deer.

**Report from the Helena Citizens Council****REPORT FROM THE HELENA CITIZENS COUNCIL**

HCC member Janet Hess-Herbert reported all council seats but two were filled by the recent election, due to almost 1,000 write-in nominations. There are ties in some districts between write-in candidates and the Council is working with the Elections Office to resolve those.

The HCC will tentatively hold a potluck on January 11, 2011 to welcome new members to the Council and noted an invitation would be sent to the City Commission.

Ms. Hess-Herbert thanked Commissioner Cartwright for his service on the City Commission and support of the HCC. Commissioner Cartwright commended the HCC for its work.

### **Public Hearings**

#### **PUBLIC HEARINGS:**

- A. CONSIDER A RESOLUTION ESTABLISHING FEES TO BE CHARGED FOR THE BILL ROBERTS GOLF COURSE 2012 SEASON.

### **Staff Report**

Parks & Recreation Director Amy Teegarden reported three main factors influence staff ability to meet or exceed the FY12 approved budget: revenues, golf trends, and meeting projections. Some of these factors are within staff control (revenue rate increases, expense savings) and some are not (weather influences, play trends). It takes a combination of rate increases, positive trends and successful projections to successfully meet or exceed the approved budget.

City staff reviews operations, maintenance and concessions budget annually to ensure revenue projects are aligned with expenses. As part of this review, golf fees are reviewed and discussed with the Golf Advisory Board (GAB). At the October, 2011 meeting, the GAB voted to support the recommended rates for the 2012 golf season. These adjustments were identified in the proposed resolution and included in the Commission packet.

Overall for FY2011, the golf course was down about \$22,000/1.94% in revenue and saw a 6% increase in expenses. She noted the Independent Record had misrepresented these figures in a recent article and wanted to clarify them for the record.

The adjustments include some selected rate increases as well as some decreases, while some rates are unchanged. For instance, 9-hole play is decreasing, and it would not be wise to raise 9-hole fees or punch cards. Because the rental cart fleet is in an older condition, it is recommended to keep daily cart rates the same. We're experiencing a decline in youth golfers, and it is recommended to decrease costs of junior passes in an effort to promote more use by juniors. Fee increases of less than 3% (to the nearest dollar) are recommended to close the gap between inflationary expenses and revenues. In addition to adjusting fees, city staff will continue to utilize alternative programs which have proven successful in the past few years for generating revenue, such as increasing use of the golf simulator during the winter, offering private cart mechanical services and paid sponsorships.

Director Teegarden recommended approval of the resolution and noted adoption of the fee schedule would meet the city and GAB's goals.

### **Discussion**

Commissioner Ellison asked if any members of the public have spoken negatively about the fee increases. Director Teegarden explained the only comments received were related to the erroneous article in the Independent Record; the concerned citizens have been provided the correct information and the GAB has been in contact with concerned members of the golfing public.

Commissioner Elsaesser commended the Parks Department on the many recreational opportunities they work to provide the citizens of Helena.

Public Testimony

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

Pete Aspinwall, Bill Roberts Golf Advisory Board; spoke in support of the resolution.

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

Motion

**Commissioner Ellison moved approval for the resolution establishing fees to be charged for the Bill Roberts Golf Course for the 2012 season.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19891**

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 11-2-4 OF THE HELENA CITY CODE TO REVISE THE TERMS SINGLE-, TWO-, AND MULTIPLE-DWELLING UNIT RESIDENCE.

Staff Report

City Planner Elroy Golemon reported on Tuesday, November 8, 2011 the Helena Zoning Commission unanimously recommended approval (4:0 vote) for the adoption of an ordinance amending Section 11-2-4 of the Helena City Code to revise the terms *Single-*, *Two-*, and *Multiple-Dwelling Unit Residence*.

Section 11-2-3, Land Use Definitions for Zoning Districts, presently contains Residential Uses with terms that are not consistent with the uses shown in Section 11-2-4, Land Use Table for Zoning Districts. With this proposed amendment, the terminology would be the same in both sections of this chapter of the Zoning Ordinance.

Mr. Golemon recommended approval of the ordinance as it would remove inconsistencies between terms that are used in the Zoning Ordinance.

Public Testimony

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

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

Motion

**Commissioner Elsaesser moved approval for first passage of an ordinance amending Section 11-2-4 of the Helena City Code to revise the terms *Single-*, *Two-*, and *Multiple-Dwelling Unit Residence*, as stated in the ordinance.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ord #3148**

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 11-40-5 OF CITY CODE TO ALLOW LICENSED PREMISES TO BE LOCATED WITHIN 600 FEET OF SCHOOL PROPERTY WITH A CONDITIONAL USE PERMIT.

Staff Report

City Planner Elroy Golemon reported the current ordinance allows a licensed premise to be established by Conditional Use Permit in areas located more than 300 feet but less than 600 feet away from a school property, but not within the 300 of a school property.

On Tuesday, November 08, 2011, the Helena Zoning Commission held a public hearing to consider an amendment to Section 11-40-5 of City Code to allow licensed premises to be located within 600

feet of a school property with a Conditional Use Permit (CUP). The proposed amendment would eliminate the 300-foot prohibition and allow a licensed premise to be considered, using the CUP criteria, on a case-by-case basis.

Mr. Golemon recommended approval of the ordinance and explained the Helena Zoning Ordinance states conditional uses are in a general sense, considered permitted uses in particular use districts and zones. However, conditional uses must be considered on a case-by-case basis due to unique circumstances associated with the specific use. Since case by case review using the CUP criteria would be required when a licensed premises is proposed to be within 600 feet of school property, the proposed amendment is consistent with the Growth Policy goals and objectives to promote and sustain economic vitality; protect public health and safety; and provide opportunities for mixed use development.

#### Discussion

Commissioner Thweatt asked if a licensed premises refers to a liquor license. Attorney Nielsen explained the term licensed premises encompasses all various types of licensing for alcohol and alcohol consumption. Commissioner Thweatt asked what types of concerns there are with locating a tavern within 300 feet of a school. Mr. Golemon explained without a specific proposal or site, he wouldn't want to guess what the concerns or mitigating actions could be. Mayor Smith asked what the rationale is for the 300 to 600 foot regulation. Mr. Golemon stated the rationale may relate to safety and traffic concerns. Attorney Nielsen gave an overview of state law regarding licensed premises requirements and explained local Commissions are allowed to amend state law related to these requirements. He noted by using the CUP process the city has comprehensive regulating authority over where licensed premises can be located and what types of mitigation may be needed. Commissioner Thweatt expressed wonder over what risks and dangers are attempting to be mitigated by the 300 to 600 foot regulation. Mayor Smith commented the underlying rationale beneath all of the city's zoning is public health, safety and welfare. Commissioner Thweatt concurred with Mayor Smith.

Commissioner Elsaesser asked if there would be stricter standards for review of the proposed CUP since it is specific to alcohol use and consumption. Attorney Nielsen stated no, it would be reviewed and considered under the standard criteria for other CUPs: public health and safety; noise; odor; glare; and diminution of property values of adjacent properties.

#### Public Testimony

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

Karen Bohlinger, Interim Director of Holter Museum of Art; spoke in support of the ordinance.

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

#### Discussion

Commissioner Ellison asked Ms. Bohlinger for an estimation of how many events they may serve alcohol at per year. Ms. Bohlinger approximated six.

Commissioner Cartwright explained the Holter Museum will be able to obtain a special license from the state specifically for museums and similar facilities to serve alcohol. He noted much of the downtown

falls within the 600 foot requirement because of Central School, though the existing licenses in the area were grandfathered in. The 300 foot requirement in the current ordinance blocks new licenses in buildings from Benny's to Toi's Thai

Commissioner Elsaesser spoke in support of the amendment.

**Motion**

**Commissioner Cartwright moved approval of an ordinance amending Section 11-40-5 of City Code, to allow Licensed Premises to be located within 600 feet of a school property with a CUP as described in the ordinance.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3149**

***Public Communications***

PUBLIC COMMUNICATIONS

No public communications were given.

***Meetings of Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is December 14, 2011 and the next Commission Meeting is December 19, 2011.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 6:51 p.m.

---

Mayor James E. Smith

ATTEST:

---

Clerk of the Commission