

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**June 15, 2015**  
**6:00 P.M.**

- Time & Place** A regular City Commission meeting was held on Monday, June 15, 2015 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.
- Members Present** Mayor Pro Tem Elsaesser indicated for the record that Commissioners Ellison, Haque-Hausrath and Haladay were present; Mayor Smith was excused. City Manager Ron Alles, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were also present.
- Pledge of Allegiance** Mayor Pro Tem Elsaesser 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 May 18, 2015 were approved as submitted.
- Board Appointments** BOARD APPOINTMENTS:  
A. Helena Open Lands Management Advisory Committee (HOLMAC), Lewis & Clark County Heritage Preservation & Tourism Council, and Tenmile/South Helena Forest Restoration Collaborative Committee
- The following board appointments were recommended by Mayor Smith via written correspondence to the Commission:
- HOLMAC -  
Reappointment of Dan Wirak; 2<sup>nd</sup> term will begin upon appointment and expire June 30, 2018.  
Appointment of Eric Sivers; 1<sup>st</sup> term will begin July 1, 2015 and expire June 30, 2018.
- Lewis & Clark County Heritage Preservation & Tourism Council –  
Reappointment of Roger Pedersen (City appointment); 2<sup>nd</sup> term will begin upon appointment and expire June 30, 2018.  
Reappointment of Peter Rudd (joint City-County appointment); 2<sup>nd</sup> term will begin upon appointment and expire June 30, 2018.
- Tenmile/South Helena Forest Restoration Collaborative Committee –  
Appointment of Eleanor Morris as a representative from the Nature Conservancy in Montana; term begins upon appointment.
- Public comment** Mayor Pro Tem Elsaesser asked for public comment, none was received.
- Motion** **Commissioner Ellison moved approval of the board appointments to the Helena Open Lands Committee, Lewis & Clark County Heritage Preservation & Tourism Council, and Tenmile/South Helena Forest Restoration Collaborative Committee as listed above.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

**Consent Agenda**

CONSENT AGENDA:

- A. Claims
- B. Acceptance of pledged collateral for City deposits at financial institutions
- C. Resolution issuing Limited General Obligation Bonds, Series 2015, to refund the outstanding General Fund Bonds, Series 2005, fixing its form and specifications, and approving the execution and payments.
- D. Resolution declaring certain personal property (one (1) bicycle) to be abandoned and unclaimed, and authorizing the donation of said property to Intermountain Children's Home. **Res #20169**
- E. Amended plat showing aggregation of a three-foot (3) strip of vacated alley right-of-way (ROW) and the dedication of a three-foot (3) strip of property as public ROW; generally located south of 11th Street and west of Montana Avenue described as the alley ROW adjacent to Montana Eye Care.

City Manager Ron Alles recommended approval of the claims and items A, B, D and E on the consent agenda. He requested item C be removed for discussion.

Public comment

Mayor Pro Tem Elsaesser asked for public comment, none was received.

**Motion**

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

**Item C**

- C. Resolution issuing Limited General Obligation Bonds, Series 2015, to refund the outstanding General Fund Bonds, Series 2005, fixing its form and specifications, and approving the execution and payments.

Manager Alles referred the Commission to page 7 of the resolution and stated the following correction had been made to language contained under Section 7.02. - No Rebate Required., "(ii) the Series 2015 Bond having a maturity date that is not ~~less~~ more than 30 years from..." . He explained while it is a small change in the wording of the resolution, it is a significant change in relation to the term of the bonds. Manager Alles recommended approval of the resolution and commented approximately \$60,000 would be saved by the proposal.

**Motion**

**Commissioner Ellison approved item C on the consent agenda.** Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20168**

**Bid Award**

BID AWARD:

- A. Wastewater Treatment Plant (WWTP) Bar Screen and Screening Washer- City Project #14-19

Staff Report

City Engineer Ryan Leland reported the bar screen is a machine that screens and removes large items such as rags and mops for the head of the wastewater treatment plant. Such items can cause issues like clogging pipes in the rest of the treatment plant. The existing bar screen is past its useful life and staff is worried about the threat of

breakdown at anytime. If the bar screen breaks down, it would have to be manned full time until the screen can be fixed. The treatment plant budgeted for the replacement last year and researched potential replacement models for the last year, at least.

Staff opened one bid on March 24, 2015. Hard Rock Road Building & Utilities (Hard Rock) was the lowest and only responsible bidder with a bid in the amount of \$280,000. During review of the bid and discussions with the only bidder, it was decided the City would purchase the equipment directly from the manufacturer, thereby saving approximately \$60,000. The bar screen will still be installed by Hard Rock through a small contract in the amount of \$40,000, with the City purchasing the equipment directly from Huber Technologies Inc. for \$178,973.

Engineer Leland recommended approval of the bid award, noting the process being proposed will allow for a very essential piece of equipment to be replaced with a more functional model, and save the City approximately \$60,000 off of the bid price.

Public comment

Mayor Pro Tem Elsaesser asked for public comment, none was received.

Comment

Commissioner Ellison commended Public Works staff for working to find an innovative solution to fix a very important piece of equipment for the Wastewater Treatment Plant while saving a considerable amount of funds.

Motion

**Commissioner Haque-Hausrath moved approval of the direct purchase of a bar screen and screening washer equipment from Huber Technologies, Inc., in the amount of \$178,973.**

Commissioner Haladay seconded the motion. All voted aye, motion carried.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Haque-Hausrath referred to a recent Opinion article by the Editorial Board (Op-Ed) of the Helena Independent Record (IR) regarding the creation of a program to fund public art in Helena. She commented such a program is in the very early stages of proposal and stated she wanted to clear up confusion by the Editorial Board on the issue. The article indicated opposition for the proposed program, "1% for Public Art", because it would increase the cost of developing residential housing within the City. If the proposal were to go forward, it would solely apply to commercial buildings in the City, and would essentially take 1% at the time of the building permit fee to use to support public art. It would have no impact at all on development in the valley, and potentially a positive impact on development because it would make Helena more vibrant and provide value added to live within the City. Commissioner Haque-Hausrath commented while there is a very real issue with residential development moving to outside of the city limits, the proposed program would have absolutely no impact on it.

Commissioner Haladay referred to the same IR Op-Ed, specifically statements made that the City is losing ground on commercial developments outside of the Helena city limits. He indicated he thought such opinions had been put to rest through recent Commission discussion about there being no precedent for large commercial developments of the kind being seen on Helena Regional

Airport property, such as Costco, or developments like Target or Walmart. Such developments are not threatening to move over the City line into the County because they need access to municipal services. Commissioner Haladay asked Manager Alles to clear up the Editorial Board's misconception.

City Manager Alles reported he was not invited to speak to the Editorial Board on the issues and, therefore, could not provide comment. He stated he is unaware of any large commercial developments happening outside of the City's limits, for the reasons given by Commissioner Haladay; and confirmed that large developments, such as Costco and Target, cannot be built outside of the City because they cannot operate on septic systems.

Commissioner Haladay commented residential and commercial development is entirely different, and the IR's Editorial Board appears confused about its factual assertions regarding commercial development in the Helena valley and within the City of Helena. He noted he wanted the issue cleared up for the public and the record.

***Report of the City Attorney***

**REPORT OF THE CITY ATTORNEY**

City Attorney Jodoin updated the Commission on the status of the City of Helena's Tenmile water rights case. It has been referred back to District Court Judge Tucker by the Supreme Court to determine whether the City intended to abandon its first two water rights on Tenmile Creek.

***Report of the City Manager***

**REPORT OF THE CITY MANAGER**

Manager Alles reported the Transfer Station will be closed on Wednesday, June 17<sup>th</sup> to allow for installation of the new Grizzly compactor. He added an E-waste event will be held on Thursday, June 18<sup>th</sup>.

Manager Alles asked Information & Technology Services (IT & S) Director Art Pembroke to acknowledge the retirement of Dave Hughes, City/County AS/400 Administrator. Director Pembroke provided an overview of Dave's work history, including various positions he has held with the City/County IT & S Department. He commended Mr. Hughes on his work while employed with the City of Helena and Lewis & Clark County and thanked him for his 22 years of service.

Mr. Hughes thanked the Commission and Manager Alles for the opportunity to work for the City and commented he has greatly enjoyed his position and the challenges it contained.

Commissioner Ellison, on behalf of the entire Commission, thanked Mr. Hughes for his service.

Manager Alles asked Police Chief Troy McGee to report on recent awards received by Officers of the Helena Police Department (HPD).

Chief McGee recognized the HPD Officers and their achievements as listed below:

Assistant Police Chief Steve Hagen- received Administrator of the Year Medal from Montana Association of Chiefs of Police.

Corporal Kevin Carlson- received a Lifesaving Medal from Montana Association of Chiefs of Police.

Captain Corey Livesay- recently returned from eleven (11) weeks of training at the FBI National Academy in Quantico, Va.

Corporal Buck Herron (not in attendance)- received a Medal of Honor from Montana Association of Chiefs of Police.

The Commission commended Officers Hagen, Carlson, Livesay and Herron for their achievements and thanked them for their service to the citizens of Helena.

**Report from the  
Helena Citizens  
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

**Public Hearings**

PUBLIC HEARINGS:

- A. CONSIDER ACCEPTANCE OF BUREAU OF JUSTICE ASSISTANCE (BJA) EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDING.

Staff Report

Police Chief Troy McGee reported the Helena Police Department has received funding from the Federal Bureau of Justice Assistance (BJA) for the past 14 years.

The HPD is proposing the grant award be used to supplement the City's portion of the Missouri River Drug Task Force. The task force has been in existence for 14+ years and has had a positive impact on drug possession and trafficking in Montana. The program is certainly worth supporting, as City officials have indicated many times.

Total funding for both the City of Helena and Lewis and Clark County is \$35,725. Normally the City and the County split this amount; however, the County is only requesting the amount determined by JAG, which is \$11,849. The City of Helena would then be receiving \$23,876 to use towards salaries.

Chief McGee recommended approval of the acceptance of 2015 JAG funding.

Public Testimony

Mayor Pro Tem Elsaesser 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 Pro Tem Elsaesser closed the public hearing.

Comment

Commissioner Haladay indicated he would vote in opposition to acceptance of the JAG funding and stated he does not feel it is good policy direction to support spending the City's law enforcement funding on the MRDTF when it should go to other areas of crime.

Motion

**Commissioner Ellison moved approval to accept JAG funding in the amount of \$23,876.** Commissioner Haque-Hausrath seconded the motion. Motion carried 3-1, with Commissioner Haladay voting no.

- B. CONDUCT A PUBLIC HEARING IN ACCORDANCE WITH MCA 15-6-221(2) TO SOLICIT PUBLIC COMMENT ON WHETHER THE RENOVATION OF THE GUARDIAN APARTMENTS LOCATED AT 520 LOGAN WOULD MEET A COMMUNITY HOUSING NEED.

Staff Report

Community Development Director Sharon Haugen reported Affiliated Developers, Inc. and Detroit Affordable Homes, Inc. have requested low income housing tax credits from the Montana Board of Housing. Pursuant to 15-6-221(2) of Montana Code Annotated, the City of Helena shall hold a public hearing to solicit public comment on whether the acquisition and renovation of the Guardian Apartments will meet a community housing need. The project, located at 520 Logan Street, currently has 118 units available to elderly and/or disabled tenants whose incomes are at or below the 60 percent (60%) median income. The use of tax credits will extend these restrictions for the next forty-five (45) years. The property has a HUD Housing Assistance Payment contract (HAP contract) that is set to expire sooner than later without the renovation. In return for renovating the property, HUD will be signing a new twenty (20) year HAP contract to "preserve" the property as a low income housing project into the future. The total development costs of this project are just over \$8M with \$4.2M being used for the renovation of the units.

The 2010 Housing Needs Study for the Greater Helena Area identified a shortage of rental units overall and especially affordable rental units for low to moderate income households. Apartments for the elderly or disabled ranked as one of the area's highest needs. Census numbers indicated that as much as 24 percent (24%) of the areas population will be 65+ by the year 2035. The 2011 Helena Growth Policy encourages the city to work with nonprofits to maximize housing resources for low and moderate income residents by supporting and expanding the supply of housing for all residents, especially lower income, senior citizens, persons with disabilities, and others with special needs. It also encourages the preservation and rehabilitation of the existing housing stock.

Director Haugen stated the Guardian Apartments is one of several older projects that are operating under a HAP contract. The acquisition and renovation that will result, if the owners complete the project with the use of MIHTC and HUD funding, will assure that its residents and future residents will continue to have safe and affordable housing into the future. The proposed housing project will meet some of the needs identified in both the 2010 Housing Needs Assessment and 2011 Helena Growth Policy.

A newly renovated building will be more energy efficient and will be less costly to own and operate for the owner but will also provide better housing for those who are living at the Guardian Apartments. The renovation of the building will ensure the building will remain as a viable alternative for the low income elderly and/or disabled populations close to the City's downtown and other services.

Public Testimony

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

Lloyd Sparks, MILP, 825 Great Northern Boulevard; spoke in support of the proposed project.

Kirk Bruce, applicant; gave the mission statement of Affiliated Developers, Inc. and spoke of the need for low income housing in Helena. He also explained the type of funding they desire to use and how it is awarded.

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

**Note: Per Director Haugen, no motion was required.**

- C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3210 REVISING THE DUTY OF ADJACENT PROPERTY OWNERS TO REMOVE SNOW AND ICE FROM PUBLIC SIDEWALKS AND THE ASSOCIATED ENFORCEMENT PROCEDURE BY AMENDING CHAPTER 7 OF TITLE 8 OF THE HELENA CITY CODE.

#### Staff Report

City Attorney Thomas Jodoin reported the Commission approved first passage of Ordinance No. 3210 on May 18, 2015 and set the public hearing date to consider final passage of the ordinance for June 15, 2015. Section 7-8-1 of the Helena City Code requires property owners adjacent to public sidewalks to remove snow and ice within a reasonable amount of time after the deposit of snow. Failure to comply with this requirement subjects the property owners to citation into Helena Municipal Court and, if convicted, a fine of up to \$50.

Currently, the removal of snow and ice from asphalt bicycle-pedestrian paths within public rights-of-way is done by the City of Helena Parks and Recreation Department, although under the strict terms of the current code the duty to do so is ostensibly the responsibility of the adjacent property owner.

This ordinance amendment contains two distinct changes to the current code. The first clarifies a specific time frame within which snow must be removed from sidewalks and the second creates a non-criminal process that ultimately authorizes the City to remove the snow and bill adjacent property owners if the snow is not removed from within prescribed time limits.

Revisions being proposed are as follows:

1. *Property owners in the B-2 and B-3 commercial zoning districts throughout the City will be required to remove snow from sidewalks on adjacent right-of-way by 9:00 a.m. of the next business day, by 12:00 p.m. of the next nonbusiness day, or within four (4) business hours after any snow or ice deposit, whichever period is shorter. Property owners in all other zoning districts, including all residential areas, will have 24 hours from the cessation of snowfall or other cause of the accumulation to remove snow/ice from adjacent sidewalks. The only exception is in circumstances where the Director of Public Works has determined snow or ice cannot be reasonably removed.*

2. *Failure by adjacent property owners to remove snow from public sidewalks by the above described deadlines would result in the City removing the snow and billing the property owners for such costs, plus a civil penalty of \$50. Property*

*owners may appeal the bill to the City Manager. If adjacent property owners don't pay, the City may either commence civil suits to recover costs or the City Commission may levy assessments against the adjacent property owners for such costs. It is anticipated that the City Commission will consider a "consolidated" resolution process that would incorporate all property owners failing to pay any such costs for the preceding winter.*

Attorney Jodoin recommended approval of final passage of the ordinance. Removal of the criminal penalty component and having the City remove snow/ice from public sidewalks and billing adjacent property owners could result in removal in a timelier manner.

Public Testimony

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

George McCauley, 926 5th Avenue, Helena; spoke in support of the ordinance.

Jennifer, Helena; asked if there is an estimate of the cost that will be billed to property owners for snow removal, and how the property owner will be notified of the mandated snow removal.

Lloyd Sparks, MILP, 825 Great Northern Boulevard; spoke in support of the ordinance.

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

Discussion

Commissioner Ellison asked how the time period for removal would be measured. Attorney Jodoin explained in his interpretation, it would begin once the last snowflake falls.

Commissioner Ellison asked for the definition of "cleared". Attorney Jodoin explained it means no snow and no ice; you must be able to see the sidewalk. Attorney Jodoin clarified the phrase "cleared" applies to the entire sidewalk.

Commissioner Ellison asked who dictates when the application of traction materials is warranted. Attorney Jodoin stated the City Public Works Director.

Commissioner Haque-Hausrath asked if citizens will receive reminders of their duty to shovel their sidewalks via a water bill insert. Manager Alles stated yes, in addition to many other methods of notification.

Mayor Pro-Tem Elsaesser asked for the estimated costs of snow removal to non-compliant property owners. Attorney Jodoin explained it will vary based on the amount of sidewalk on the property; he noted in Bozeman it costs \$.25/sq foot for a contractor to clear sidewalk. Commissioner Haque-Hausrath noted the charge could vary greatly per property.

Motion

**Commissioner Haladay moved approval for final passage of Ordinance No. 3210 revising the duty of adjacent property owners to remove snow and ice from public sidewalks and the associated enforcement procedure by amending Chapter 7 of Title 8 of the Helena City Code.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Ord #3210**



D. CONSIDER A RESOLUTION SETTING FEES CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION.

Staff Report

Administrative Services Director Tim Magee reported the City of Helena and Lewis & Clark County jointly analyze and agree each year on a recommended tipping fee for the operation of the City Transfer Station and the Lewis & Clark County landfill. It is imperative that the new tipping fee be in place before July 1st to enable the permit credits to be processed on June 30th.

Historically, the tipping fees have been adjusted yearly to reflect projected changes in tonnage, programs, and costs. However, this will be the first tipping fee rate resolution since FY13.

Director Magee recommended approval of a resolution setting fees charged for disposal of garbage and refuse at the City of Helena Transfer Station in order to allow the City to cover costs of operation for the Transfer Station enterprise.

Public Testimony

Mayor Pro Tem Elsaesser 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 Pro Tem Elsaesser closed the public hearing.

Discussion

Commissioner Ellison spoke in support of the final version of the resolution being proposed for adoption tonight. Commissioner Elsaesser also expressed support for the proposed resolution.

Motion

**Commissioner Ellison moved approval of the final, as amended by staff and City Commissioners, version of the resolution setting fees charged for the disposal of garbage and refuse at the City of Helena Transfer Station.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.  
**Res #20170**

**Public Communications**

PUBLIC COMMUNICATIONS

Jennifer; asked if the City has an emergency plan in place in case of a wildfire in the downtown area.

**Meetings of Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is June 24, 2015 and the next Commission Meeting is June 29, 2015.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:14 p.m.

**/S/ James E. Smith**

Mayor James E. Smith

ATTEST:

**/S/ Debbie Havens**

Clerk of the Commission