

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
December 19, 2016
6:00 P.M.

- Time & Place** A regular City Commission meeting was held on Monday, December 19, 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 Alles, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were Gary Spaeth 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 December 5, 2016 were approved as submitted.
- Board Appointment** BOARD APPOINTMENT:
A. Public Art Committee
- Public Art Committee – Reappointment of John Moore to a second term on the Public Art Committee; term will begin upon appointment and expire December 31, 2019.
- Public comment Mayor Smith asked for public comment, none was received.
- Motion** Commissioner Noonan moved approval of the reappointment of John Moore to the PAC. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.
- Consent Agenda** CONSENT AGENDA:
A. Claims
B. Acceptance of the 2016 Comprehensive Annual Financial Report (CAFR)
C. Acceptance of pledged collateral for City deposits at financial institutions
- City Manager Alles recommended approval of the claims and consent agenda.
- Public comment Mayor Smith asked for public comment, none was received.
- Discussion Mayor Smith noted the City received another excellent audit for 2016.
- Motion** Commissioner Ellison moved approval of items A through C on the consent agenda. Commissioner Noonan seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Ellison announced he would be travelling out of state for the holidays, returning during the first week of January 2017.
Mayor Smith wished everyone well over the holiday season.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

Attorney Jodoin noted it appears no further information will be requested from or submitted by the parties petitioning for clarification of the effective date of "Marsy's Law" and the the Supreme Court is expected to provide their determination of the effective date of the new law very shortly.

Report of the City Manager

REPORT OF THE CITY MANAGER

Manager Alles reported the City Street Division crews continue to remove snow from downtown, it is anticipated the removal will be completed Tuesday, December 20th.

Report from the Helena Citizens

REPORT FROM THE HELENA CITIZENS COUNCIL (HCC)

Council Chair Gary Spaeth commended Street Department staff on their excellent work laboriously clearing Helena's streets after the recent record snowfall.

He wished the Commission and City staff the best in the upcoming holiday season.

Regular Items

REGULAR ITEMS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PROHIBITING DISCRIMINATION IN PUBLIC ACCOMMODATIONS WHERE USERS ORDINARILY APPEAR IN THE NUDE BY AMENDING 1-8-4 OF THE HELENA CITY CODE.

Staff Report

City Manager Alles reported Chapter 8 of Title 1 of the Helena City Code prohibits the discrimination against individuals in employment, public accommodations and housing.

Section 1-8-4 contains the prohibition against discrimination in public accommodations. That section also contains an exemption for certain public accommodations where users ordinarily appear in the nude. Under this exemption a place of public accommodation may require individuals to use the facilities designated for their anatomical gender.

He stated Commissioner Farris-Olsen has proposed eliminating the exception for public accommodations where users ordinarily appear in the nude, thusly prohibiting discrimination in all public accommodations based on gender identity.

Mayor Smith explained the decision before the Commission tonight is whether to approve first passage, which would set a public hearing date for final passage of January 9, 2017.

Discussion

Commissioner Ellison asked if there is any existing federal, state or local law already preventing or prohibiting the proposal under consideration this evening, for example, banning men from using the women's restroom and vice versa. Attorney Jodoin stated he is not aware of any law barring the act of using the opposite sex's bathroom.

Public comment

Mayor Smith called for public comment.

The following persons spoke in support of the proposal to remove the identified existing language:

Katherine Haque-Hausrath, 312 North Ewing; Shawn Reagor, Helena, Executive Director for the Gender Expansion Project, facilitator for transgender support groups and member of rural Transgender Wellness Project; Abigail St. Lawrence, 714 Orange Avenue,

representing the Board of YWCA Helena and YWCA Executive Director Kelli McBride; Sandy Oitzinger, 801 Stuart Street; H.K. Rossi, representing the ACLU of Montana; Brie Southerland, 595 Marina Kim's Way, former Director of Gender Expansion Project; Rhett Leaphart, 348 Clancy Street; Kim Leighton, 1107 8th Avenue, PRIDE Foundation; Mary Ann Dunwell, State Representative – House District 84; Jerry Hill, 3426 Blue Herron; Jessica Stuart-Kuntz, 941 Hollins; Katelynn Carroll, 1501 Winne, SIS gender person.

Motion

Commissioner Farris-Olsen moved approval of first passage of an ordinance prohibiting discrimination in public accommodations where users ordinarily appear in the nude by amending Chapter 8 of Title 1 of the Helena City Code and set a public hearing date of January 9, 2017. Commissioner Noonan seconded the motion.

Comment

Commissioner Farris-Olsen thanked everyone for attending the meeting to speak in support of the proposed amendment. He commented on the need to ensure the Helena community provides equal opportunity for and is welcoming to everyone; the removal of the subject language will accomplish that.

Commissioner Noonan indicated the language currently contained in the ordinance reflects the oldest bias against gender issues in our country. He reflected on his childhood education on the subject of sex and homosexuality and commented he was lucky to receive support from his faith, family and friends, allowing him a higher sense of self-esteem than he had growing up and taught him the existing bias was wrongful. He spoke in support of the amendment as it brings the unfairness of such intolerance to light.

Commissioner Ellison stated when initially passed, this ordinance took one year to reach final adoption. He indicated when he first heard about the proposed amendment, it was not advertised per public notification requirements; consequently he has been reluctant to discuss the issue at any public meetings. He asked Commissioner Farris-Olsen what is driving the seemingly rushed nature to amend the ordinance, explaining he would've liked more time to discuss the amendment with constituents; however, time was not allotted to do so due to its rapid scheduling. Commissioner Farris-Olsen noted he is not aware of any Commission priorities or actions being displaced by the addition of this ordinance amendment to the Commission's meeting agenda. He stated the removal of the identified language is very timely given the great deal of divisiveness present in the Helena community and throughout the entire United States. He indicated discrimination against people of different gender identities is inexcusable and there will never be a wrong time to bring a remedy to such prejudices forward. Commissioner Farris-Olsen added this proposal has created a great discussion and brought the community together.

Commissioner Haladay referred to the minutes of the meetings at which the NDO was deliberated. He referred to the language proposed for removal and stated it was hastily added at the eleventh-hour and could not find a strong basis for its inclusion in the record. He added there were no comments in support of the inclusion of the subject language at the time, and it appeared to have been added due to fears related to an incident in Washington State. Commissioner Thweatt crafted the language and has now submitted comments for the record recommending its removal, indicating it was unwarranted. He expressed regret that he had not been able to attack this odious language during his

three years on the Commission and its removal is long overdue.

Mayor Smith indicated he would not support the amendment removing the subject language. He pointed to the Disadvantages section of the staff report, noting the opposite of "it" is "none", and that is troubling. He announced he would not vote in favor of the proposed language removal and expressed what he views as disadvantages to doing so- diminished expectation of privacy by those using locker rooms in gymnasiums and health clubs where there are communal showers and bathrooms, the loss of privacy would be especially acute to females and young girls. He expressed curiosity over how amending this ordinance will affect private businesses and/or schools.

Most concerning is the safety of Helena's citizens. He referred to time spent shadowing the dispatch staff, noting at the beginning of every shift they print a list of all of the sexual and violent offenders registered in Lewis & Clark County. He obtained a current listing of the area's offenders prior to tonight's meeting and reported there are approximately 230 persons listed within a 3-mile radius of Helena. While he knows nothing about the offenders on the list, he does not want to inadvertently give any of them the enhanced opportunity to go about their business of being predators through the best intentions of the Commission in amending the existing NDO. Mayor Smith stated he does not want to embolden any of them to think that predatory behavior will be tolerated or allowed at any facility due to striking the language indicated and is very troubled by the "what-ifs" that could result from passage of the amendment.

Commissioner Farris-Olsen and Mayor Smith briefly discussed the high rate of suicide by transgender youth and suicide by youth regardless of the reasons behind it.

Commissioners Farris-Olsen and Noonan spoke in opposition to Mayor Smith's comments, noting the sexual offenses he fears will still be illegal and will not change if the NDO is amended.

Commissioner Ellison noted this is a difficult issue, especially since using the opposite gender's restroom is not prohibited or a violation of any existing law. He indicated he is comfortable moving the proposal to a public hearing and encouraged Helena residents to provide input on the topic to the commission.

Commissioner Haladay expressed disagreement with Mayor Smith's reasons for voting against the amendment commenting presupposition should not factor into the proposal.

Vote

Motion carried 4-1, with Mayor Smith voting no. **Ord #3224**

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE BOUNDARIES OF THE RAILROAD URBAN RENEWAL DISTRICT BY AMENDING ORDINANCE NO. 3214.

Staff Report

Community Development Director Sharon Haugen reported on September 14, 2015, the Helena City Commission adopted a Resolution of Necessity that included a Statement of Blight for the proposed Railroad Urban Renewal District. The Commission directed an Urban Renewal Plan (Plan) be created for the area, and the city hired WGM, Inc. to assist in the development of the Plan. On January 25, 2016, the Helena City Commission approved an ordinance adopting the plan with some amendments to the original boundary. Following the adoption the consultants worked on revising the legal description and amending the draft plan to accommodate the changes in the boundary. City staff submitted the Plan for preliminary review to the Department of Revenue

and subsequent to that review, they determined that one City owned parcel must be removed. The parcel in question is the tract of land that was created when BNSF gave the City possession of their abandoned ROW. That tract runs from Montana Avenue in a northwesterly direction to Benton Avenue. It is the Department of Revenue's position that the City cannot use the right of way for Last Chance Gulch as part of the legal description but must use the entirety of the tract or none of it. Therefore, in order for the District to be certified, DOR is requesting that it be removed so the City must amend the boundary.

The Railroad URD Plan may be amended in accordance with Montana statute. No such ordinance shall be adopted until after the public hearing has been conducted and notice of the public hearing has been given in accordance with State law. If the modification or amendment involves the addition or deletion of land from the District, mailed notices shall be given to all persons owning the property to be added or deleted. In this case, it is the City of Helena who will be notified.

The amendment of the boundary will allow the certification of the Railroad Urban District by the Montana Department of Revenue and enable the use of tax increment financing for the entire Railroad District. Since City property does not contribute to the tax base for calculating the tax increment, there will be no impact by removing the land from the District boundary.

Discussion

Discussion was held regarding the DOR requirement and the connection between the subject property and its already established role in Centennial Trail.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Ellison moved approval first passage of an ordinance amending the boundaries of the Railroad Urban Renewal District by amending Ordinance No. 3214 thereby amending the boundaries of the District and amending the Railroad Urban Renewal District Plan, including a tax increment provision pursuant to Title 7, Chapter 15 parts 42 & 43 and set a public hearing date for January 9, 2017. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3225**

C. CONSIDER A TEMPORARY EXTENSION OF THE CURRENT CHARTER FRANCHISE AGREEMENT.

Staff Report

Administrative Services Director Glenn Jorgenson reported the City has a franchise agreement with Bresnan Communications, LLC, known locally as Charter Communications (Charter). The current agreement has an expiration date of December 31, 2016. City staff has been in regular negotiations during the past year on a new agreement. However, we will not be able to finish the negotiations and bring the necessary ordinance revision before the City Commission by December 31st.

Pursuant to a Second Amendment to the Franchise Agreement entered into on January 14, 2013, Section 8.7 - Effective Date, says "This Franchise shall expire on December 31, 2016, unless extended by mutual consent of the parties."

Director Jorgenson recommended approval of the extension as it would allow staff the time necessary to work with Charter on a final agreement.

Discussion Commissioner Haladay asked Manager Alles for more information on the issues causing need for the extension. Manager Alles explained there are no major issues of disagreement; however, remaining matters of discussion include the provision of a digital channel for HCTV and Charter's claim to the additional franchise fees added by the City for digital equipment previously purchased by the City. He summarized all issues still being negotiated are relatively minor; if they become greater he will notify the Commission.

Public comment Mayor Smith called for public comment; none was received.

Motion Commissioner Noonan moved approval granting the City Manager authority to extend the current franchise agreement with Charter Communications for a period not to exceed three months. Commissioner Haladay seconded the motion. All voted aye, motion carried.

D. CONSIDER A RESOLUTION OF INTENTION TO ANNEX PROPERTY LEGALLY DESCRIBED AS LOTS 7-10 IN BLOCK 195 OF THE AMES ADDITION, AND THE ADJACENT CANNON STREET AND ALLEY RIGHTS- OF-WAY; WITH A PROPERTY ADDRESS OF 2215 CANNON STREET, ALL LOCATED IN LEWIS & CLARK COUNTY, MONTANA, INTO THE CITY OF HELENA.

Staff Report Senior Planner Dustin Ramoie reported the applicant has requested the annexation of Lots 7-10 in Block 195 of the Ames Addition and adjacent Cannon Street and alley rights of way. The property is not currently adjacent to the city of Helena but it is located within the "Urban Standards Boundary Area." Since the City will be installing a wastewater main in Cannon Street and will be annexing the street, it is anticipated that the property will be adjacent to the city at some time in 2016. 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 property is developed with a single dwelling and the applicant has petitioned the City for annexation to attain all city services and to utilize the property with an R-2 (Residential) zoning designation. It is currently served with city water and has a failed septic system which requires the connection to city wastewater services. With annexation, extension of the water and wastewater service boundary will occur.

The subject property was pre-zoned to the R-2 (Residential) District by adoption of Ordinance #3217 on March 21, 2016.

Planner Ramoie recommended approval of the resolution of intention to annex the subject property into the City of Helena to allow for the abandonment of the existing failed septic system and connection to the more efficient city wastewater system and other city services. The subject property is served by city water and it is also in accordance to policy to annex properties that are on city services but not in the city boundary.

Discussion Commissioner Haladay asked if the applicant still be allowed to hook into City services if the ROWs proposed for annexation in the next agenda item, Public Hearing- A., are not approved for annexation. Planner Ramoie explained it would not provide for a route of annexation to the subject property, additionally, the property is not adjacent to the City limits and is isolated in the County; therefore, the property would not meet the requirements for annexation under existing City Policy. There is

the potential use of a Development Agreement to annex the property; however, that option is not favored if a route of annexation is available.

Commissioner Noonan asked if the ROW requested for removal by LCC Chief Administrative Officer Eric Bryson affects this proposal. Planner Ramoie explained the property being referred to is contained in Public Hearing – A.

Commissioner Farris-Olsen asked if this resolution of intent were not approved, could the applicant be allowed to hook into city's wastewater system. Planner Ramoie again referred to the requirements of the City's Annexation Policy, noting the use of a Development Agreement to authorize the use of the City's wastewater system may be considered in such a situation. Manager Alles echoed Planner Ramoie's comments, adding the use of a Development Agreement is not preferred. However, the City's policy outlines alternative options for use of services.

Commissioner Noonan asked for clarification of the financial implications of a development agreement versus the recommended annexation. Planner Ramoie indicated the cost and reimbursement method would be the same - through a future rebate resolution - regardless of which method is utilized.

Public comment

Mayor Smith called for public comment.

Mr. Merrill, 2215 Cannon, applicant; urged the Commission to approve the proposal; noting he wants to reside in the City of Helena and strongly desires the opportunity to be annexed.

Jenny Balcerzak, 1734 Hauser Boulevard; requested the Commission allow Mr. Merrill to utilize City wastewater services via a Development Agreement rather than annexing the larger area, which does not wish to be annexed.

Ms. Hall, Helena; spoke in opposition to the annexation of Mr. Merrill's property.

Jeff Koon, Helena; urged the Commission to approve the use of a Development Agreement to assist Mr. Merrill. He requested the ongoing efforts of Westside residents, in conjunction with LCC, on alternatives to annexation be recognized.

Joe Beneventi, 1000 Hiawatha; spoke in opposition to the proposal as it will allow opportunities for larger changes to be made in relation to the Westside Annexation Project.

Motion

Commissioner Ellison moved approval of a resolution of intention to annex property legally described as Lots 7-10 in Block 195 of the Ames Addition, in Lewis and Clark County, Montana, with a property address of 2215 Cannon Street and the adjacent Cannon Street and alley rights-of-way, and establish the conditions for annexation. Commissioner Noonan seconded the motion.

Discussion

Commissioner Haladay asked for more information on DEQ regulations related to permitting the installation of new septic tanks located in the area of an existing wastewater system. Planner Ramoie explained the regulations pointing out new systems within 200 feet of a wastewater system are not authorized unless they are installed at a standard which typically costs 3x a traditional system. Given the commencement of installation of the main; it plays into DEQ regulations.

Further discussion was held on the reasoning behind the inclusion of several portions of both Cannon and Hiawatha Streets in its recommendation to annex numerous rights-of-way, identified in Public Hearing – A. Planner Ramoie explained various scenarios that resulted in the areas identified in the following agenda item.

Vote All voted aye, motion carried. **Res #20323**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION ANNEXING CONTIGUOUS GOVERNMENT PROPERTY BEING PORTIONS OF GRANITE AVENUE, CANNON STREET AND HIAWATHA STREET, INTO THE CITY OF HELENA, MONTANA.

Staff Report

The City of Helena has requested Lewis and Clark County consider submittal of a request for the annexation of portions of Granite Avenue, Cannon Street, and Hiawatha Street public rights-of-way (ROW). The City anticipates the installation of water and wastewater in said public dedicated public rights-of-way in the near future and as such wishes to formally annex them into the City of Helena. The annexation of these rights-of-way will also facilitate the provision of emergency services to property already located within the corporate limits of the City, properties outside the corporate limits of the City that the City has a contractual obligation to provide HFD services, provide contiguous roads and access to properties in the City of Helena, and also provide a route of annexation for the property requesting such located at 2215 Cannon Street.

The City Commission adopted a Resolution of Intention to Annex (Resolution #20317) on November 14, 2016 and set a public hearing for December 19, 2016. Planner Ramoie noted this proposal is not the annexation of Phase I or II or III of the larger project; it is simply the identified streets and necessary in order to provide a route of annexation.

Annexation of the subject rights-of-way will meet City policy of having City infrastructure such as water and sewer installed in City controlled right-of-way. It will also provide a route of annexation for the property at 2215 Cannon Street as well as any other properties on Cannon Street that wish to connect to the City installed wastewater main that is currently under construction.

Annexation of the subject rights-of-way will help facilitate the city's planned infrastructure extension projects which will allow more property owners to abandon their individual well and septic systems and connect to City water and wastewater utilities if they so choose.

Planner Ramoie noted annexation of the subject rights-of-way will create pockets of wholly surrounded areas on the Westside and will bring some sections of right-of-way into the City that are not built to city standards.

Discussion

Commissioner Ellison asked what residential property will be annexed in this proposal. Planner Ramoie confirmed that only the streets identified in the resolution would be annexed; no additional property will be affected or included.

Commissioner Ellison asked for how long portions of Phase I of the existing Westside Annexation Project were wholly surrounded before being poised for annexation into the City of Helena. Manager Alles indicated the area was classified as wholly surrounded for either 13 or 20-25 years prior to the current, larger project being implemented. Commissioner Ellison commented he would not support the annexation being proposed without the City obtaining ownership, authority over and access rights to the streets that will house City infrastructure.

Commissioner Noonan asked Manager Alles for the anticipated timeframe for annexation of additional phases of the Westside Project.

Manager Alles stated while he does not have a date certain, he does not plan to implement any additional annexations anytime in the near future; he estimated it will be at least 3 to 4 years. He verified the annexation of the streets under consideration this evening will not trigger any new or additional action to annex Westside property.

Commissioner Haladay asked if there are City water mains already installed under Hauser Boulevard. Planner Ramoie answered affirmatively, noting he is unsure why the mains were installed without requiring annexation. Commissioner Haladay asked Manager Alles if he would authorize repeat installation of those same mains without annexation. Manager Alles stated no. Commissioner Haladay asked if the City has the same authority as other utilities, such as Northwestern Energy, in terms of being allowed to install and repair its utility infrastructure wherever they desire and within a 48-hour timeframe. Manager Alles stated no, the City does not have the same authority as the power company. However, Lewis & Clark County has never opposed the City installing their pipes in the area as is evident by the existence of said mains. Manager Alles reported Community Development Department staff has been tasked with identifying all Westside streets with existing City mains in order to write a resolution to annex those ROWs.

Commissioner Haladay asked if the County and City assist each other in snowplowing areas adjacent to the City limits. Manager Alles agreed.

Commissioner Haladay referred to the indication in the staff report that annexation of the subject ROW would provide better emergency services to the area and asked for more information. Manager Alles explained annexation will result in maintenance and upkeep to the streets. While the Police and Fire Departments currently respond to emergencies on the Westside; it does require coordination with the Sheriff's Department. Fire protection is provided through an agreement between the Helena Fire Department and what is identified as the Westside Fire Service Area (WFSA). This is made available because the residents within the WFSA pay a fee for the protection, which will no longer be charged with annexation. Planner Ramoie added this annexation will provide the most direct and efficient route to additional properties, when annexed, to be accessed by a City street built to City standards.

Commissioner Haladay asked for more information on the City's current recommendation against the utilization of development agreements for properties requesting access to City services even though they are adjacent to City infrastructure; instead annexation has been required. He then asked if that policy also applies to streets and ROW under which City water and/or sewer mains are located. Manager Alles answered affirmatively. Attorney Jodoin provided additional comments expressing concern for the City's responsibility to secure the safety of its water and wastewater systems in accordance with state and federal regulations. He referred to Fort Harrison's use of the City's water system; without annexation the City has no options to enforce policy, for example the wastewater pretreatment program.

Mayor Smith requested confirmation, for the record, if the driving factor in the Westside Annexation Project as a whole, is to obtain the ability to connect the City's water distribution system from one side to another utilizing a looped system. Planner Ramoie concurred, explaining a looped system provides for greater efficiency, less opportunity for water quality issues due to stagnant water at dead-ends; and better fire flows which increase fire suppression abilities.

Public comment

Mayor Smith called for public comment.

The following persons spoke in opposition to the proposed annexation: Jenny Balcerzak, Westside resident; Colleen Nicholls, 911 & 913 Granite Street; Mr. Koon, Westside resident; Greg Olsen, 2660 Stuart Street; Charlotte Lauerman, 2670 Park Drive; Mr. Lauerman, 2670 Park Drive; Jane Kohlmeyer, 2440 LeGrand Cannon Boulevard; Eric Bronsten, Helena; Kay McCamber, 2671 Stuart Street; and Jim McCormick, 2001 Flowerree.

The testimony given included the following reasons for opposition: the actions allowed by government associated with wholly surrounded property, presumed reduction in property values, unknown/unidentified cost of infrastructure installation, perceived disregard for the best interests of Westside residents, the City's approach toward including public process in this project, including the dates chosen for controversial hearings related to the Westside Annexation Project, and the prohibitive and excessive cost estimates that have been provided to residents.

Several of those offering public testimony indicated their lack of trust of the commission and city staff, and suggested this annexation process was simply a ploy by the city to wholly surround some areas on the west side that could then be annexed in the near future.

See additional testimony given below:

Mr. Merrill, Westside resident and current applicant for annexation; explained the reason he is applying for annexation instead of installing a replacement septic system is because the size of his property prohibits the latter. He expressed his belief that just because the City creates a wholly surrounded area does not mean annexation of that area is imminent.

Discussion

Commissioner Haladay asked what portion of the cost for installation of a water or wastewater main is funded by the City. Manager Alles explained the City has fronted the entire cost for installation of the Cannon Street main. Once the project is completed and the costs compiled, the Commission will be presented a reimbursement resolution which will outline and break down the cost per property and assign it accordingly. Manager Alles pointed out the City's past practice was to put the initial burden on the homeowner who would then be paid back through a rebate program.

Manager Alles reported the total cost for Phase I of the Annexation Project is anticipated at \$3.5 million. While currently in litigation, most of the funding will be borrowed from the State Revolving Loan Program. Some portions of the project will be bore entirely by the City, approximately \$400,000, and will not be included in homeowner reimbursements. Those costs are related to improvements to already installed infrastructure.

Commissioner Haladay requested an update on the status of the City's TSEP Grant application. Manager Alles reported it is currently ranked 3rd by the Department of Commerce. He stated in his opinion, the committee charged with making the decision on who shall be awarded the grant does not like to see dissention for the projects associated with the grant application.

Mayor Smith pointed out the need for infrastructure improvements in this area has been discussed for nearly 25 years. In that amount of time the County could've installed a water and wastewater system, paved the streets, and provided many other

improvements; however, no one at the County supported or worked toward doing anything like that.

Commissioner Haladay asked why the City cannot provide a clear price for infrastructure installation to each property. Manager Alles explained the cost estimates that have been provided resulted from the preliminary engineering study, for Phase I only, initiated by the City. He noted staff will not concrete a cost per home because the City will simply not know until the project is fully completed and the contractor provides a "bill" for the amount owed to the City. He pointed out the City of Whitefish in their annexation project required homeowners to pay for improvements with no funding assistance by the City and that policy held up in court.

Commissioner Haladay led detailed discussion regarding the cost variation between individual properties hooking into the City's system versus joining together with their neighbors to hook up and bear the cost as a group; the variable costs will basically pit neighbors against neighbors. Manager Alles noted the Commission could always deny such applications and require the property owners to hook up as a group.

Commissioner Haladay referred to discussion held at the December Joint Work Session which proposed the idea of annually setting aside funds from the respective water and wastewater funds of the City in order to assist with the cost of these large-scale annexation projects, with matching funding provided by the County. Manager Alles agreed such discussion was held and reviewed the various options for such a program.

Commissioner Haladay noted current City residents would end up paying more for their existing services in order to help fund the costs of annexing Westside properties. Manager Alles concurred and commented City residents have already paid for their water and sewer service in some form or fashion and he feels should not have to subsidize the costs owed by Westside homeowners for their individual annexations.

Further comment was given by Commissioner Haladay and Manager Alles in opposition to the idea of a subsidy fund, other than wholly surrounded areas.

Manager Alles noted he cannot recommend the Commission remove a section of the streets proposed for annexation. However, an alternate option would be to set annexation of the subject property to a date certain.

Commissioner Ellison clarified the request to remove the section of street being requested by Lewis & Clark County was not submitted by the Board of County Commissioners (BoCC); it was submitted by Chief Administrative Officer Eric Bryson. He stressed the BoCC chose to not rescind their initial resolution requesting the proposed annexation.

Commissioner Ellison then spoke to the public's distrust of the City which is absolutely not warranted and discussed the City's straightforwardness about having absolutely no desire to annex any of the properties associated with this ROW annexation.

Motion

Commissioner Ellison moved approval of a resolution annexing contiguous government property being portions of Granite Avenue, Cannon Street and Hiawatha Street, into the City of Helena, Montana. Commissioner Noonan seconded the motion.

Comment

Commissioner Noonan referred to the Westside residents' perception that the City is untrustworthy. He noted the lengthy record of this project does not demonstrate such behavior, and reviewed the

evidence showing the City is and has always been acting in good faith. In spite of that detailed history, it is apparent the City cannot win in dealing with this long-standing problem.

Vote All voted aye, motion carried. **Res #20324**

**Public
Communications**

PUBLIC COMMUNICATIONS

Steve Birch, Helena; requested an update on the recent bid opening for the City's Quiet Zone Project. Manager Alles indicated the bid award is scheduled for the January 9th, 2017 Commission Meeting. At that time, the Commission will take action on awarding some, all, or none of the bids.

**Meetings of
Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is January 4, 2017 and the next Commission Meeting is January 9, 2017.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:48 p.m.

/S/ JAMES E. SMITH

Mayor

ATTEST:

/S/ DEBBIE HAVENS

Clerk of the Commission