

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
December 3, 2012
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, December 3, 2012 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 Ellison, Elsaesser, Thweatt and Haque-Hausrath were present. City Manager Ron Alles, City Attorney Jeff Hindoien and City Clerk Debbie Havens were present.

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 November 19, 2012 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. A resolution relating to an interest rate reduction on the City's outstanding Wastewater System Revenue Bond (DNRC State Revolving Loan Program); and authorizing the fixing of the terms and conditions thereof **Res #19976**

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 Thweatt moved approval of items A and B on the consent agenda. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Communications From Commissioners

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison recognized Parks & Recreation Department staff for ending 2012 operations at Bill Roberts Golf Course with a surplus of approximately \$112,000.

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. Certificate of Achievement for Excellence in Financial Reporting (CAFR)

Manager Alles reported the city has been awarded its 24th consecutive CAFR. Mayor Smith, on behalf of the Commission, thanked Administrative Services Department staff for their excellent work. Accounting Supervisor Liz Hirst spoke on the achievement and thanked City Manager Alles and the Commission for their continued support.

Manager Alles also recognized staff for consent agenda item B and noted the city saved over \$600,000 from the refinancing of those

bonds. Mayor Smith and the Commission members concurred with Manager Alles' comments.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

Regular Items

REGULAR ITEMS:

A. CONSIDER FIRST PASSAGE OF A NON-DISCRIMINATION ORDINANCE.

Mayor Smith stated regarding the non-discrimination ordinance, staff will give its presentation then the Commission will hold discussion and consider any amendments. He will then accept public comments; allowing 20-minutes each for proponents and opponents.

Mayor Smith announced that written comments can be submitted to the following email address: publiccomments@helenamt.gov. The Commission members will receive all email sent to the address.

Staff Report

City Attorney Hindoiien reported per discussions at the October 31, 2012 Administrative Meeting, the nondiscrimination ordinance is on tonight's agenda. The draft ordinance is intended to incorporate all of the consensus revisions that have been made to the original draft (dated August 31) as a result of extensive discussions conducted at the Commission's September 5th, October 10th, October 24th, and October 31st Administrative Meetings. Those revisions are summarized as follows:

1. The removal of the section relating to discrimination in education, based on Title 7 restrictions on municipal regulations relating to the public education system;
2. The removal of the requirement for posting of notices;
3. The removal of provisions relating to familial status discrimination in employment;
4. The refinement of the findings and purpose language in Section 1-8-1;
5. The removal of the term "perceived," and a revision to the definition of "discrimination" intended to address concerns relating to that term/concept;
6. A revision to the definition of "employer" to clarify the limited circumstances where a fraternal, charitable, or religious association falls within the scope of that term; and
7. The addition of a provision limiting the availability of the Helena City Code remedy in cases where an individual has initiated proceedings with the Montana Human Rights Bureau.

As currently structured, the ordinance will create a new section of the Helena City Code that prohibits discrimination in employment, housing, and public accommodations based on sexual orientation or gender identity or expression.

Motion

Commissioner Haque-Hausrath moved approval for first passage of the non-discrimination ordinance and set a public hearing date for December 17, 2012. Commissioner Thweatt seconded the motion.

Amendment

Commissioner Elsaesser moved approval of the following amendment:

ELSAESSER AMENDMENT

1-8-7: VIOLATION – CIVIL REMEDY – EXHAUSTION OF HUMAN RIGHTS BUREAU

REMEDY: Any illegal discrimination specifically addressed by Montana state law shall be submitted to the Montana Department of Labor & Industry Human Rights Bureau pursuant to Title 49, Chapters 2 and 3, Montana Code Annotated, for processing by the State of Montana.

Any person claiming a violation of this ~~title~~ chapter may seek civil remedies, injunctive relief, attorney fees, or other equitable relief by petitioning the Helena Municipal Court. Prior to the filing of any petition in Helena Municipal Court under this chapter, a person must have:

(A) filed or sought to file a timely complaint with the Montana Human Rights Bureau alleging discrimination in employment, public accommodations or housing, or retaliation, and;

(B) received a written disposition of their complaint from the Montana Human Rights Bureau, Montana Department of Labor & Industry Hearings Bureau, Montana Human Rights Commission or any Montana court indicating that the acts of alleged discrimination or retaliation underlying the complaint do not fall within the scope of the Montana Human Rights Act.

For purposes of this Section 1-8-7, the term “timely” shall mean filed with the Montana Human Rights Bureau within the timeframes set forth in Mont. Code Ann. § 49-2-501.

Any person claiming a violation of this chapter must file their petition with the Helena Municipal Court ordinance must seek such relief within thirty (30) days of their receipt of the written disposition referenced in Section 1-8-7(B) above.

~~A. One hundred eighty (180) days of the last alleged violation;~~

~~B. One hundred eighty (180) days of the conclusion of a grievance proceeding initiated by the complainant in accordance with a procedure as established by a contract, written rule or policy, or collective bargaining agreement; or~~

~~C. Three hundred (300) days of the last alleged violation if a grievance proceeding initiated by the complainant in accordance with a procedure as established by a contract, written rule or policy, or collective bargaining agreement has not been completed within one hundred twenty (120) days of initiation of the proceeding.~~

The initiation of or the granting of relief under a grievance procedure shall not preclude or limit any other claims or remedies available under this chapter ~~title~~. Defendants shall not collect attorney fees unless the claim is clearly frivolous, unreasonable, or factually groundless, or the claimant continued to litigate after the claim clearly became so.

~~**1-8-8: AVAILABILITY OF REMEDY:** Except as otherwise provided herein, the remedy set forth in Section 1-8-7 of the Helena City Code is not available to any person who has filed a complaint with the Montana Human Rights Bureau and the Montana Human Rights Bureau is investigating or has investigated the complaint. In the event that the Montana Human Rights Bureau ceases investigating a complaint or is found not to have the authority to investigate a complaint of discrimination as defined in this ordinance, the remedy provided in Section 1-8-7 is available to any person whose Human Rights Bureau complaint is dismissed or otherwise resolved against them on that basis. In such case, the statute of limitations set forth in Section 1-8-7 is tolled from the date of the filing of the original complaint with the Montana Human Rights Bureau.~~

Commissioner Haque-Hausrath seconded the motion.

Discussion Commissioner Thweatt asked how the proposed amendment would lengthen the process of a person getting relief from discrimination. City Attorney Hindoien explained the circumstances that could result if the amendment were approved, and clarified that he does not believe the proposed amendment would inherently lengthen the complaint process. He noted according to the amendment the person would have to engage the Human Rights Bureau before going to Municipal Court. Commissioner Ellison noted he would support the amendment as presented.

Commissioner Elsaesser commented that Attorney Hindoien assisted him in finalizing the language of the amendment. Mayor Smith stated the remedy currently is either/or; a person is allowed to go to either the Human Rights Bureau or Municipal Court. The proposed amendment would require the affected party go to the Human Rights Bureau first. Attorney Hindoien and Commissioner Elsaesser concurred.

Commissioner Haque-Hausrath noted the proposed amendment addresses her concern that Municipal Court can still provide a remedy if the Human Rights Bureau does not and indicated she would support the amendment.

Vote All voted aye, motion carried.

Amendment Commissioner Thweatt proposed the following amendment:

THWEATT AMENDMENT #1

1-8-7: VIOLATION – CIVIL REMEDY: Any illegal discrimination specifically addressed by Montana state law shall be submitted to the Montana Department of Labor Human Rights Bureau pursuant to Title 49, Chapters 2 and 3, Montana Code Annotated, for processing by the State of Montana.

Any person claiming a violation of this title may seek civil remedies, injunctive relief, ~~attorney fees,~~ or other equitable relief by petitioning the Helena Municipal Court. Any person claiming a violation of this ordinance must seek such relief within:

- A. One hundred eighty (180) days of the last alleged violation;
- B. One hundred eighty (180) days of the conclusion of a grievance proceeding initiated by the complainant in accordance with a procedure as established by a contract, written rule or policy, or collective bargaining agreement; or
- C. Three hundred (300) days of the last alleged violation if a grievance proceeding initiated by the complainant in accordance with a procedure as established by a contract, written rule or policy, or collective bargaining agreement has not been completed within one hundred twenty (120) days of initiation of the proceeding.

The initiation of or the granting of relief under a grievance procedure shall not preclude or limit any other claims or remedies available under this title. ~~Defendants shall not collect attorney fees unless the claim is clearly frivolous, unreasonable, or factually groundless, or the claimant continued to litigate after the claim clearly became so.]~~

Discussion Commissioner Haque-Hausrath stated she would oppose the first deletion of attorney fees as the Human Rights Act provides for attorney fees and she does not see a good reason to differ from that. The provision of attorney fees is pretty common in public interest litigation like this and she believes there is no good reason to differ from that.

Mayor Smith asked if there are there any punitive damages involved. Attorney Hindoien explained punitive damages have not been provided for as a form of relief. The Human Rights Bureau cannot impose punitive damages with respect to governmental entities but can with respect to private entities and under limited circumstances in federal law discrimination claims.

Commissioner Elsaesser stated he would support the amendment. Commissioner Ellison indicated he would support the amendment tonight but would be doing further research on the issue before the final vote on December 17th.

Motion **Commissioner Elsaesser moved approval of Thweatt Amendment**

#1. Commissioner Ellison seconded the motion. Motion carried 3-2, with Commissioners Haque-Hausrath and Thweatt voting no.

Motion **Commissioner Thweatt moved approval of the following amendment:**

THWEATT AMANEDMENT #2

1-8-4: DISCRIMINATION IN PUBLIC ACCOMMODATIONS PROHIBITED: It shall be unlawful for a place of public accommodation to deny, directly or indirectly, any person full and equal access or enjoyment of the goods, services, activities, facilities, privileges, advantages, and accommodations for a discriminatory reason. However, in any place of public accommodation where users ordinarily appear in the nude, users may be required to use the facilities designated for their anatomical sex regardless of their gender identity. Such requirement shall not constitute unlawful discrimination for purposes of this Section 1-8-4.

Commissioner Ellison seconded the motion.

Commissioner Thweatt stated he is of divided mind on Thweatt Amendment #2 and may change his mind at the public hearing.

Commissioner Haque-Hausrath stated she has significant concerns with the proposed amendment as she believes it is unworkable and an intrusion into privacy. She feels it will enshrine into law the opportunity for discrimination and it is unclear who will enforce it or how it will be enforced. She added the United States passport office has said that all it takes to get female designation on your passport is to get a mastectomy and choose to identify as a male. If the Federal Government has said that is enough, does the City of Helena need to override the Federal Government?

Commissioner Elsaesser stated he is leaning toward supporting the amendment but does have concerns about how it will be enforced. He pointed out the language states “may be required” and not “must”. He commented the amendment needs more work before the final hearing.

Mayor Smith noted there are some terms that are undefined in the draft ordinance, including the term “transgender”.

Commissioner Thweatt explained the reasoning behind his amendment and an incident that occurred at Evergreen College where a transgendered woman entered a women’s sauna and removed her towel, exposing male genitalia and drawing complaints. He noted this is a hypothetical possibility and believes the amendment would work by being complaint driven and would allow the owner of the facility to ask the person to leave.

Commissioner Ellison stated he is leaning toward supporting the amendment. He referred to what the Federal Government requires to get a gender designation on a passport and stated you could make the argument that the Federal Government also has not said that sexual orientation and gender identity is part of the 1964 Civil Rights Act, so the city would be going beyond federal standards if this ordinance is passed.

Commissioner Haque-Hausrath referred to the incident at Evergreen College and commented the person had a driver’s license listing her as a female. If the proposed amendment is approved and a driver’s license could be shown

identifying the person is using the same facility as the gender listed on their license, what would the next step be in enforcement?

Commissioner Thweatt explained he envisions the next step would involve talking to witnesses about what they observed. He commented he is ambivalent on the amendment but wanted the discussion to occur and will be happy what ever the vote is.

Vote Motion carried 3-2, with Mayor Smith and Commissioner Haque-Hausrath voting no.

Amendment **Commissioner Haque-Hausrath moved to add “familial status” as a protected class in the non-discrimination ordinance as noted in the Haque-Hausrath Amendment.** Commissioner Ellison seconded the motion.

Note: The Haque-Hausrath Amendment is included in the Commission packet as part of the official record.

Discussion Commissioner Elsaesser asked if a child in this case could be described as anyone under the age of 18 or an adult dependent. Attorney Hindoien explained with the absence of a definition for the term “child” in the ordinance as it currently stands, it is difficult. The term will be defined if the Commission is so inclined to include familial status in the ordinance. Commissioner Elsaesser stated he would oppose the amendment as he is concerned there is no definition for the term “child”, which could have consequences.

Commissioner Haque-Hausrath stated she believes the definition is the same as what is in the Human Rights Act. She noted she could revise her amendment to include a definition for familial status to say “having a child or children under the age of 18”.

Commissioner Thweatt suggested defining familial status as “having a minor child or children”. Attorney Hindoien stated this language would provide clarification.

Commissioner Ellison stated he offered the original amendment to remove familial status following a great deal of discussion. If the Commission is going to begin adding categories there are a number of others that could be addressed such as homelessness, income level, height and weight. There is a long list of categories, characteristics or behaviors that could be included but at this point he believes the ordinance needs to stay as streamlined as possible. He indicated he would be opposing the amendment.

Commissioner Elsaesser stated he would vote against the amendment even if it were defined further.

Mayor Smith commented he believes the ordinance is better without the inclusion of familial status and he would not support the amendment.

Vote Motion failed 2-3, with Mayor Smith and Commissioners Ellison and Elsaesser voting no.

Public comment Mayor Smith called for public comment.
The following persons spoke regarding the non-discrimination ordinance:

PROPONENTS	OPPONENTS
Roberta Zenker, Helena Avenue	Jerry Hamlin
Jonathan Matthews, 1633 Floweree	Barb Rush
Nancy Nicolson, 1 Quarry Lane	Kim Milburn
Judy Hart, 415 Adams Street	Joe LeRue, Attorney for the Alliance Defending Freedoms; Phoenix, AZ
Mike Conner	Bill Donaldson, 841 11 th Avenue
Lyle Hamilton and Mary Ann Nielsen	BJ Stumbert, Pastor of Canyon Ferry Road Baptist Church
Shawn Reagor	Chris Thompson
Amy Cannata	Tom Rasmussen
Sarah Rossi, 713 Holter Street	Barb Hamlin
John Engelfritz, 1001 Harrison	Sharon Turner, 1510 Summit Street
Nick Griffith, 400 9 th Avenue	Charlene Howard
Lee LeTeff, 730 Jackson Street	Shirley Herron, 703 Poplar Street
Nate Wyatt	Karolyn Morfield
Don Progeba	Wendy Kershwin, 1225 Ennis Road
Pete Shea	Elaine Brackman, 2575 Winchester Drive
Marissa Kozel, 546 Hillisdale	John Finnelson, 3182 North Court
Amanda Armstrong, 310 5 th Avenue	Joseph Cathgard, 8055 Austin Road
Jane Phillips, 1320 Floweree	John Pritchett, 2441 Beltview
Melissa Barcroft, Bootlegger Drive	Patricia Wood
Claudia Montayne, 704 State Street	Dave Wood
Susan Ducket, 586 Forrest Road	Phyllis Lamping, 1806 Townsend
Ryan Morton, 1624 Highland Street	Jim & Georgette Quinlan
Mary Ann Dunwell, 2520 Lookout Circle	Gabriel Walker, 3495 Keir Drive
Jake Keurig	Sharon Nason, 4360 North Montana
Eric Olberg, 435 W.Lawrence	Don Falling, 1029 Townsend
Lynda Gryson, 800 8 th Avenue	Floral Goodman, 1906 Harvest Loop
Senator Mary Caffero	Paul Goodman
Mike O'Neill, 1601 Hillisdale	Christy Freeman
Prior Herrick, Basin	Jessica Harpster
Robin Marlo	Abby Spear
MJ Williams, Basin	Robyn Mohs
Michael Sante	Lynn Carr
Lisa Bay, 31 Division Street	Levi Kaufmann
Lily Sober	Charlotte & Ralph Gallop, 2030 Missoula Ave
Katie Knight, 707 Highland	John Jepson
Judy Fiel, 707 Highland	Priscilla Grinville
Erin Meara, 2227 Gold Rush	Dixie Jepson
Lindsay Barnes, 1025 Strawberry	John & Cyndi Forbes
Brandon Clark, 1001 Peosta	John Drinville
Melissa Kwasni	William & Carolyn Truscott, 920 Silverette Street

PROPONENTS	OPPONENTS
Robin Layton, 377 John G. Mine Road	Donald Howard, 7111 Antelope Way
Jason Stein	John Richardson
Nancy Owens	Traci Ullrey
Michael Hand, 32 Springhollow Court	Catlyn Ullrey
Shawn McCarthy	Dave Ullrey
Timothy Milke	Gary & Diane Binam
Melissa Kaiser Syness, 812 Jackson Street	Ms. Draylis
Curt Syness, 812 Jackson Street	Maureen Drindal
Kelson Young, 1020 Red Pole Loop	Marlene Kalgard
Wade Zillinski	Sandy Bradford
Mike Wesler, 1066 Breckenridge	Mary & Bill Potts
Jennifer Hillheart	Andy Matroka
Allyson James, 1205 Winston	Ms. Erdahl
Chase Starar, 833 Breckenridge	Jeff Allery
Carolyn Farb, 833 Breckenridge	Gregg Guthrie
Teegan Maynard Hahn, 117 Lake Street	Natalie Boey
Ben Brauer, 51 S. Howie	Steven Boey, 3519 Keir Drive
Jessica Melvin, 1115 Woodbridge Drive	Jo Ellen Barbagell
Betsy Riggs, 1926 Missoula	Mark Cramer, 2415 Teakwood Lane
Timothy Melvin, 1115 Woodbridge Drive	Colleen Deaver
Jordon Brown, 537 5 th Avenue	Chet Deaver
Mandi Aagnes-Payne, 409 South Harris	John Barbagello, 643 Raven Road
Casey Gilbert	Marissa Stockton
Scott Bloom, 1926 South Raleigh	Carol Koehler
DD Dowden	Jim Sheehy, 2509 Fairmont Circle
Sana Porte, 127 Jefferson	Claudia Sheehy
Mary Decker, 726 South Rodney	Becky Stockton
Cathryn Berry, 726 South Rodney	Rodney Meyers
Becka Leapheart, 51 South Howie	Julie Herbst
Sonny O'Connel, 1 North Benton Avenue	Jody Loomis
Diane Faldmo	Ron Nason
Sandy Schull, 412 5 th Avenue	Josh Whistler
Christy Schweitzer, 7 North Olive	Mathew Blodgett
Kevin Hand	Mike Herbst
Amy Opitz	Cathy Muse
Teresa Hastings, 923 Missoula Avenue	Mike Muse
Andres Halladay, 423 8 th Avenue	Glenna McClure
Marily Alexander, 1039 Butte Avenue	Linda Chambers
Marissa Berry, 1017 Logan Street	Randy Chambers
Erin Colemon, 583 South Rodney	Cynthia Munson
Carissa Spurzen, 802 Laurel	Stanley Munson

PROPONENTS	OPPONENTS
Lana George, 422 Hayes	Robert Brown, 3825 Wylie Drive
Mary Lynn Gross, 429 Geddis Street	Sandra Kibpree, 1815 Townsend
Tara Veezie, 523 6 th Avenue	JoAnn Kessler, 3485 Beck Street
Bethany Flint, 574 7 th Street	Ron Thomas
Kim Abbott, 6 th Avenue	Jean Thomas
Nicki Zupanic, 525 Rodney Court	Deanne Kopp, 513 Peosta
Olivia Dustish	Patty Matroka
Fran Effertz	Dick Crosby, 3306 Dunlap Drive
Karen Keefler	Cheryl Maziores
Claudette Morton, 511 E. 6 th Avenue	Betty Riley
Jamee Greer, 312 N. Ewing	Larry Hollman
	Nicholas Landsett
	Karen Rasmussen
	Terry Screaner
	Kurt Charlton, 3430 Wycroft
	Elijah Walker, 3435 Keir Drive
	John Kathcart
	Lori Kathcart
	James Hill, 2665 Hauser
	Tim Quinn
	Leslie McCurry
	Abigail Berg
	Eileen Holman
	Becky Berg
	Wendy Sebastian
	Susan Getz
	Lisa Wardel
	Mona Rash
	Loran Getz
	Jim Stewart
	Paul Grievace
	Herb Walberg
	Del Sharbono
	Lyle Hosteller
	Bob Koehler
	Mr. Taller
	Amy Hauser
	Nick Turner
	Larry Hauser
	James William Turner

Mayor Smith thanked everyone who testified, both proponents and opponents.

Motion

Commissioner Elsaesser moved approval for first passage of a non-discrimination ordinance, as amended and set a public hearing date of December 17, 2012. Commissioner Haque-Hausrath seconded the motion.

Commissioner Haque-Hausrath also thanked those who testified and commended the public process.

Commissioner Elsaesser reminded citizens to submit comments to: publiccomments@helenamt.gov.

Mayor Smith stated he would support moving the ordinance forward to a public hearing. He commented the purpose of the ordinance is to extend the protections of the Civil Rights Act of 1964 to the people named in the ordinance. He noted the Commission member's religious beliefs have not been discussed throughout consideration of the ordinance.

Commissioner Ellison stated he continues to believe this issue might be better served by a resolution rather than an ordinance; however, with some reluctance he would vote to move it forward to a public hearing.

Vote

All voted aye, motion carried. **Ord# 3162**

Mayor Smith noted he would allow one hour of testimony each for proponents and opponents at the December 17th public hearing.

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION ESTABLISHING A TOBACCO-FREE POLICY FOR CENTENNIAL PARK.

Staff Report

Parks & Recreation Director Amy Teegarden reported throughout the country, park facilities and recreation activities are increasingly recognized as a means for promoting healthy life-styles and healthy communities. The same is true in Helena. Many residents use parks as a means to improve their health through physical activity, enjoy time with family and friends or experience nature. As a result there is an increasing belief that parks and recreation facilities should be places where healthy activities are modeled, not places where people can become exposed to health hazards associated with secondhand smoke and other tobacco products.

In May 2012, representatives from the City/County Board of Health, the City/County Health Department and the ACHIEVE Communities project made a presentation to the City/County Park's Board about tobacco-free parks and other tobacco-free efforts in the community. The Park's Board was encouraged to consider recommending tobacco free policies for city and county parks.

At the June 2012 Park's Board meeting, there was extensive discussion on various aspects of the proposed policy, specifically on enforcement, and which types of park facilities should be excluded. In general there was overall support for the concept however the Park's Board narrowed their focus to Centennial Park as a specific location to "test-drive" the tobacco-free park concept.

At the August 2012 Park's Board meeting, the City Attorney presented concerns about enforcement of a tobacco-free policy in the form of an ordinance. It was suggested that a softer approach, such as an administrative park policy or signage be used, instead of adopting an ordinance. The Park's Board unanimously approved a motion to recommend to the Helena City Commission that Centennial Park be designated as a tobacco-free park.

At the August 15 Administrative Meeting, the recommendation to designate Centennial Park tobacco free was presented by city staff and representatives from the City-County Parks Board, the City-County Board of Health and the City-County Health Department.

Director Teegarden recommended approval of the proposed resolution as it would provide an opportunity to role model non-smoking behavior in the Helena community, especially to children and youth.

Discussion

Commissioner Elsaesser asked how many people participated in the survey. Director Teegarden explained there were 164 participants at a number of different parks.

Public Testimony

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

Representatives from the YMCA, 1200 N. Last Chance Gulch; submitted written testimony in support of the resolution.

Michael O'Neill, 621 Hillside, spoke in support of the resolution.

Drendra Newman, Youth Connections; spoke in support of the resolution.

Melanie Reynolds, Lewis & Clark County Health Officer; spoke in support of the resolution and offered the Health Department's assistance in implementing the tobacco-free designation.

Larry Hauser, spoke in opposition to the resolution as using tobacco is a lifestyle choice.

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

Motion

Commissioner Hague-Hausrath moved approval of a resolution to establish a Tobacco-Free Policy for Centennial Park.

Commissioner Ellison seconded the motion.

Commissioners Elsaesser and Ellison both spoke in support of the resolution due to public support for the issue. Mayor Smith stated he had abstained from voting on the Health Department's resolution.

Vote

All voted aye, motion carried. **Res# 19977**

B. CONSIDER A RESOLUTION TO ESTABLISH FEES TO BE CHARGED FOR THE BILL ROBERTS GOLF COURSE, 2013 SEASON.

Staff Report

Director Teegarden stated with the continued rising costs and the need for capital improvements, city staff strives to operate the course within a financial strategy that can meet operational and capital improvements goals. Every year city staff and the Golf Advisory Board (GAB) review the season's expenses, revenues, and revenue trends in comparison to budget projections. The GAB is recommending some increases in fees for the 2013 season.

Director Teegarden recommended approval of the resolution as the recommended fee schedule to be charged for the 2013 season will help towards meeting the city's and the GAB's financial goals for the course.

Discussion

Mayor Smith asked if the Golf Advisory Board is in support of the resolution. Director Teegarden confirmed the board is in full support of the fees proposed for the 2013 season.

Public Testimony

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

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

Motion

Commissioner Ellison moved approval of the resolution to establish fees to be charged for the Bill Roberts Golf Course for the 2013 season. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res# 19978**

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is December 12, 2012 and the next Commission Meeting is December 17, 2012.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:35 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission