

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**April 25, 2016**  
**6:00 P.M.**

- Time & Place*** A regular City Commission meeting was held on Monday, April 25, 2016 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, Haladay, Noonan and Farris-Olsen were present. City Manager Ron Alles, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were Eric Kiltz representing the Helena Citizens Council.
- 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 April 11, 2016 were approved as submitted.
- Proclamation*** PROCLAMATION:  
A. Arbor Day
- Mayor Smith read the proclamation designating April 25, 2016 as Arbor Day in the City of Helena. Parks & Recreation Director Amy Teegarden announced the City will host an Arbor Day event at Barney Park on Friday, April 29, 2016 at noon and invited the commission and public to attend. She noted this year's ceremony will be held in memory of long-standing Parks Department employee, Carol Kirkland.
- Consent Agenda*** CONSENT AGENDA:  
A. Claims  
B. Resolution declaring certain personal property to be abandoned and unclaimed (19 bicycles). **Res #20239**
- 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 Ellison 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 Noonan reflected on Arbor Day, noting a tree that was planted last fall by the Parks Department in front of his house began budding this past weekend.
- Report of the City Attorney*** REPORT OF THE CITY ATTORNEY  
No report was given.
- Report of the City Manager*** REPORT OF THE CITY MANAGER  
City Manager Alles presented the Preliminary Fiscal Year 2017 (FY2017) budget via PowerPoint presentation. A copy of this

presentation is included in the Commission packet as part of the official record.

**Motion**

**Commissioner Ellison moved to accept the FY2017 Preliminary Budget and Comprehensive Capital & inventory Program (CCIP).** Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

**Report from the Helena Citizens Council**

REPORT FROM THE HELENA CITIZENS COUNCIL  
HCC member Eric Kiltz stated the HCC's regular monthly meeting will be held this Wednesday, April 27<sup>th</sup>; the main topic of discussion will be the City's FY2017 budget.

**Regular Items**

REGULAR ITEMS:  
A. CONSIDER A RESOLUTION AUTHORIZING APPLICATION TO THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) FOR A RENEWABLE RESOURCE GRANT AND LOAN FUNDS WASTEWATER GRANT FOR PHASE I & PHASE II OF THE WESTSIDE PROJECT.

**Staff Report**

Community Development Director Sharon Haugen reported the Montana Legislature established the Renewable Resource Grant and Loan Program (RRGL) to enhance Montana's renewable resources. The Resource Development Bureau of the Department of Natural Resources and Conservation (DNRC) administers the program. This program is funded through earnings from certain natural resource-based taxes. Projects under this program include public facility projects including drinking water, wastewater and solid waste development and improvement projects have received funding through this program.

The unincorporated area of Lewis and Clark County, immediately adjacent to the western City of Helena urban limits boundary, consists of several hundreds of residences and numerous businesses. The vast majority of these structures were constructed prior to 1980 with individual onsite wastewater systems. Many of these systems are cesspools, seepage pits, or septic tanks with drain fields that have either failed, or have a high potential of failing in the near future. Due to the development density, repair or replacement of these systems may not comply with current state and county regulations. The City and County are working together to resolve some of these issues relating to these deficiencies and to identify possible funding mechanisms for the problems.

The City of Helena intends to apply for funding from the Montana Department of Commerce TSEP and the Department of Natural Resource and Conservation RRGL program in order to develop a funding package that will assist the City with extending wastewater collection mains and providing wastewater treatment to an unincorporated area of Lewis and Clark County, immediately adjacent to the western City of Helena urban limits. Phase I and Phase II are being targeted for improvements and will be included in the grant application. The proposed project will construct a gravity sewer collection system providing connection to the City of Helena's wastewater treatment system. The projected total project cost is \$2,800,000. The funding sources for the project will potentially be a TSEP grant in the amount of \$750,000; potential RRGL funding in the amount of \$125,000; and a State Revolving Fund (SRF) Loan for \$1,925,000 (a 20 year loan @ 2%). The SRF loan will be repaid through a rebatement process to be established by the City Commission. This process would be similar to

the rebate process recently used for the installation of wastewater facilities for property owners on a smaller neighborhood along Cannon and Choteau streets. Property owners will rebate their share of the costs when they connect to City services.

The purpose of the resolution is to authorize the submission of a RRGL grant to assist in financing the Westside project. A 2009 Memorandum of Understanding between Lewis and Clark County and the City of Helena states that development at urban densities, utilizing City services or County community-wide, is the most efficient use of land and provides essential services most effectively and at the lowest cost to its residents. If successful, this grant will assist in the financing of the extension of the City's wastewater system. It would also lessen the financial burden to the individual homeowners.

The Westside project represents a systematic approach to resolve failing septic systems on the Westside. The extension of the City's wastewater system to Phases I and II will provide increased opportunities for promoting infill development in the subject part of town resulting in a more efficient use of infrastructure. Director Haugen recommended approval of the resolution authorizing application for RRGL funding.

Public comment

Mayor Smith called for public comment.

Joan Himmel, Westside resident; spoke in support of the grant application and discussed her existing state-of-the-art sewer system and asked for further explanation of the requirements to hook into the City's water and/or sewer service and the timeframe for use of the financing program being offered by the City.

Comment

City Manager Alles addressed Ms. Himmel's questions explaining Westside residents will not be required to hook into the City's wastewater system if their current septic system is not failing.

Commissioner Farris-Olsen asked for confirmation that the City's current offer of a 0% loan to residents located in the Westside Project area will only be available for the next five years; residents that do not connect within the five year timeframe will not be eligible for said loan and will be responsible for financing their portion of the infrastructure installation through another means. Manager Alles concurred.

Commissioner Ellison asked how the project will affect vacant lots/new construction and homes sold before the loan from the City is paid in full. Manager Alles explained new construction on existing vacant lots will be responsible for 100% of the cost of infrastructure installation at the time of building permit issuance. Homes that will be sold prior to the City's loan being paid off, the seller will be responsible for paying the remaining balance due at the time of sale.

Commissioner Farris-Olsen asked if implementation of Phase II of the project has been initiated. Manager Alles referred to the recent annexation of approximately twelve properties on the Westside, noting future annexations will be modeled after how that project and rebate program was set up. He explained staff wanted to be open and upfront with the Westside residents to ensure they know exactly what the City's intentions are.

Mayor Smith asked for clarification of when the affected residents would be required to hook into City water and/or sewer. Manager Alles explained the residents will not be required to hook into the wastewater system until their septic system fails; they will fail eventually so the mains need to be installed and ready for use. In

relation to City water versus existing wells, the City's current ordinance requires property owners to hook into both services once they hook into one or the other; however, staff has not yet determined how that requirement will be enforced.

**Motion**

**Commissioner Noonan moved approval for a resolution authorizing application to the Montana Department of Natural Resources and Conservation for a Renewable Resource Grant and Loan to fund extension of the City's existing wastewater system.**

Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20240**

**Public Hearings**

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION AUTHORIZING THE SUBMISSION OF A TREASURE STATE ENDOWMENT PROGRAM GRANT ON BEHALF OF THE WESTSIDE WASTEWATER PROJECT, PHASES I & II.

**Staff Report**

Community Development Director Haugen reported the Treasure State Endowment Program (TSEP) is a state-funded program that has been designed to help address that "affordability" problem by providing grants to lower the cost of constructing public facilities projects. The program was authorized by Montana's voters with the passage of Legislative Referendum 110 on June 2, 1992. The law has been codified as Sections 90-6-701 through 90-6-710, MCA. The City of Helena is considering an application to the Montana Department of Commerce for financial assistance from the Treasure State Endowment Program (TSEP) for funds to be used for the extension of the City of Helena's gravity sanitary sewer collection system and to provide connection to the City of Helena's wastewater treatment system to a defined, unincorporated area of Lewis and Clark County located immediately adjacent to the western City of Helena urban limits boundary and consists of several hundred residences and numerous businesses. The vast majority of these structures were constructed prior to 1980 with individual onsite wastewater systems. Many of these systems are cesspools, seepage pits, or septic tanks with drain fields that have either failed, or have a high potential of failing in the near future. Due to the development density, repair or replacement of these systems may not comply with current state and county regulations. The City and County are working together to resolve some of the aforementioned issues related to these deficiencies and to identify possible funding mechanisms to fund remedies for the problems.

The City of Helena intends to apply for funding from the Montana Department of Commerce TSEP in addition to Department of Natural Resource and Conservation RRGL funding in order to develop a financing package that will assist the City with extending wastewater collection mains and providing wastewater treatment to the subject area. As with the application for RRGL funding, Phases I and II are targeted for improvement and will be identified in both applications as the purpose for applying for the grant funding.

The proposed project will construct a gravity sewer collection system providing connection to the City of Helena's wastewater treatment system. The projected total project cost is \$2,800,000. As noted during the hearing for the RRGL program, the funding sources for the project are potentially: a TSEP grant award in the amount of \$750,000; RRGL funding of \$125,000; and a State Revolving Fund

(SRF) Loan for \$1,925,000 for a term of 20 years at 2% interest. The SRF loan will be repaid through a rebatement process that would be established by the City Commission and similar to the rebate process recently used for the installation of wastewater facilities for property owners on a smaller neighborhood along Cannon and Choteau streets. Property owners will be required to rebate their share of installation costs when they connect to City services.

As with the RRGL application, a Memorandum of Understanding between Lewis and Clark County and the City of Helena entered into in 2009, states that development at urban densities, utilizing City services or County community-wide, is the most efficient use of land and provides essential services most effectively and at the lowest cost to residents. If successful, this TSEP grant will assist in funding installation of the City's wastewater system on the Westside. The grant will also lessen the financial burden to individual homeowners and other property owners residing within the boundaries of Phase I and Phase II.

#### Discussion

Mayor Smith asked if award of this TSEP application would be decided upon by the Montana State Legislature. Director Haugen explained the process for review of TSEP funding requests, noting the Legislature has the authority to re-rank and make the final decision on award of the project applications since the TSEP program falls under their purview under deliberation of the State of Montana's budget.

#### Public Testimony

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

Val Wilson, Phase 1 resident; spoke in support of the proposal to apply for a TSEP grant.

Joan Rada, Phase I resident; thanked the Commission for postponing annexation of Phase I properties for the one-year period because it allowed for both the DNRC and TSEP grants to be identified.

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

#### Motion

**Commissioner Haladay moved approval of a resolution authorizing the City of Helena to submit an application for a grant from the Montana Treasure State Endowment Program on behalf of the Westside Wastewater Project, Phases I & II.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20241**

- B. CONSIDER ADOPTION OF A RESOLUTION FOR A FINDING OF NO SIGNIFICANT IMPACT FOR A PROJECT EXTENDING THE CITY'S WASTEWATER COLLECTION SYSTEM TO A DEFINED, UNINCORPORATED AREA OF LEWIS AND CLARK COUNTY ADJACENT TO THE WESTSIDE OF HELENA.

#### Staff Report

Director Haugen stated the City of Helena will submit applications for a Treasure State Endowment Program (TSEP) grant and a Renewable Resource Grant and Loan (RRGL) grant to assist in the extension of wastewater services to Phases I & II of the Westside Project. As part of the grant application process, the City is required to complete an Environmental Assessment (EA) for the project, in accordance to Montana Environmental Policy Act (MEPA) standards set by the State of Montana. Stahly and Associates have completed the Uniform Environmental Checklist for this project as part of their preparation for the TSEP application. They have contacted the

appropriate state agencies and have identified the type of impacts that this proposal have and have recommended a Finding of No Significant Impact.

On April 13, 2016, a public meeting was held to discuss the draft EA and present the preliminary engineering research for the proposed project. At the public meeting, the proposed project was explained, including the purpose and proposed area of the project activities and environmental issues. Ads were published in the Independent Record on April 6 and April 17, 2016 to also solicit comments. At the time of the writing of this memo, no comments have been received to date. The Uniform Environmental Checklist identified all the potential impacts, both potentially beneficial and potentially adverse. Mitigation measures were also identified for the potential adverse impacts. As part of this process outside agencies, such as the State Historical Preservation Office, the Department of Natural Resources, and others were solicited for comments and no adverse impacts were identified by any of these agencies.

Director Haugen recommended the Commission adopt the recommendation of a Finding of No Significant Impact for the Westside Project and commented use of the Uniform Environmental Checklist helped identify any potential impacts from the proposed project that may exist regardless of whether grant funding is received for the project or not. The analysis will help the City better prepare for current and future project phases during design and installation.

#### Discussion

Commissioner Farris-Olsen asked if the EA investigated the cumulative impacts of Phases I, II, III and IV of the Westside Project and their incorporation into the City. Director Haugen explained wastewater extension to Phases I and II were evaluated, as the grant applications related to only those phases.

Commissioner Farris-Olsen stated it is his understanding that the requirements of MEPA include review of the cumulative impacts of future projects when using the EA checklist to analyze whether or not there will be significant impacts due to the proposed project. He indicated while the findings may be accurate and he supports moving forward with the Westside Project, the EA checklist used by the consultant may be flawed because MEPA regulations require the inclusion of future cumulative impacts.

#### Public Testimony

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

Valerie Wilson, Phase I resident; expressed concern that the EA does not include the cumulative impacts Phases I could have on future phases. Ms. Wilson also submitted written testimony and it is included in the Commission packet as part of the official record.

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

#### Comment

Commissioner Haladay asked if discussion has been held with the State in regards to the installation of water infrastructure concurrently with wastewater.

Greg Wirth, Stahly Engineering, indicated the report focused solely on wastewater lines and explained the reasoning behind the decision to focus on that service only.

Commissioner Haladay expressed concern that the exclusion of water lines in the analysis may result in roadblocks for successful award

of grant funding and affect the project moving forward in general. Mr. Wirth explained the report included wastewater lines only, since the grants relate solely to wastewater; however, it was included in the PER that water lines would also be a part of the project.

Manager Alles commented the inclusion of sewer lines solely in the FONSI provides the Westside residents and the City a greater chance at being awarded the desired grant funding. Commissioner Haladay asked if Manager Alles is reasonably certain the exclusion of water infrastructure installation won't inhibit a fair decision on the award of grant funds. Manager Alles indicated he is certain, noting the consultant was directed to perform the study as they did, in order to provide the optimum chance for successful award of funds. He stated he would apprise the Commission immediately if it appears the scope of the report is going to become a problem for the City's applications.

Commissioner Farris-Olsen asked if staff sees any negative cumulative impacts, as referenced by Commissioner Haladay and Ms. Wilson, in all four phases of the project; he noted it appears the proposal seems generally better for environmental health and the community than not. Manager Alles compared this project to the extension of sewer, water and annexation of the Woodlawn-Dunbar area and commented the Westside Project is similar as it will only result in a benefit to the health and safety of the community.

#### Motion

**Commissioner Ellison moved approval of a resolution for a Finding of No Significant Impact to extend the City of Helena's wastewater collection system to a defined, unincorporated area of Lewis and Clark County adjacent to the city limits of the Westside of Helena.** Commissioner Noonan seconded the motion. All voted aye, motion carried. **Res #20242**

- C. CONSIDER A RESOLUTION ANNEXING THE WHOLLY SURROUNDED AREA EAST OF JOSLYN STREET AND GENERALLY WEST OF THE EXISTING CITY LIMITS, ALL LOCATED IN LEWIS AND CLARK COUNTY, INTO THE CITY OF HELENA, MONTANA.

#### Staff Report

Senior Planner Dustin Ramoie reported the City of Helena is considering the annexation of the wholly surrounded area generally described as Phase One of the Westside Infrastructure Extension project, and all adjacent street and alley rights-of-way (see attached map). The properties are adjacent to and wholly surrounded by the City of Helena and are located within the "Urban Standards Boundary Area." It is in accordance with the 2011 Growth Policy to annex property that is adjacent to the city and within the defined "Urban Standards Boundary Area." The area is mixed between residential developments, some limited commercial development, and some vacant undeveloped land. Many of the properties in the area are receiving either City water and/or wastewater service at this time even though they are located in Lewis & Clark County. The City is proposing to upgrade and extend water and wastewater services to the entire Phase One area. A portion of the subject property was pre-zoned to the R-2 (Residential) District and B-2 (General Commercial) District by the Helena City Commission on March 23, 2015. All of the subject property located south of Hauser Boulevard was pre-zoned to R-2 (Residential) District by the Helena City Commission on August 18, 2003.

On April 6, 2015 the Helena City Commission tabled annexation of this area for one year to allow time for residents to explore other water and wastewater options to service the area. At this time there is work being done on TSEP and DNRC grant applications for funding of a wastewater project in phases one and two. The outcome of those grant applications will be determined at a later date. There have also been multiple properties located within Phase One that have petitioned the City to annex since April 6, 2015. Some properties have been removed from this wholly surrounded annexation process to be handled under their own request for annexation once they have met all of the conditions associated with their requests. There has also been a city-installed wastewater main project in the Cannon and Choteau Streets area of Phase One. That project has had a reimbursement resolution passed, outlining cost reimbursement at the time of connection and it affects 23 properties in that area. At this time, 7 properties have petitioned to annex and connect to the wastewater main within that area, and as the rest of the 23 properties need wastewater service along those newly installed mains, they will also pay their proportional share to make connection to the wastewater system. The Cannon and Choteau Street wastewater project is considered a model for future projects in the area. Per the provisions of MCA 7-2-4312 through 7-2-4314, city staff has sent notice that a resolution of intent to annex has been adopted to all property owners and registered voters in the affected area as well as published the notice in the Helena Independent Record on April 3 and 10, 2016. A 20-day comment period started on April 3, 2016 and closes on April 22, 2016. As of April 14, 2016, no written comments have been submitted. Since the open comment period will not close until April 22, 2016, a full packet of comments will be assembled and made available prior to the City Commission public hearing scheduled for April 25, 2016.

Planner Ramoie used a map to display the area proposed for annexation is the wholly surrounded area generally located east of Joslyn Street and west of the city limits and all adjacent street and alley rights-of-way into the city of Helena. He indicated there have been four written comments received regarding the annexation: one comment in support, two comments requesting a delay, and one comment in opposition.

Advantages of annexation of the subject area will incorporate into the city many properties that are currently being served by city water and/or wastewater that are located in Lewis and Clark County. It will also facilitate the extension of water and wastewater mains to the rest of the area creating an opportunity for development on city services. Annexation will also eliminate jurisdictional issues for emergency services.

Annexation of the wholly surrounded area will allow for redevelopment of existing properties, new development, and retrofitting existing properties onto the city water and wastewater mains that currently exist and those that are proposed to be provided with the infrastructure extension project. This should help eliminate individual wells and septic systems in the area over time in favor of the more efficient municipal systems.

#### Public Testimony

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

Valerie Wilson, Phase I resident; stated she is not opposed to the annexation; however, she believes the City is not acting in accordance with the requirements of State statute by not providing a



comprehensive plan for the project, including how it will be paid for, the requirements for hooking into each service and anticipated timeline for installation of sidewalks.

Mary Ryder, Phase I resident; expressed concern over changing cost estimates for the project and requested postponement of the annexation until the City can provide a detailed plan on exactly how Phase I will be implemented. She also submitted written testimony which is included in the packet as part of the official record.

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

**Motion**

**Commissioner Haladay moved approval for a resolution annexing the wholly surrounded area east of Joslyn Street and generally west of the existing City limits, all located in Lewis and Clark County, into the City of Helena, Montana with an effective date of December 1, 2016.** Commissioner Noonan seconded the motion.

**Discussion**

Commissioner Haladay referred to correspondence between himself and Attorney Jodoin regarding contentions in the case of Gregg v. City of Whitefish. Attorney Jodoin commented on the procedure for annexation of wholly surrounded property versus annexation/extension of services to property in areas outside the City's corporate limits. He stated he firmly believes the City is in compliance with all of the statutory standards for both types of annexation and meets the requirements of State law. This correspondence is included in the packet as part of the official record.

Mayor Smith referred the property owners to the 2002 Westside Infrastructure Study for more information on anticipated costs for the installation of various City standards, such as streets, sidewalk, and curb and gutter.

**Vote**

All voted aye, motion carried. **Res #20243**

D. CONSIDER A RESOLUTION REPEALING RESOLUTION NO. 19214, AND ESTABLISHING FEES TO RECOUP ACTUAL COSTS OF FULFILLING PUBLIC INFORMATION REQUESTS.

**Staff Report**

City Attorney Jodoin reported Resolution No. 19214, passed on May 9, 2005, established the current fee structure for fulfilling requests for public information. In 2015 the state law governing the fees that may be imposed by a public agency was amended to allow a local government to recoup the actual costs of production of public information (§ 2-6-1006, MCA). The current labor charge of \$11.54 per hour does not accurately represent the costs to produce public information. This is especially true with regard to production of electronic mail as those requests require the involvement of IT staff and an attorney in the City Attorney's office.

Most public information requests can be fulfilled with little to no staff time or effort. In most cases city staff can retrieve a few documents without much interruption of routine work. Staff can even arrange for the person requesting public information to inspect and identify the documents they want copies of. However, if the public information sought is voluminous and requires more than routine staff resources to produce or is not readily available in a format accessible to the public, such as electronic mail, the staff time and resources to produce the requested public information can become substantial.

On March 7, 2016 the City Commission considered and approved passage of a resolution of intention on this subject. Commission discussion focused on concerns about making public information requests costs prohibitive if actual costs were charged. Attorney Jodoin stated included in the resolution under consideration tonight are staff amendments intended to mitigate the effects of an actual cost recovery program. Specifically, the amendments propose to eliminate any fee for "de minimus" public information requests that will take less than 30 minutes to fulfill and to require City staff to inform persons requesting public information whether fulfilling the request will take more than 30 minutes and if so what the estimated fee will be. Staff must also alert the requestor if the actual cost will increase significantly from the initial amount estimated.

Commissioners Haladay and Farris-Olsen thanked Attorney Jodoin for addressing the concerns of the Commission via the amendments he wrote for inclusion in the final resolution.

**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 a resolution repealing Resolution No. 19214, and establish fees to recoup the actual costs of public information requests; including the staff amendments contained in Sections 2 and 5.** Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20244**

**Public Communications**

**PUBLIC COMMUNICATIONS**

No public communications were given.

**Meetings of Interest**

**MEETINGS OF INTEREST**

The next Administrative Meeting is May 4, 2016 and the next Commission Meeting is May 9, 2016.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:40 p.m.

ATTEST:

/S/ JAMES E. SMITH

Mayor

/S/ DEBBIE HAVENS

Clerk of the Commission