

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
March 13, 2017 - 6:00 P.M.
City Commission Chambers, Room 330

Time & Place A regular City Commission meeting was held on Monday, March 13, 2017 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 Haladay, Noonan and Farris-Olsen were present. Commissioner Ellison was excused. City Manager Ron 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 February 27, 2017 and were approved as submitted.

Proclamation PROCLAMATION:
A. American Red Cross Month

Mayor Smith read the proclamation designating March 2017 as American Red Cross month in the City of Helena, and presented it to local Red Cross representatives Melissa Nichols, Sue Hawthorne and Gloria Pad. Ms. Hawthorne read the Mission Statement of the American Red Cross and thanked Mayor Smith for issuing the proclamation in recognition of the work of the organization.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Acceptance of pledged collateral for City deposits at financial institutions
C. Final passage of Ordinance No. 3226 amending City of Helena Ordinance No. 2359 and amending the official zoning map, for a portion Tract 2, containing approximately 1.72 acres located in a PLI (Public Lands and Institutions) to a B-2 (General Commercial) District; for property generally located south of Skyway Regional Shopping Center, east of Interstate 15, and west of North Washington Street. No property address has been assigned to this tract of land. **Ordinance #3226**

City Manager Alles recommended approval of the claims.

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

Motion **Commissioner Farris-Olsen moved approval of items A through C on the consent agenda.** Commissioner Noonan seconded the motion. All voted aye, motion carried.

Bid Award BID AWARD:
A. Solid Waste Division – One (1) new 2017 Skid Steer Wheel Loader with Attachments

Staff Report Solid Waste Superintendent Peter Anderson reported six bids were received and opened. This equipment will replace Unit #217, a 1994 Case model 1845C Skid Steer Loader. This is a scheduled

replacement. After reviewing the bids (summary attached) it was determined that Torgerson's LLC bid for a 2017 JCB 330 Skid Steer was the only vehicle that met all criteria of the bid specifications for the Skid Steer Wheel Loader with attachments. A comparison spreadsheet is attached showing the results of the bid spec criteria indicating the spec items met/not met by the various vendors. The bid from Torgerson's LLC meets specifications and is considered a reasonable bid. The bid price of \$67,130.00 is under the FY17 budgeted amount of \$67,500.00.00.

Staff recommends the purchase of one 2017 JCB 330 Skid Steer with attachments for a total bid price of \$67,130.00. This purchase will allow the Solid Waste Division to continue to provide refuse collection operations with reliable equipment and reduced maintenance costs with emphasis on safety for employees.

The purchase of this unit will allow the City to continue to upgrade its Solid Waste fleet, providing reliable equipment and reducing maintenance costs.

Superintendent Anderson recommended awarding the bid for the purchase of one (1) 2017 JCB 330 Skid Steer with attachments to Torgerson's LLC for the total bid price of \$67,130.00.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haladay moved to award the bid for the purchase of one (1) 2017 JCB 330 Skid Steer with attachments to Torgerson's, LLC for the total bid prices of \$67,130.00. Commissioner Noonan seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith announced to those in attendance that City Attorney Jodoin has recommended agenda item 12.A be tabled due to the recent discovery of an Attorney General's opinion from 1980 that deemed the exact language being proposed for adoption unlawful.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

Attorney Jodoin provided a brief summary of the challenges the Attorney General's (AG) opinion present to the proposal allowing for BOA decision appeals to the City Commission. He indicated staff is researching options to accomplish the intent of the proposed amendment in spite of the limitations created by the opinion.

Report of the City Manager

REPORT OF THE CITY MANAGER

Manager Alles referred to the presence of a large number of potholes throughout the City that were revealed by recent warmer weather and large snowmelt. He assured the Commission and Helena's residents that the City's Street Department crews are working on the problem areas as quickly as possible. Associated with the aforementioned issues, citizens have been lodging complaints related to the great deal of dust on the streets, which is also a product of the melt, as the dust is actually the dried sand used to remedy slippery street conditions over the City's extremely wet winter; the Street Department is cleaning up the sand as quickly as possible.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chair Spaeth invited Mayor Smith and the Commission members to sign up to attend a monthly HCC meeting in 2017; just as they did in 2016. The members appreciated them attending last year.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RESOLUTION OF INTENTION TO VACATE A PORTION OF JACKSON STREET RIGHT-OF-WAY (ROW) LOCATED BETWEEN HELENA AVENUE ON THE SOUTH AND EAST 13TH STREET ON THE NORTH.

Staff Report

City Engineer Leland reported the applicant, RMDC Inc., is requesting the City of Helena to vacate a portion of Jackson Street. The proposed vacation is located in the Central Addn. #1 adjacent to Block 13, Lots N ½ 14, 15-16 and 27.18' of Lot 13. New triangular lot will be bounded by 13th Street on the north and Helena Avenue on the south.

The applicant wishes to vacate a portion of Jackson Street to create parking that will safely accommodate the elderly and disabled clients. The square footage of the portion of Jackson Street to be vacated is approximately 2099. The square foot value for the adjacent lots is \$5.45 per square foot for the RMDC portion with 1905 square feet for a total of \$10,384.96. REA investments Inc.'s portion has a total of 190 square feet at \$8.44 per square foot for a total of \$1624.50. The approximate total cost for the applicants is \$12,009.46. The final survey will determine the total square footage and final cost of the vacation.

The goal is to provide safe parking for the elderly and disabled clients at the RMDC Inc. and the continuation of the sidewalk along Helena Avenue.

Engineer Leland recommended approval of the proposed resolution of intention to vacate a portion of Jackson Street located in Central Addition #1, adjacent to Block 13, Lots N ½ 14, 15-18 and N ½ 19 and set a public hearing for March 27, 2017.

Discussion

Commissioner Farris-Olsen referred to the aerial map of the subject area and asked for clarification on existing and future sidewalks. Engineer Leland provided an overview of the proposed design of sidewalks to be installed.

Commissioner Haladay asked what kind of public outreach has been done to alert the neighborhood. Engineer Leland explained if the Commission should approve the resolution of intention, notice of the public hearing will be sent to the surrounding property owners and published in the Independent Record per state statute.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Noonan moved approval of a Resolution of Intention to vacate a portion of Jackson Street located in Central Addn. no.1 adjacent to Block 13, Lots N ½ 14, 15-18 and N ½ 19 and set a public hearing for March 27, 2017. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Resolution 20330**

- B. CONSIDER RELEASE OF EXISTING CITY OF HELENA UTILITY EASEMENTS LOCATED WITHIN LOT 7 BLOCK 2 OF THE BRADY STREET SUBDIVISION AS SHOWN ON COS #242894.

Staff Report

Engineer Leland reported Josh Morse, owner, has submitted a request to the City of Helena to release a portion the easement that was created when the Brady Street Subdivision was established in 1974. The portion of the easement to be released is located on the southern lot line. There are currently no utilities in this portion of the easement.

(See exhibit A). Currently a portion of the owner's garage and house and deck lie within the existing easement.

By releasing the unused city utility easement to allow owner to clean up the plat and eliminate this unused easement for use of remaining portion of owner's lot that is included within the subject easement.

Engineer Leland recommended approval of a release of the existing easement generally located on the southern boundary of Lot 7 Block 2 within COS# 242894.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haladay moved approval of a release of the existing easement generally located on the southern boundary of Lot 7 Block 2 within COS# 242894. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

- C. CONSIDER AN AMENDED PRELIMINARY PLAT FOR THE GREEN MEADOW MINOR SUBDIVISION CREATING THREE LOTS AND STREET RIGHT-OF-WAY (ROW) FROM LOT 4A OF COS #3035465; GENERALLY LOCATED EAST OF GREEN MEADOW DRIVE AND NORTH OF ANDESITE AVENUE AND THE CURRENT NORTH END OF BENTON AVENUE.

Staff Report

Planner Morell-Gengler reported in 2015, the Green Meadow Subdivision developer submitted applications to the City of Helena for annexation, R-3 (Residential) District rezoning, and a 3-lot minor subdivision of Lot 4A of Certificate of Survey (COS) #3035465. The Helena City Commission approved the R-3 rezoning on October 5, 2015 and conditionally approved the preliminary plat of the Green Meadow Minor Subdivision on October 19, 2015. The City Commission annexed the subject property into the city on October 17, 2016. The Commission authorized the City Manager to enter into an Agreement for Satisfaction of Annexation Conditions which defines the responsibility for installation of the deferred annexation improvements. This document indicates the property owner and the City agreed that the filing of the final plat is deferred until June 15, 2017 and that final occupancy permits will not be issued for any structures on the property until the Green Meadow Minor Subdivision final plat is filed.

In a letter dated January 6, 2017, the applicant indicated they are unable to meet the conditions associated with the 2015 Green Meadow Minor Subdivision preliminary plat approval. The applicant is requesting the following amendments to the Findings of Fact and conditions.

1. The Montana Department of Transportation (MDT) denied the subdivider's request for direct vehicular access onto Green Meadow Drive. Condition No.1 and the first bullet item in Condition No. 2 of the Green Meadow Subdivision approved Findings of Fact dated October 19, 2015 relate to requirements associated with this access. The applicant is requesting to eliminate these conditions associated with the Green Meadow Drive intersection.

2. MDT has also denied the applicant's request for direct non-motorized access to Green Meadow Drive. The applicant is proposing to provide the required nonmotorized access to Green Meadow Drive by extending a 10-foot wide nonmotorized path to Green Meadow Drive via Ohana Court, located north of the subject property. The path would be installed in an existing 60-foot wide public access easement noted on Lot 2C-1 of the Amended Plat of the Anderson Subdivision (COS # 3101742).

3. The 3-lot Green Meadow Minor Subdivision is required to provide .0977 acres of parkland per the formula in §76-3-621 MCA. The original preliminary plat included approximately 6 acres of open space that would be donated to the City which significantly exceeded what is required by state law. Utilizing the options available in §76-3-621 MCA, the applicant's revised preliminary plat no longer includes the transfer of parkland to the City. The parkland dedication would be met by a 200-foot wide stream setback, including a 75-foot vegetative buffer, provided on both sides of Crystal Springs Creek which also represents a larger area than is required to meet the subdivision required parkland donation.

The MDT denial of the access will result in a change to the legal and physical access to the subdivision from three points of direct access to two accesses. Benton Avenue and Sandstone Way will provide the required two points of access to the proposed subdivision and a revised Traffic Impact Study (TIS) has been provided with the application evaluating the changes in access. In compliance with City Code sections 12-2-13 and 12-2-14, the City determined the proposed changes to the conditionally approved Green Meadow Minor Subdivision are material and required the applicant to submit an amended subdivision application for review.

The City Commission, after reviewing the request, may approve, conditionally approve, or deny the requested changes. The City Commission may require additional conditions that mitigate impacts resulting from the changes to the subdivision. If denied, the previous 2015 approval would remain in effect.

Approving the changes to the preliminary plat permits the developer to move forward after MDT's denial of their request for direct access onto Green Meadow Drive.

Promoting subdivisions within the City may encourage higher density development closer to employment, services, schools, and shopping thus reducing the number of vehicle miles traveled. She noted there are no disadvantages noted if the preliminary plat is conditionally approved.

Planner Morell-Gengler recommended conditional approval of the amended preliminary plat for the Green Meadow Minor Subdivision creating three lots and street right-of-way from approximately 20-acres and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact.

Discussion

Commissioner Haladay asked for additional information on the initial parkland dedication versus the amount shown on the amended plat. Planner Morell-Gengler explained the required percentage of parkland is set by State law. The applicant can also propose to provide cash in lieu of real property designated for parkland. The applicant can choose to provide an amount greater than required; however, it is at their discretion and the City cannot request an amount be designated beyond what is outlined in state law.

Mayor Smith asked for more information on revisions to access resulting from MDT's denial of the subdivision's application. Planner Morell-Gengler explained the revised access.

Commissioner Haladay noted the initial amount of parkland to be donated was highly touted by the applicant as a major benefit to the City and a motivation for the Commission to approve other aspects of the subdivision which deviated from the City standards applied to developments within the City limits in accordance with City standards. He

asked for additional information on why the initial donation has now been greatly reduced in the amended plat. Planner Morell-Gengler noted other aspects of the development have been re-designed due to several denials for approach and access permits by MDT; it is the developer's prerogative to reduce the amount without explanation.

Commissioner Farris-Olsen asked if the trail along the creek will be designated for public access. Planner Morell-Gengler stated yes, it is a required condition of approval outlined in the Findings of Fact.

Mayor Smith asked Mr. Wirth if they developers anticipate meeting the June 30, 2017 deadline for filing the final plat. The applicant's representative, Greg Wirth with Stahly Engineering; the intent is to meet the deadline, barring any unforeseen circumstances.

Public comment

Mayor Smith asked for public comment.

Greg Wirth, Stahly Engineering, representing the applicant; provided a detailed explanation for the numerous amendments to the preliminary plat. He noted the amount of parkland was reduced to maximize the potential monetary benefit of a developable portion of the initial acreage proposed for donation.

Mr. Wirth also testified regarding MDT's denial of the development's application for approach and access permits, thus requiring a redesign of the original transportation routes. In addition, he updated the Commission on infrastructure installation in the development.

Mr. Wirth thanked City staff for their patience and willingness to help throughout the redesign of the initial preliminary plat.

Comment

Commissioner Haladay discussed the numerous issues with this proposal since the first hearing requesting annexation. Of all the concerns over the development he is most disappointed with is the applicant's decision to amend the initially heralded parkland donation in favor of monetary benefit and stated such a decision is in poor form and not appreciated. Commissioner Haladay recognized the annexation was controversial; however the parkland was advertised as a way to balance the possible negative results from approval of non-traditional development standards. He commented there isn't an apparent legal reason to deny the amendments being proposed; however, he wanted the record to reflect his disapproval of the way the developer and applicant have conducted themselves, portrayed themselves and benefits of subdivision throughout the process; summarizing they have shown poor form.

Commissioner Noonan agreed he too is disappointed in the applicant's decision to reduce the proposed parkland dedication amount as he vividly remembers it being highly peddled by the applicant as a reason to approve the non-traditional standards applied to infrastructure installation.

Motion

Commissioner Haladay moved to conditionally approve the amended preliminary plat for the Green Meadow Minor Subdivision creating three lots and street right-of-way from approximately 20-acres and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact. Commissioner Noonan seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FIRST PASSAGE AN ORDINANCE PERMITTING THE HELENA CITY COMMISSION TO HEAR APPEALS

FRORMTHE DECISIONS OF THE BOARD OF ADJUSTMENT BY
AMENDING SECTION 11-5-3 OF THE HELENA CITY CODE.

Staff Report

City Attorney Jodoin recommended the commission table first passage of the ordinance.

Discussion

Commissioner Haladay stated he initiated the proposed after sitting on the Board of Adjustment as he felt applicants deserved an additional the option to appeal decisions of denial. He commented while he still strongly supports the option, he doesn't know if it is worth staff's time and costs to the City that will be incurred by attempting to reverse an AG opinion from the 1980s.

Motion

Commissioner Noonan moved to table first passage of an ordinance permitting the Helena City Commission to hear appeals from the decisions of the Board of Adjustment by amending Section 11-5-3 of the Helena City Code. Commissioner Haladay seconded the motion. All voted aye, motion carried.

- B. CONSIDER A RESOLUTION ADJUSTING THE FEES TO BE CHARGED FOR PARKUSE AND RECREATION SERVICES AND PROGRAMS BY AMENDING RESOLUTION 19995.

Staff Report

Director Teegarden reported in 2012, the Helena City Commission adopted the City's Park Use & Fees policies through a fee resolution. In 2013, a revised resolution was passed to clarify some categories that needed "tweaked" following initial implementation. The guiding framework recommends that these policies and fees be reviewed every three years. Last fall city staff and the City-County Parks Board initiated a review. The analysis included a review of: reservation data; documentation of uses not originally considered; and review of trends, challenges, issues and impacts. The main areas for policy discussion and recommendations focused on: the impacts from large organized groups; facility rental fees; and cost-recovery and impacts to sports fields and park turf.

1. Large group events (50 or more) regularly generate large amounts of garbage and impact the capacity of park porta-potties. Not all large groups order extra porta-potties or remove garbage as requested. The larger the group, the larger the impacts. There are often back-to-back park events that need "clean-up" before the next event. Large groups also require a higher level of service of staff time. City staff developed and proposed a service fee proposal, based on direct costs.
2. There is high demand for the large pavilions at Centennial and Mountain View parks. The current rental fee is \$40.00 for a full day (more than 4 hours). Based on fee information gathered from Spring Meadow Lake State Park and the Fairgrounds which have similar facilities, it has been determined we are charging less than the market. City staff proposed fee changes for pavilion and other park buildings.
3. There has been an increase in demand and reservations for park and sports fields by both youth and adult teams. As a result, the parks are experiencing negative impacts to the turf, a higher level of maintenance, scheduling conflicts and a declining ability to recover costs. Field use fees range from \$1.00 to \$3.00 per field/courts per hour. User groups have commented that the fees seem to be

underpriced for the value. City staff suggested incremental increases over the next several years.

Based upon the above discussion, recommendations for new fees or adjustment to existing fees have been made:

1. Establish Service Fees to address the impacts of large groups.
Service fees will be applicable for activities for groups larger than 50 people for activities exceeding one hour in length. Service fees are based on direct costs for providing additional toilets, garbage containers and park labor services.
2. Increase fees for the reserved use of park pavilions, shelters, warming house and other structures.
3. Increase reserved field and court fees for both youth and adult use.
4. Adjust tennis fees for improved cost-recovery.
5. Miscellaneous: Adjustments to various damage deposits and fee categories for consistency.

The adjustments, increases and new fee categories will help provide improved cost-recovery efforts and enhance services resulting in improved customer satisfaction.

The proposed recommendations were supported by the City-County Parks Board.

Director Teegarden recommended approval of a resolution adjusting the fees to be charged for park use and recreation services and programs by amending Resolution No. 19995.

Public Testimony

Mayor Smith declared the public portion of the hearing opened and called for any persons wishing to address the commission. There being no persons wishing to address the commission, the public portion of the hearing was closed.

Motion

Commissioner Farris-Olsen moved approval of a resolution adjusting the fees to be charged for park use and recreation services and programs by amending Resolution No. 19995.
Commissioner Haladay seconded the motion. All voted aye, motion carried. **Resolution 20331**

- C. CONSIDER A RESOLUTION ESTABLISHING FEES TO BE CHARGED FOR THE LAST CHANCE SPLASH WATERPARK AND POOL BY AMENDING RESOLUTION 20153.

Staff Report

Recreation Manager Todd Wheeler reported the fees charged for admissions and programs at Last Chance Splash Waterpark and Pool have remained the same for several years, with the addition of season passes and various programs over time. This has led to a complex fee schedule with different fees charged for the various services and programs which can be confusing to guests. Additionally, as costs for pool chemicals, energy, staff and other expenses increase over time, the cost recovery per user for admissions and programs is reduced. In order to make the fee schedule easier for guests to understand and to support continued cost recovery of facility expenses, City staff recommends adjusting the categories of programs and services and increasing fees for some of the programs and services.

Staff proposes the following changes to the existing fee structure:

1. Swim Lesson Sessions/Costs:
 - o Increase resident swim lesson fee from \$3.50/lesson to \$4.00/lesson, nonresident to remain \$5.00/lesson

- Offer morning lessons four days per week per two week session so that Fridays can be used for specialized programming and staff training instead of offering lessons five days per week
 - Offer evening lessons in 30 minute increments (instead of 40 and 55 minute lengths) two days per week over a four week session (Mon/Wed or Tue/Thu)
 - For private swim lessons eliminate the 45 minute lesson/pricing and base all private lessons on 30 minute lesson pricing with slight increases to nonresident rates
2. Daily Admissions:
- Increase open swim individual admission fees by \$0.50 and introduce a senior admission category priced the same as the youth rate; eliminate the evening/weekend open swim rates
 - Combine the various categories of water activities fees into one category that is priced the same as the open swim admissions with the introduction of a youth admission category
3. Punch cards:
- Combine the two categories of open swim and water activities punch cards into one "universal" punch card that can be used for both open swim and water activities
 - The revised punch card pricing represents a 20% savings off daily admissions for residents and a 10% savings off daily admissions for nonresidents
4. Season Passes:
- Combine the two categories of open swim and water activities season passes into one "universal" season pass that can be used for both open swim and water activities
 - Introduce a family season pass category to replace the adult companion pass category
 - The revised season pass pricing represents a cost savings over daily admissions for guests that use the facility more than two times per week over the course of the season
5. Full Facility Rental
- This program continues to see strong demand so an increase is recommended to make fees comparable to other market providers
6. Swim Team:
- Shift the determination of swim team fees to the use agreement process that already is in place.

The recommendations outlined above are supported by the City-County Parks Board.

The advantage of morning swim lessons is freeing up time on Fridays to be utilized for specialized programming and staff training that has been difficult to schedule in the past. For evening lessons the 40 and 55 minute long lessons are too long for young children who often get chilled in the water. Shortening the lessons to 30 minutes will allow us to add a lesson time slot so that more children can participate in the swim lesson program. For punch cards and season passes the "universal" card/pass concept will increase convenience for guests and simplify the categories. The fee increases in the various categories will support continued cost recovery as expenses increase over time.

Manager Wheeler recommended approval of the resolution to establish fees to be charged for the Last Chance Splash Waterpark and Pool by amending Resolution No. 20153.

Public Testimony

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

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

Motion

Commissioner Haladay moved approval of a resolution establishing fees to be charged for the Last Chance Splash Waterpark and Pool by amending Resolution No. 20153.

Commissioner Noonan seconded the motion. All voted aye, motion carried. **Resolution 20332**

Public Communications

PUBLIC COMMUNICATIONS

United Way CEO Allison Munson discussed the organization's use of a collective impact model process over the past two years to increase community support for the United Way. She invited the Commission to participate in the program model and provided a copy of the United Way's Community Visioning Process Report.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is March 22, 2017 and the next Commission Meeting is March 27, 2017.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:35 p.m.

Mayor

ATTEST:

Clerk of the Commission