

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**November 4, 2013**  
**6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, November 4, 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 October 21, 2013 were approved as submitted.

***Board Appointments***

**BOARD APPOINTMENTS:**

- A. Business Improvement District/Helena Parking Commission (BID/HPC), Bill Roberts Golf Course Advisory Board & ~~City/County Planning Board~~

Mayor Smith recommended the following board appointments. He noted there was no recommendation being made for an appointment to the Planning Board.

BID/HPC – Reappointment of Randy Riley to a 2<sup>nd</sup> term on the BID/HPC. Term will begin upon appointment and expire October 31, 2017.

Bill Roberts Golf Course Advisory Board – Appointment of Andy Cottrell to a 1<sup>st</sup> term on the Golf Advisory Board. Term will begin upon appointment and expire October 30, 2016.

**Public comment**

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Ellison moved approval of the above listed appointments to the BID/HPC and Bill Roberts Golf Advisory Board.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

***Consent Agenda***

**CONSENT AGENDA:**

- A. Claims  
B . Authorize staff to void stale dated checks  
C . Resolution establishing compliance with reimbursement bond regulations under the Internal Revenue Code in advance of the proposed issuance of revenue bonds by the City of Helena Water System (DNRC Drinking Water Revolving Loan Program) to provide funds for the costs of projects at the City's Tenmile Water Treatment Plant **Res #20055**

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 through C on the consent agenda.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Elsaesser referred to Consent Agenda Item C and thanked Manager Alles and his assistant, Sarah Elkins, for a presentation they recently created related to fire danger in the Tenmile Watershed.  
He also reported the City has been awarded a bronze medal in relation to being bike-friendly.  
He announced that the next plastics drive would be held the weekend of November 9<sup>th</sup>.  
Commissioner Elsaesser added tomorrow is Election Day and encouraged all citizens to vote.  
Mayor Smith thanked Commissioner Ellison, Andres Haladay and David Nielsen for running a clean campaign for the open Commission seats.
- 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. Recognition of retirement of Richard Drysdale- Helena Police Department (HPD)  
  
City Manager Alles asked Police Chief Troy McGee to report on the retirement of HPD Sergeant Richard Drysdale. Chief McGee first introduced the members of the HPD in attendance and announced Sgt. Richard Drysdale is retiring after serving for 24 years with the HPD. He gave an overview of Sgt. Drysdale's career and achievements and wished him well on his retirement.  
Sgt. Drysdale introduced his family in attendance and spoke fondly of his time with the HPD.  
Mayor Smith and the Commission members thanked Sergeant Drysdale for his service and congratulated him on his retirement.
- B. Introduction of Officer Josh Ray and K9 Filu  
  
Chief McGee introduced Officer Josh Ray and new K-9 officer Filu, and explained the details of the K-9 program and the services it provides. He commented Filu was born in Hungary and responds to commands in Dutch. Officer Ray spoke of working in the K-9 program.  
The Commission spoke in support of the K-9 program and thanked Officer Ray for taking the assignment.
- Report from the Helena Citizens Council** REPORT FROM THE HELENA CITIZENS COUNCIL (HCC)  
There were no members of the HCC present to provide a report.

**Regular Items**

## REGULAR ITEMS:

A. CONSIDER AN EXTENSION OF THE 2010 SHOPKO  
SUBDIVISION PRELIMINARY PLAT APPROVAL

## Staff Report

Planner Kathy Macefield reported on August 9, 2010 the City Commission conditionally approved the preliminary plat for the Shopko Subdivision, creating 3 lots from 6.8 acres located in a B-2 (General Commercial) District, for 3 years. The property is legally described as Lot 1A-1E, Shopko Subdivision, Helena, Montana, as shown on the plat filed under Document Number 3180038; generally located north of Custer and west of Sanders Street. On August 5, 2013 the Commission approved a 90-day extension that will expire November 7, 2013.

The applicant, PEG Development, has requested a second extension of the Shopko Subdivision preliminary plat approval until May 1, 2014 (letter attached). The 2010 conditions for approval reference the 2009 Shopko plat and its related conditions for preliminary plat approval. A copy of the approved preliminary plat and the 2010 conditions for preliminary plat approval, the 2009 and related filed plat, and the applicant's previous response to each of the 2010 conditions are attached for reference.

Montana law (76-3-610 MCA) allows the City Commission, at the request of the subdivider, to issue multiple extensions for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing and dated and signed by the members of the City Commission and the subdivider. The developer is requesting an extension of the preliminary plat approval beyond the current November 7, 2013 expiration. The preliminary plat approval in 2010 was contingent on the completion of 4 conditions.

Within the 3 years since the 2010 preliminary plat approval:

- DEQ approval has been obtained for the water main in Market Avenue.
- Market Avenue has been "rough cut" but remains to be completed to city standards.
- Sidewalks were installed along the public easements as required by the previous subdivision approval in 2009 (this requirement was restated in 2010).

The following infrastructure requirements still remain to be completed since the 2010 preliminary plat approval:

1. Plans for the recommended traffic improvements must be submitted for review, approved, and installed.
2. Documentation showing there is sufficient sewer capacity and the ability to acquire the capacity, or upgrade the lift station.
3. Sewer plans must be submitted and approved by both Public Works and DEQ.
4. A water main must be installed in Market Avenue.
5. Market Avenue must be constructed to city standards with sidewalks on both sides of the street.
6. The north-south access easement along the west side of the lots to connect to Custer Avenue must still be constructed to city standards.

In order to give the applicant sufficient time to address and install the remaining infrastructure requirements during the construction season, it may be advisable to approve a preliminary plat extension until November 1, 2014. The final plat is still subject to the 2010 conditions for

preliminary plat approval. Extending the preliminary plat approval until November 1, 2014 would have the following parameters stated in the preliminary plat extension agreement to clarify time frames: Infrastructure must be submitted for review and approved by April 1, 2014; Infrastructure must be installed prior to November 1, 2014 and prior to filing the final plat.

City water, sewer and paved streets with curb and gutter were previously installed with an earlier subdivision of the property. Completion of the proposed subdivision could encourage infill development for the beneficial concentration of commercial uses in the vicinity. Extending the preliminary plat approval would provide time to allow the remaining infrastructure to be installed and the final plat to be filed. The conditions for the preliminary plat approval would still be applicable. Infill mixed use development could encourage non-motorized traffic and reduce the amount of vehicle miles travelled (vmt).

Requirements related to sewer capacity and the north-south access connection were included in the 2009 conditional plat approval, and were originally included in the now expired financial guarantee. These same requirements were also included in the conditional approval in 2010 for the subject preliminary plat and still remain to be completed.

The city has adopted new Subdivision Regulations with an effective date of October 25, 2013. If the preliminary plat approval is not extended and the preliminary plat expires, the applicant would have enough time to address the infrastructure requirements prior to submitting a new subdivision application.

Ms. Macefield recommended approval of the extension and stated City water, sewer and paved streets with curb and gutter were previously installed with an earlier subdivision of the property. Completion of the proposed subdivision could encourage infill development for the beneficial concentration of commercial uses in the vicinity. Extending the preliminary plat approval would provide time to allow the remaining infrastructure to be installed and the final plat to be filed. The conditions for the preliminary plat approval would still be applicable.

#### Discussion

Commissioner Haque-Hausrath asked for the benefits of extending the agreement. Ms. Macefield noted the applicant should address that question as there are up-front costs involved. She noted the extension would not result in any disadvantage to the city and these extensions have been done in the past.

Commissioner Ellison noted this preliminary plat has been extended at least one other time prior to tonight's request. He asked what would happen if the requirements contained in the agreement were not completed and if the applicant could request another extension. Ms. Macefield explained the applicant always has the option to request an extension per state law; however, the Commission has the option of denying or approving the extension.

Mayor Smith asked if the deadlines shown in the presentation were internal. Ms. Macefield stated they were given to the developer and are contained in the agreement for the extension.

Commissioner Elsaesser asked if the situation with the lift station adversely affects any other parties in the area or the City of Helena. Ms. Macefield noted an Engineer would be better qualified to answer the question. She stated the question is if the developer is able to get adequate sewer; the other option is to install their own lift station.

Commissioner Thweatt asked for more information on the disadvantages of the proposal. Ms. Macefield explained the point she was trying to make was some of the things that were originally required have not been completed since 2010. Since that time, the City Commission has adopted new Subdivision Regulations. If the proposed extension is not approved, they could develop the three lots and they would have to submit an application and come back through the review process and the new Subdivision Regulations would be in effect. Requirements for parkland, wetlands and stormwater drainage would be different.

Commissioner Thweatt referred to sidewalks and asked if under the current conditions, when would they need to be built. Ms. Macefield stated under the current conditions, sidewalks would need to be installed at the time of the final plat. She added that sidewalks, up until recently, were required with the building permit.

Commissioner Thweatt asked for more information on why the applicant can't ascertain if there is capacity in the sewage lift station. Ms. Macefield referred Commissioner Thweatt's question to the applicant's Engineer.

Public comment

Mayor Smith called for public comment.

Tim Bury, representing the applicant; explained the reasons for the request for extension and spoke to issues with the lift station's capacity. He explained it is a third-party lift station located in the Skelton Subdivision and when it was built there were multiple partners involved. Some of those partners have a "Right of Refusal" which means they have extra capacity in the lift station, of which the applicant is looking to use a portion of what is remaining. So, with the third parties it complicates the proposal because you don't know if those third parties are going to use their Right of Refusal, or not, whether they have contributed and paid into the lift station, or not. So there is a lot of confusion with the third party that this developer is trying to utilize. The bottom line is they are trying to determine what is available, what those partners are going to use, and what the applicant would have to do to either purchase that, or increase the capacity. With that, there are two lots being developed and there is no exact science to determine how much capacity that development is going to use.

Mr. Bury then gave an overview of the infrastructure that is already installed in the subdivision.

Commissioner Thweatt asked for confirmation that there are negotiations going on to essentially purchase capacity in the lift station and it's a multi-lateral negotiation. Mr. Bury concurred. Commissioner Thweatt stated it appears there would be advantages to the city to deny the request and have the developer go through the current subdivision process. He asked Mr. Bury what that would cost his client. Mr. Bury stated he did not have an exact amount but it would be substantial. He commented that versus the point the applicant is at now, it would probably be a 5-month process. He spoke of the disadvantages denial would cause the developer.

Commissioner Thweatt asked for an explanation of stormwater issues in the subdivision and how the current Subdivision Regulations compare to the conditions previously placed on the applicant. Mr. Bury stated he is not familiar with the current regulations but the developer did compensate on a 1 to 1 for the wetlands on the south end. They have also adhered to other requirements and requests.

Commissioner Thweatt asked City Engineer Ryan Leland to explain the difference between the stormwater ponds under the existing regulations and the regulations placed on this subdivision. Engineer Leland explained the conditions would probably not be very different. He commented he does not see an issue or substantial difference with the subdivision's design.

**Motion**

**Commissioner Elsaesser moved approval of the extension of preliminary plat approval for the Shopko Subdivision until November 1, 2014 to create 3 lots from Lot 1A-1E1, subject to the following clarification related to the 2010 conditions for approval:**

- 1. Infrastructure must be submitted for review and approved by April 1, 2014;**
- 2. Infrastructure must be installed prior to November 1, 2014 and prior to filing the final plat.**

Commissioner Thweatt seconded the motion.

**Comment**

Commissioner Elsaesser commented he remembers the discussion of wetlands in the subdivision at a prior meeting and he appreciates the efforts of the developer to preserve the area. He noted he would support the request.

Commissioner Haque-Hausrath stated she would vote in support of the extension and commented she is hopeful this subdivision will not end up with a missing sidewalks situation like other developments have.

Mayor Smith stated the applicant has a powerful reason to move fast on this subdivision because come November 1, 2014, the development would have to go through the subdivision application process all over again. He added he would vote in support of the extension.

**Vote**

All voted aye, motion carried.

- B. CONSIDER NO PARKING AND NEW STRIPING ON EAST 6TH AVENUE BETWEEN NORTH CALIFORNIA STREET AND SMITH ELEMENTARY SCHOOL.

City Engineer Ryan Leland reported currently 6th Ave and 5th Ave off of California Street are used to access the Smith Elementary School parking lot. Both 6th and 5th are city streets and dead end into the Smith School Property. Two-way traffic with parking on both sides is allowed on both streets.

The School District is requesting the parking be removed on East 6th Avenue between North California Street and Smith Elementary School and restriping roadway to provide one lane for east bound traffic and one dedicated right turn lane and a combined thru and left turn lane. The School has contacted adjacent property owners and has received support for the project.

Engineer Leland recommended approval of the proposal as it would allow for better flow of traffic from Smith Elementary School parking lot during peak times.

**Public comment**

Mayor Smith called for public comment.

Jill Oliveria, Principal of Smith School, applicant; urged the Commission to approve the proposal.

Discussion

Mayor Smith discussed a similar situation on 5<sup>th</sup> Avenue. Engineer Leland explained why this is not being proposed for 5<sup>th</sup> Avenue.

Mayor Smith disclosed he works with Mr. Perry Eidum, whose residence would be affected by the proposal and signed a letter of support along with another affected resident and the Principal of Smith School. He stated that Mr. Eidum hadn't spoken to him about the agenda item and he would be voting on it.

Commissioner Ellison spoke in support of the proposal.

Motion

**Commissioner Ellison moved approval of "No Parking" and new striping on East 6<sup>th</sup> Avenue between North California Street and Smith Elementary School per the plan submitted to the City Engineering Department.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

- C. CONSIDER NO PARKING ON A PORTION OF EXPEDITION TRAIL, NORTH OF PTARMIGAN LANE ADJACENT TO THE CITY PARK IN SKELTON SUBDIVISION.

Engineer Leland reported Expedition Trail is a street constructed to city standards, 27-foot wide from face of curb to face of curb. Parking is allowed on both sides of the street on the north/south section of Expedition Trail but parking is only allowed on the north side of the street where Expedition Trail turns east/west. A new playground has been installed in proximity to Expedition Trail in the Skelton Park where park goers frequently park on Expedition Trail to access the playground.

The City Commission tabled the request on August 19, 2013, so staff could further evaluate the proposal and give the Commission a specific recommendation. During staff's further review of the proposal staff found that current land owner received a variance to build an additional garage accessed off the alley. Also the property owner has requested a residential parking district for the east side of Expedition Trail. The residential parking request is on hold until the Commission has discussed the over all policy on parking districts.

The residents at 877 Expedition Trail have requested that a portion of the parking opposite their driveway be removed from the east side of Expedition Trail adjacent to the park. The residents have difficulty accessing their driveway when vehicles are parked on the east side of Expedition Trail. Staff's recommendation is that if parking is removed it be the parking on the west side of the Expedition Trail. Removal of the parking on the west side was based on the following facts: it will be consistent with the rest of the Expedition Trail, the street is only 27-foot wide, fewer parking spots will lost, and park-goers would not have to cross the street to access the park.

Public comment

Mayor Smith called for public comment.

Patty Stout, applicant; explained the reasons she and her husband requested the removal of parking on the west side of Expedition Trail, which is directly across from their driveway. She expressed dismay that the playground was located where it currently lies and the city did not consider their driveway when locating it. She discussed the practice of people leaving their car doors open for extended periods of time, which makes backing out even harder. Ms. Stout stated she worries the

most that a child may be hit running out from behind a car into their blind spot while backing out.

**Motion** **Commissioner Haque-Hausrath moved approval of the removal of parking on the west side of Expedition Trail from the intersection of Ptarmigan Lane to where Expedition Trail turns west.**  
Commissioner Elsaesser seconded the motion.

**Discussion** Commissioner Haque-Hausrath assured Ms. Stout that the Commission hears and understands her request; however, staff's proposal will be better for the city and the park.

Commissioner Elsaesser thanked the applicants for being respectful and expressing their concern. He stated he would support staff's recommendation and requested the Parks Board examine whether there could be something done about congested parking in the area.

Commissioner Thweatt stated he would support staff's recommendation and concurred with Commissioner Elsaesser's request of the Parks Board.

Commissioner Ellison noted he visited the area and discussed where parking is allowed and not allowed. The street is a bit narrower than the intersecting street and there must be a solution available. He offered the idea of allowing a few parking spaces adjacent to the playground to relieve some of the burden along Expedition Trail. He indicated he would support staff's motion.

Mayor Smith stated he too would support staff's motion.

**Vote** All voted aye, motion carried.

**Motion** **Commissioner Elsaesser moved to request the Parks Board investigate alternatives to provide additional parking for the playground.** Commissioner Thweatt seconded the motion. All voted aye, motion carried.

**Public Communications** PUBLIC COMMUNICATIONS  
No public communications were given.

**Meetings of Interest** MEETINGS OF INTEREST  
The next Administrative Meeting is November 13, 2013 and the next Commission Meeting is November 18, 2013.

**Adjournment** There being no further business to come before the Commission, the meeting was adjourned at 7:25 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission



