

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
September 28, 2015
6:00 P.M.

- Time & Place*** A regular City Commission meeting was held on Monday, September 28, 2015 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, Haque-Hausrath and Haladay were present. City Manager Ron Alles, City Attorney Thomas Jodoin and City Clerk Debbie Havens were present.
- Pledge of Allegiance*** Mayor Smith asked Boy Scout Troop 228 to lead the pledge of allegiance.
- Minutes*** The minutes of the regular City Commission meeting of September 14, 2015 were approved as submitted.
- Presentation*** PRESENTATION:
A. Confirmation of Probationary Police Officer Ken Smith

Police Chief McGee introduced Officer Ken Smith and spoke of his background. Chief McGee recommended confirmation of Officer Smith.
- Motion*** Commissioner Ellison moved approval of the confirmation of Officer Ken Smith. Commissioner Haladay seconded the motion. All voted aye, motion carried.
- Comments*** Commissioner Ellison spoke on what a pleasure it is to confirm an officer. He thanked Officer Smith for his service.
Mayor Smith also spoke on the importance of being a police officer for the City of Helena.
Officer Smith addressed the commission and thanked Chief McGee and the commission for the opportunity to work with the Helena Police Department.
Chief McGee presented Officer Smith with the Helena Police Department's challenge coin. Assistant Chief and Mrs. Hagen presented Officer Smith and Alisha with the book of "I Love a Cop".
- Proclamation*** PROCLAMATION:
A. Fire Prevention Week
Mayor Smith read the Fire Prevention Week proclamation and presented it to Fire Marshall Craig Trapp.
Fire Marshall Trapp thanked Mayor Smith for the proclamation and then spoke of the importance of Fire Prevention Week and the activities that will be going on during the week.
- Board Appointments*** BOARD APPOINTMENTS:
A. City-County Parks Board, Helena Zoning Commission

Mayor Smith recommended the following appointments:

Reappointment of Pat Doyle to the City-County Parks Board to a first full term. Term will begin upon appointment and expires September 30, 2018.

Reappointment of Tyler Emmert to the Helen Zoning Commission to a first full term. Term will begin upon appointment and expire September 30, 2018

Public comment Mayor Smith asked for public comment, none was received.

Motion Commissioner Ellison moved approval of appointments to the City-County Parks Board and the Helena Zoning Commission as listed above. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Interlocal Contract with the Houston-Galveston Area Council for Cooperative Purchasing

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 Haque-Hausrath moved approval of items A and B on the consent agenda. Commissioner Haladay seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Elsaesser asked that staff provide the commission a written memo that outlines the challenges of shared wastewater services, based on the discussion held on the variance proposal on September 14th. He spoke on the recent action of the commission to create the Railroad TIF District, and noted he hopes it can be completed by December 31, 2105, to give the residents and business owners' confidence to reinvest in the area.

Commissioner Ellison noted for the last 3 to 4 months, staff and the commission have been focused on curbside recycling process. He asked if there are plans for any capital improvement projects at the transfer station. At a time of convenience, he asked staff to update the commission on any project plans or if there needs to be a commission decision on the spending of capital reserves.

Manager Alles noted any capital projects planned at the transfer station will be brought before the commission. Staff will meet with Helena Recycling to work out the details of the curb-side recycling agreement.

Commissioner Haque-Hausrath thanked Fire Chief Logan for allowing a fire truck to come to a block party for kids to see the truck. She stated she appreciates the update on the curbside recycling and she too would like to receive an update on any capital improvement projects at the transfer station.

Commissioner Haque-Hausrath spoke of the proposal to issue a proclamation for "All Peoples Day" in Helena. She would like to see the commission discuss this for 2016.

Commissioner Haladay echoed Commissioner Elsaesser's comments on shared service lines and he too would like to get an update on the topic.

Commissioner Haladay referred the October 5th city commission agenda, regular items 10A. Resolution of intention to annex into the city of Helena, Lot 4 of COS#3035465 and adjacent Green Meadow right-of-way and 10B. Preliminary plat for the Green Meadow Minor Subdivision and stated he is concerned about these two items being on the agenda. The by-laws set a very clear policy on when reconsideration is done and there has been no commission member request reconsideration. Therefore, he does not believe these two items should be back on the agenda. In addition, there is no new information in the packet from when the commission first considered annexation.

Mayor Smith stated he believes the City Manager has the authority to bring an item back for commission reconsideration. City Attorney Jodoin noted the by-laws say any commission member can or may bring back an issue for reconsideration. He noted the city charter states the city manager has the authority to place items on the agenda. He advised the manager to place these items on the agenda, since the property owner requested reconsideration.

Mayor Smith asked if a commission member would request the items be placed on the agenda, would it enhance the situation. City Attorney Jodoin stated he does not believe it is necessary.

Commissioner Haladay stated the by-laws language is very specific when an item is to be reconsidered. He understands the city manager has the authority to place items on the agenda; however, the commission could vote an item down every two weeks. He sees this as problematic, especially since there is no new information on the proposal, except possibly ex-parte communications.

Commissioner Haladay asked if staff has followed the legal requirements of notifying the adjacent property owners of these items being back on the agenda. Manager Alles stated he would have to follow-up with staff.

Manager Alles stated he does not take the responsibility of putting something back on the agenda for re-consideration lightly and would not bring something back for reconsideration every two weeks. The property owner requested reconsideration.

Commissioner Haladay asked that the commission receive any new information prior to the Monday meeting. Manager Alles noted staff will try and get any additional information to the commission. He then noted most of the discussion that evening centered around sidewalks and he believes the applicant intends to install sidewalks.

Commissioner Haladay noted state law generally requires when new information is presented to the commission at the hearing and the decision is then made on that new information, it can be problematic to the ultimate decision making process. He would hate to have to have an additional public hearing because the commission was deprived of the new information prior to the hearing.

Mayor Smith noted he was disappointed with the public testimony at the meeting; however, since that time he has received additional information on sidewalks.

Commissioner Haque-Hausrath noted it is troubling that this controversial issue is coming back before the commission without being discussed at an administrative meeting prior to it being on the agenda. She would be interested, as she indicated at the meeting, perhaps with

additional conditions, this would not be objectionable to her. It will be difficult to put together any amendment without discussing it at an administrative meeting. As discussed at the meeting, a statement in the conditions that any private access would be built to city requirements would be an amendment she would be interested in. She too stated is it disconcerting if there is new information, the commission nor anyone who may want to testify, has not seen it.

Mayor Smith requested the September 30th administrative meeting be rescheduled to discuss this particular item. Manager Alles noted normally the commission receives information on administrative meetings on Friday. At this time, there is no new information; however, he will reschedule the administrative meeting. He asked if the applicants should be notified of the meeting, who may have additional information.

Additional discussion was held on what if any, new information is available and what the main concerns were of the commission at the meeting on August 24th.

Commissioner Ellison noted Commissioner Haladay is going to be out of town for the October 5th commission meeting. This issue clearly is a controversial issue and all five members should be present when it is considered. He suggested this be placed on the October 14th administrative meeting and the city commission meeting on October 19th.

Commissioner Haladay stated he will be in town on October 5th; he would prefer to have additional time to review the new information; however, it is on the agenda for October 5th. He has talked to adjacent property owners who are extremely troubled by this process and they should have received notification of the new hearing.

There was commission concurrence to schedule an administrative meeting on September 28th to discuss this issue. Commissioner Ellison stated he is unavailable on September 28th. The commission again asked if there is any new information, they receive it prior to the administrative meeting.

Commissioner Haladay stated this situation highlights one of Helena's deficiencies we have in our annexation process. Most of the larger cities in Montana have a specific annexation policy that is distinct from the growth policy. He recommended the city of Helena begin looking at developing a specific annexation policy, it would be a benefit for the commission and staff.

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

REPORT FROM THE HELENA CITIZENS COUNCIL
No report given.

Regular Items

REGULAR ITEMS:
A. CONSIDER A BUY/SELL AGREEMENT FOR 35.77 ACRES OF PROPERTY DISSECTED BY THE RED MOUNTAIN FLUME.

Staff Report

Natural Resources Coordinator Brad Langsather reported approximately 2.1 miles of the Red Mountain flume are located on privately owned property. Two of the private parcels crossed by the flume en route to Chessman Reservoir, the Keystone and Pilgrim Lodes,

are owned by Harold Covill. The Keystone and Pilgrim Lodes collectively contain approximately 20% of the linear footage of the Red Mountain Flume occurring on privately owned property. Although the city currently operates the flume within its historical confines, future maintenance needs will require a more expansive easement. It can be reasonably anticipated that operation and maintenance of the Red Mountain Flume will be more difficult if the adjacent property is developed.

Mr. Covill has approached the city regarding the purchase of his property. He has agreed to sell his property to the city for \$23,660.00, pending city commission approval, and has executed a buy/sell agreement to this effect.

Coordinator Langsather recommended approval to authorize the purchase of 35.77 acres from Harold Covill in the amount of \$23,660.00.

Discussion

Commissioner Elsaesser asked what funds would purchase the property. Coordinator Langsather stated there is \$100,000 identified for the purchase of properties in the Red Mountain Flume area.

Commissioner Haque-Hausrath spoke of the required steps under the federal superfund guidelines to determine if the city of Helena is the bona fide perspective purchaser, which includes the completion of a phase one evaluation. Given the proximity of this property to mining claims, she asked if the city has done a phase one evaluation.

Coordinator Langsather stated no, there was only one area that saw active mining.

Commissioner Haque-Hausrath asked if it would be possible to delay the buy-sell agreement and complete a phase one evaluation.

Manager Alles noted completing a phase one evaluation could be a condition of the buy-sell agreement.

Commissioner Haque-Hausrath stated it is okay if contamination is found, the city just has to look for it.

Mayor Smith asked what is involved in doing a phase one evaluation. Commissioner Haque-Hausrath noted it is not a complicated process and should not take a long time. She then described what is involved with both Phase I and Phase II evaluations.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haladay moved approval to authorize the purchase of 35.77-acres from Harold Covill in the amount of \$23,660.00. Commissioner Elsaesser seconded the motion.

Amendment

Commissioner Haque-Hausrath moved approval of an amendment that the purchase would be contingent the city will complete all appropriate inquiries, including a phase one evaluation.

Commissioner Haladay and Commissioner Elsaesser accepted it as a friendly amendment.

Amended Motion

Commissioner Haladay moved approval to authorize the purchase of 35.77-acres from Harold Covill in the amount of \$23,660.00, contingent the city will complete all appropriate inquiries, including a phase one evaluation. Commissioner Elsaesser 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 September 30, 2015 and the next Commission Meeting is October 5, 2015.

The October 1st city-county work session will be canceled contingent upon county commission concurrence.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:05 p.m.

/S/ JAMES E. SMITH
Mayor James E. Smith

ATTEST:

/S/ DEBBIE HAVENS
Clerk of the Commission