

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**July 8, 2013**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, July 8, 2013 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 Elsaesser, Ellison, Thweatt and Haque-Hausrath were present. City Manager Ron Alles, City Attorney Jeff Hindoien and Deputy City Clerk Robyn Brown 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 June 24, 2013 were approved as submitted.

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Resolution of intention to levy an assessment upon all property in the Landfill Monitoring and Maintenance District for fiscal year 2014 and set a public hearing date. **Res #20008**
- C. Resolution of intention to levy an assessment upon all properties in the Special Street Lighting Districts to defray the cost of installing and maintaining improvements for fiscal year 2014 and set a public hearing date. **Res #20009**
- D. Resolution of intention to amend the boundaries and levy an assessment upon all property in the Storm Water Utility District for fiscal year 2014 and set a public hearing date. **Res #20010**
- E. Resolution of intention to levy and assess a tax on all properties in the Special Improvement Districts to defray the cost of maintaining improvements for fiscal year 2014 and set a public hearing date. **Res #20011**
- F. Resolution of intention to levy assessments for fiscal year 2014 for improvements made to properties in the Sidewalk Improvement Districts and set a public hearing date. **Res #20012**
- G. Resolution of intention to levy an assessment for and approve the proposed work plan and budget of the Business Improvement District (BID) for fiscal year 2014 and set a public hearing date. **Res #20013**
- H. Resolution of intention to levy an assessment upon all property in the Urban Forest Management District for fiscal year 2014 and set a public hearing date. **Res #20014**
- I. Resolution of intention to specify the assessment option, amend the boundaries and levy and assess the annual charge for Street Maintenance District #1 for fiscal year 2014. **Res #20015**
- J. Resolution of intention to amend the boundaries and levy an assessment upon all property in the Open Space Maintenance District No. 1 for fiscal year 2014 and set a public hearing date. **Res #20016**

- K. Resolution of intention to levy an assessment for and approve the proposed work plan and budget of the Tourism Business Improvement District (TBID) for fiscal year 2014 and set a public hearing date. **Res #20017**
- L. Resolution of intention to establish charges for collection and disposal of residential garbage and refuse in the City of Helena, Montana, for fiscal year 2014. **Res #20018**
- M. Resolution of intention to increase water rates for all customers. **Res #20019**
- N. Resolution of intention to increase wastewater rates for all customers. **Res #20020**
- O. Resolution of intention to increase water charges for all customers. **Res #20021**
- P. Resolution of intention to increase wastewater charges for all customers. **Res #20022**
- Q. Resolution annexing into the City of Helena Lots 17, 18, 19, & 20 in Block 192 of the Ames Addition, and the full width of the adjacent portions of the Winston Street and Choteau Street Rights-of-way. **Res #20023**
- R. Resolution granting a one year extension to Resolution #19854, a resolution of intent to annex property north of Custer Avenue and west of Washington Street. **Res #20024**

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

Commissioner Thweatt asked how much the assessments would increase for a property valued at \$100,000 if all of the rate and assessment resolutions are approved. City Manager Alles estimated \$72.00.

Public comment

Mayor Smith asked for public comment, none was received.

**Motion**

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

***Bid Award***

BID AWARD:

- A. 2013 Chip & Seal Project, City Project #13-5

Staff Report

City Engineer Ryan Leland reported the 2013 Chip & Seal project 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 to 8.46 miles of Helena's city streets. The City opened two bids for this project on June 25, 2013. Helena Sand & Gravel Inc. was the lowest responsible bidder for schedules; A - North Central City Streets (East/West); B - North Central City Streets (North/South); C - South Central City Streets (North/South); and D - Parking Areas for a total of \$284,303.84. This year's unit price is \$1.54 to \$3.00 per square yard and last year's unit price was \$1.48 per square yard.

Staff recommended awarding schedules A, B, C, and D, to the lowest responsible bidder; Helena Sand & Gravel, Inc., which submitted the low bid of \$284,303.84. This project will chip & seal approximately 8.46 miles of city streets and ultimately extend the life of the streets because of the application of a new wear surface.

- Public comment Mayor Smith asked for public comment, none was received.
- Discussion Commissioner Ellison asked for more information on schedule D. Engineer Leland explained schedule D is a parking lot for a park in the Nob Hill area.  
Commissioner Elsaesser stated the projects near parks and open space will be much appreciated.
- Motion** Commissioner Elsaesser moved to award schedules A, B, C, and D, of the 2013 Chip & Seal project, City Project #13-5 to the lowest, responsible bidder, Helena Sand & Gravel Inc. in the amount of \$284,303.84. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Elsaesser praised the announcement that City of Helena employees are now eligible to use the State of Montana Health Clinic.  
He reported the next plastics drive will be held Friday, July 12, 2013 through Monday, July 15, 2013, in the old armory parking lot at 1100 North Last Chance Gulch.  
Commissioner Ellison stated the Fair Board would be painting the bathroom at the Fairgrounds tomorrow, Tuesday, July 9<sup>th</sup>, and encouraged citizens to participate.
- Report of the City Attorney** REPORT OF THE CITY ATTORNEY  
No report was given.
- Report of the City Manager** REPORT OF THE CITY MANAGER  
No report was given.
- Report from the Helena Citizens Council** REPORT FROM THE HELENA CITIZENS COUNCIL  
No report was given.
- Regular Items** REGULAR ITEMS:  
A. CONSIDER A RESOLUTION DESIGNATING PAWS PARK AT CENTENNIAL PARK AND THE DOG PARK IN MOUNTAIN VIEW PARK AS CITY DOG PARKS.
- Staff Report City Attorney Jeff Hindoiien reported the city has undertaken the creation of a "dog park" in Centennial Park to be known as "Paws Park at Centennial Park." A second dog park is being developed in Mountain View Park in Mountain View Meadows. These dog parks will consist of discretely identified and fenced areas, with the intention that dogs within those areas will not have to be kept on leashes. The City Commission recently amended Section 5-2-14 of the Helena City Code to create an express exemption from the otherwise applicable requirements of the City's animal control ordinance for any fenced area in a "dog park" as formally designated by the Commission.  
Attorney Hindoiien recommended approval of the resolution as it would authorize individuals to have their dogs off-leash when inside the fenced portions of the dog parks designated by the City Commission in the resolution.

- Discussion Commissioner Ellison commended the proposal.
- Public comment Mayor Smith called for public comment; none was received.
- Motion** **Commissioner Ellison moved approval of a resolution designating Paws Park at Centennial Park and the dog park in Mountain View Park as city dog parks for purposes of Section 5-2-14 of the Helena City Code.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #20025**
- B. CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA THE EAST PORTION OF BLOCK 20, BOYCE ADDITION, THE WEST 1/2 OF CLOSED AND VACATED MARKET STREET AND THE ADJACENT NORTH PORTION OF CLOSED AND VACATED BUTTE AVENUE, AND THE FULL WIDTH OF THE ADJACENT MISSOULA AVENUE RIGHT-OF-WAY (ROW), HELENA, MONTANA; GENERALLY LOCATED NORTH OF HIGHWAY 12 EAST AND EAST OF I-15.
- Staff Report City Planner Kathy Macefield reported the applicant, Ed Maronick, has applied for annexation to the City of Helena under the petition method which is detailed in state law under MCA 7-2-4601, et seq. The City Commission held a public hearing to consider and approved CLM (Commercial-Light Manufacturing) pre-zoning of this property, plus as a zone change to a CLM District for one adjacent block located to the east, on June 10, 2013. The Commission approved final passage of both zoning ordinances on June 24, 2013.
- Ms. Macefield noted the applicant has submitted an application to Lewis & Clark County to abandon the Missoula Avenue ROW between Blaine Street and the west property boundary of the east portion of Block 20. This application will be considered by the Board of County Commissioners (BoCC) on July 16, 2013. If the County Commission approves the abandonment request, the applicant plans to file an amended plat with the Clerk and Recorder to show that abandonment and the dedication of additional ROW for the portion of Blaine Street located between Missoula Avenue and Billings Street.
- Ms. Macefield noted the recommended conditions for annexation would assure orderly growth and development of the city and the efficient use of land and infrastructure and recommended approval of the proposal as the subject property is adjacent to existing city limits and the proposed annexation would not create any additional wholly surrounded areas. Annexation of the private property located in the Urban Service Boundary identified in the 2011 Helena Growth Policy is consistent with city policy, and with the policy of annexing property that will be served by city infrastructure as required by the conditions for annexation.
- Discussion Commissioner Haque-Hausrath referred to the conditions for installation of infrastructure and asked if they include the installation of sidewalks. Ms. Macefield stated sidewalks are usually required with the building permit and referred the question to the applicant.
- Commissioner Haque-Hausrath asked if the Commission could require the installation of sidewalks as a condition of annexation. City Manager Alles asked the applicant to respond to the Commission. Commissioner Haque-Hausrath spoke in support of the installation of sidewalks on Blaine Street, Market Street and Missoula Avenue.

Commissioner Haque-Hausrath asked if this proposal would come back before the City Commission after the vacation of Missoula Avenue is considered by the County Commission. Ms. Macefield stated no. However, if the vacation is not approved by the County Commission the applicant would most likely request closure by the City Commission. Commissioner Haque-Hausrath asked if the proposed closure is in the city limits. Ms. Macefield stated no. Commissioner Haque-Hausrath expressed concern with the proposal.

Commissioner Thweatt asked why the city is considering the proposal prior to the County Commission acting on the closure of Missoula Avenue. City Manager Alles explained the city is trying to work with the applicant to meet their timeline to begin construction in August. Mayor Smith and Commissioner Thweatt expressed concern over taking action on the proposal before the County Commission decides whether or not to close and vacate Missoula Avenue.

Commissioner Haque-Hausrath asked for more information on the cul-de-sac being proposed when they are not favored by the city. Ms. Macefield stated the cul-de-sac resulted from requirements set forth by the Engineering Standards and Public Works Department.

Public comment

Mayor Smith called for public comment.

Jeff Larson, engineer representing the applicant; emphasized the applicant is working on a very tight schedule for construction of the property and explained the conditions leading to the sequencing of the proposal before the City and County Commissions.

He referred to the installation of sidewalks and stated they have been told they are responsible for the installation of sidewalk adjacent to the portion of the property being built on, so they will not be installed in the area that is not going to be constructed. Mr. Larson reiterated the applicant is on a very tight schedule.

Doug Williams, 2401 Missoula Avenue; expressed concern for the proposal and referred to written testimony he had submitted. This testimony was contained in the Commission packet as part of the official record.

Discussion

Commissioner Ellison asked Mr. Larson for more information on the comments provided from the Montana Department of Transportation (MDT), Policy and Analysis Bureau, contained in the Commission packet. Mr. Larson explained MDT's concerns over the proposal in detail.

Commissioner Elsaesser asked if traffic into the facility would come from the east side of Block 20. Mr. Larson confirmed all of the traffic would enter from the east.

Commissioner Thweatt referred to Mr. Williams' concerns regarding access to city water and sewer mains. Ms. Macefield explained Condition 1A requires the applicant to install water and sewer mains in the Missoula Avenue ROW, across the full length of the east portion of Block 20 and 21, which is adjacent to Mr. William's property. She confirmed Mr. Williams will have access to those mains. Mayor Smith asked if Condition 1A applies no matter what decision is made by the BoCC. Ms. Macefield stated yes.

Commissioner Haque-Hausrath asked for the exact location of the sidewalks to be installed. Ms. Macefield outlined the affected property on a map. Manager Alles stated sidewalks will be installed on the applicant's portion of Blaine Street only. He then explained what

other ROW/streets would be developed with the proposal. He reminded the Commission it is anticipated the BoCC would approve the proposed abandonment.

Commissioner Elsaesser asked for more information on emergency access. Ms. Macefield explained the primary and secondary emergency access in detail.

Mayor Smith asked Mr. Larson if the applicant is agreeable to the conditions for annexation. Mr. Larson confirmed the applicant accepts the conditions for annexation as proposed, and is confident the BoCC will approve the abandonment.

**Motion** Commissioner Elsaesser moved to approve a resolution of intention to annex the east portion of Block 20, Boyce Addition, the west ½ of closed and vacated Market Street and the adjacent north portion of closed and vacated Butte Avenue. Commissioner Ellison seconded the motion.

**Comment** Commissioner Elsaesser spoke in support of the proposal. Commissioner Ellison concurred with Commissioner Elsaesser. He noted the area is appropriate for extension of city services, the proposal will be infill development and add jobs to the community. Mayor Smith agreed and noted this is an area that needs to be developed.

**Vote** All voted aye, motion carried. **Res #20026**

C. CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA AND ESTABLISH CONDITIONS FOR ANNEXATION FOR TRACT 2A OF COS #3232717, LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED WEST OF MCHUGH LANE AND NORTH OF CUSTER AVENUE.

**Public Hearings**

PUBLIC HEARINGS:

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO B-2 (GENERAL COMMERCIAL) DISTRICT PRIOR TO ANNEXATION INTO THE CITY OF HELENA PROPERTY GENERALLY LOCATED WEST OF MCHUGH LANE AND NORTH OF CUSTER AVENUE.

**Staff Report**

City Planner Lucy Morell-Gengler reported the owners of the subject property, Glenn and Beverly Clevenger, have requested annexation of Tract 2A of COS #3232717 and a portion of Tract 1 of COS # 302232. An Annexation District Agreement was entered into on July 29, 2003 between the City of Helena and Glenn and Beverly Clevenger and recorded under document #3047413. This document establishes an agreement that the City will annex Tract 1 of COS # 302232 10-years from the date of that agreement. Therefore, Tract 1 will automatically be annexed into the city July 29, 2013 so a Resolution of Intention to Annex that property is not required.

The subject property, Tract 2A, is adjacent to the City of Helena and is located within the "Urban Standards Boundary Area"; the 2011 Growth Policy promotes annexation of such properties. The property is currently undeveloped and vacant. The applicant wishes to annex this property to attain all city services. With annexation, extension of the water and wastewater service boundary will occur automatically. Many

of the improvements have been installed such as water and sewer mains, adjacent McHugh Lane has been improved, and boulevard sidewalks adjacent to the property have been installed.

Ms. Morell-Gengler recommended approval of the resolution of intention to annex and pre-zoning as annexation of this property would promote the orderly extension of City services and infrastructure; promote development near employment, residential uses and shopping and encourage higher density development near a motorized and non-motorized transportation system.

**Public Testimony**

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

Chaz Johnson, applicant; thanked the Commission for their consideration of the project.

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

**Motion**

**Commissioner Elsaesser moved approval of a resolution of intention to annex Tract 2A as legally described in the resolution, and establish conditions for annexation as set forth in the resolution.** Commissioner Thweatt seconded the motion. All voted aye, motion carried. **Res #20027**

**Motion**

**Commissioner Haque-Hausrath moved approval of an ordinance pre-zoning to B-2 (General Commercial) District prior to annexation into the City of Helena property generally located west of McHugh Lane and north of Custer Avenue.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3182**

***Public Communications***

**PUBLIC COMMUNICATIONS**

No public communications were given.

***Meetings of Interest***

**MEETINGS OF INTEREST**

The next Administrative Meeting is July 17, 2013 and the next Commission Meeting is July 22, 2013.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:32 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission