

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**June 25, 2018 - 6:00 P.M.**  
**City Commission Chambers, Room 330**

- Time & Place** A regular City Commission meeting was held on Monday, June 18, 2018 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.
- Members Present** Mayor Collins indicated for the record that Commissioners Farris-Olsen, Haladay, Noonan, and O’Loughlin were present. City Manager Ron Alles, Public Affairs Specialist Sarah Elkins, City Attorney Thomas Jodoin, City Clerk Debbie Havens, and Deputy City Clerk Katya Grover were present.
- Pledge of Allegiance** Mayor Collins 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 June 18, 2018, will be approved at July 16, 2018, City Commission Meeting.
- Mayor Collins announced that this meeting would be the last Commission Meeting for Manager Alles before his retirement and thanked Manager Alles for his service. Commissioners O’Loughlin, Noonan, Farris-Olsen, and Haladay thanked Manager Alles for his work as well and specifically for keeping the City in a financially sound position.
- Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. A curb cut variance for 1350 Market Avenue (Sherwin Williams)
- City Manager Alles recommended approval of the claims.
- Public Comment** Mayor Collins asked for public comment, none was received.
- Motion** **Commissioner Haladay moved approval of Items A and B on the consent agenda.** Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.
- Bid Award** BID AWARD:  
A. Consultant Contract for the production of the Ten Mile Raw Water System Preliminary Engineering Report (PER), City Project #18-4
- Staff Report** City Engineer Ryan Leland reported the Ten Mile Water Treatment Plant (TMTP) currently supplies the bulk of the City of Helena’s potable water. The plant operates year round, has a capacity of 9.5 million gallons daily, and is supplemented in the summer and high water demand months by the Missouri River Water Treatment Plant (MRTP). The source water for the TMTP is Ten Mile Creek/snowmelt, and the source water for MRTP is the Missouri River. At the present time, the raw water system that used to convey water to TMTP while functional, is beyond its design life and badly in need of repairs, upgrade and/or replacement. The raw water system consists of two dams/reservoirs dating to 1905, a 5.5 mile long open canal dating to 1865, at least six 100 year old diversion structures and a 7.5 mile long concrete pipeline built around 1935. The raw water delivery system is an integral part of the year round water supply. The improvements and upgrade of the system must be studied in order to analyze various

alternatives to prioritize, plan and fund said improvements in a thoughtful manner.

Award of the contract to consultant will allow for the production of a PER in standard State of Montana Water, Wastewater and Solid Waste Coordinating Team (W2ASACT) format, qualifying the Ten Mile Raw Water System for consideration for future funding of projects through established state and federal grant and loan programs. Production of the PER by the consultant will not only provide system operators and engineers with a clearly defined roadmap for improvements, but will also consider and analyze various alternative solutions for the existing problems within the system as applicable and selecting the preferred alternatives. The PER will provide a detailed conditions assessment and 30-year capital improvements plan for the raw water system. Production of the PER will position the City well to obtain future funding for capital projects within the Ten Mile system as well as to provide a comprehensive assessment of the existing system with succinct recommendations for capital improvements over the next 30 years.

The consultant was selected through an open RFP qualification process. The City received proposals from seven interested firms. Water and Environmental Technologies was selected by a committee process, where proposals were individually ranked on pre-set criteria and the highest ranked firm was asked to come in for an interview. WET's proposal was ranked the highest by the committee, and after interview they were selected to provide the City with a detailed proposal to do the work.

Production of the preliminary engineering report in standard funding agency format will prioritize necessary capital improvements within the Ten Mile Raw Water System and lay the groundwork for the funding of future capital improvements to the system by completing the prerequisite analysis necessary to qualify for additional funding sources.

Engineer Leland recommended awarding the contract for production of the Ten Mile Raw Water System Preliminary Engineering Report to Water and Environmental Technologies, Inc. in the amount of \$82,505.

#### Discussion

Commissioner Haladay referred to the budget analysis worksheet on page 11 of the commission packet and asked about the remaining budget balance, whether that money would roll over. Engineer Leland explained that money was set aside for any potential repairs because the staff thought the pipe would have to be redone; that money was available for the actual project that would come out of recommendation.

#### Public Comment

Mayor Collins called for public comment, none was received.

#### Motion

**Commission Farris-Olsen moved to award the contract for production of the Ten Mile Raw Water System Preliminary Engineering Report to Water and Environmental Technologies, Inc. in the amount of \$82,505.** Commissioner O'Loughlin seconded the motion. All voted aye, motion carried.

B. 2018 Chip & Seal Project, City Project #18-7

#### Staff Report

City Engineer Ryan Leland reported the 2018 Chip & Seal will add a new wear surface and pavement sealer by applying a single application of asphalt material followed by spreading a 3/8-inch gravel chip. The City opened three bids for this project on May 15, 2018, and

Helena Sand & Gravel, Inc. was the lowest responsible bidder for schedules: A, South East City Streets (East/West); B, South East City Streets (North/South/East/West); C, South Central City Streets (North/South/East/West); D, North Central City Streets (North/South/East/West); E, North Central City Streets (North/South/East/West); and F, North Central City Streets (North/South/East/West) for a total of \$242,076.12 with a unit price \$1.32 of per square yard. Last year's unit price was \$1.28 per square yard. In addition, this year we are adding a Fog Seal Technique on Schedules A, B & C. This process serves to penetrate the porous sections of asphalt and seal the surface, helping to extend the life of the street. The additional cost for this process is \$0.27 per square yard, bringing the total amount to \$270,037.86.

Staff recommends awarding schedules A, B, C, D, E, and F to the lowest responsible bidder, Helena Sand & Gravel; which submitted the low bid of \$270,037.86. This project will complete approximately **8 miles** of city streets this year, compared to previous years: 2017/12.2 miles, 2016/8.80 miles, 2015/8.70 miles, 2014/9.93 miles, and 2013/8.46 miles.

Having a new wear surface would extend the life of 8 miles of city streets.

City Engineer Leland recommended awarding schedules A, B, C, D, E, and F of the 2018 Chip & Seal, Project No. 18-7 to the lowest responsible bidder, Helena Sand & Gravel, in the amount of \$270,037.86.

#### Discussion

Commissioner O'Loughlin referred to the remaining balance for the project and asked whether it was typical for staff to leave that type of remaining balance for other projects. Commissioner O'Loughlin asked what that remaining balance was expected to be used for. Engineer Leland replied that initially it was thought that the bid price would be significantly higher than happened in actuality.

#### Public Comment

Mayor Collins called for public comment, none was received.

#### Motion

**Commissioner O'Loughlin moved to award schedules A, B, C, D, E, and F of the 2018 Chip & Seal, Project No. 18-7 to the lowest responsible bidder, Helena Sand & Gravel, in the amount of \$270,037.86.** Commissioner Noonan seconded the motion. All voted aye, motion carried.

#### C. 2018 ADA Improvements Overlay Project #18-6

#### Staff Report

City Engineer Ryan Leland reported the City of Helena Public Works Department was notified by The State of Montana that in order for the City Streets Division to continue its annual mill and overlay road maintenance project, all existing adjacent ADA ramps are required to be updated to current ADA standards. The Engineering Division put out this design/build project to comply with that requirement. The project will update a total of 110 ADA ramps to current standards in locations generally located west of Benton Avenue in Sunhaven Subdivision along with Wilder Avenue and Leslie Avenue between Benton and Henderson.

The City received only one bid for the project. The low bidder for the project is Northside Welding & Fabrication for the Base Bid (\$239,874.95), Additive Alternate #1 (\$99,108.47), and Additive Alternate #2 (\$77,602.87) for a total bid of \$416,586.29.

110 ADA ramps would be upgraded to current standards. This would also allow the City Streets Division to continue the mill/overlay project.

City Engineer Leland recommended awarding the 2018 ADA Improvements Overlay project, City Project #18-6, to the lowest responsible bidder, Northside Welding & Fabrication, Inc., in the amount of \$416,586.29.

Public Comment

Mayor Collins called for public comment, none was received.

Motion

**Commissioner Noonan moved to award the 2018 ADA Improvements Overlay project, City Project #18-6, to the lowest responsible bidder, Northside Welding & Fabrication, Inc., in the amount of \$416,586.29.** Commissioner Haladay seconded the motion. All voted aye, motion carried.

**Communications  
From Commissioners**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
There were no communications from the Commissioners.

**Report of the City  
Attorney**

REPORT OF THE CITY ATTORNEY  
City Attorney Jodoin reported on the developments of a complaint brought by Robert Maffit against the City in the Amended Complaint and Request for Declaratory Judgement and Demand for Jury Trial. MMIA has been involved in discussions regarding to how to proceed with potential negotiations, if any. Today, the City has declined to entertain the Mr. Maffit's proposal as to how to resolve this.

**Report of the City  
Manager**

REPORT OF THE CITY MANAGER  
Manager Alles reported Interim City Manager Dennis Taylor had spent his first week in his position.

**Report from the  
Helena Citizens**

REPORT FROM THE HELENA CITIZENS COUNCIL  
No report was provided.

**Regular Items**

REGULAR ITEMS  
A. CONSIDER A CONDITIONAL RELEASE OF THE CITY'S INTEREST IN A NINE FOOT (9) PORTION OF A FIFTEEN FOOT (15) PEDESTRIAN TRAIL AND UTILITY EASEMENT ACROSS LOT 15 OF THE SUSSEX PARK SUBDIVISION AND THE FILING OF AN AMENDED PLAT DEPICTING THE REDUCTION OF THE EASEMENT. TABLED 5/21/2018

Staff Report

City Engineer Leland reported City has a 30' wide utility easement across the common boundary line between Lots 15 and 16 of the Sussex Park Subdivision. This subdivision is located in the upper west side of Helena. The easement is 15' on either side of the common property line.

Within the easement lies a single track pedestrian path and a city water main. The main was installed by Sussex Construction as part of the development of the subdivision. The water main is located at or near the common boundary line between Lots 15 and 16. The trail was not accepted by the City during the approval of the subdivision resulting in the City having no responsibility for maintenance or operation of the pedestrian trail. Sussex Construction recently built a dwelling unit on Lot 15 (535 Sussex Court) for the property owner. A corner of the house was built within the easement that lies on Lot 15. The house and eaves extend approximately seven and a half feet (7'6") by ten feet six inches

(10'6") by eleven feet eight inches (11'8") into the above-mentioned pedestrian trail and utility easement. The proximity of the house to the water main may already preclude the City from accessing the main out of concern that excavation that close to the house may compromise the structural integrity of the house. As a result the City may have to abandon the main which would result in two dead end water mains. Dead end water mains are not desirable due to water quality and fire flow concerns. In the recent past, it has been documented that Sussex Construction has trespassed and caused damage to City property at prior locations (Ridgeview and Sussex Subdivision).

The City Commission tabled the item on May 21, 2018. Since that time City staff has been trying to work with Sussex Construction on a solution. Staff offered up a couple of possible solutions that would not require a long term agreement that would be very hard to enforce in the future. The first attempted solution was to have the easement regraded to allow for better access to work on the main, since the best area for working the main is encroached on by the house. This would have required a retaining wall and removing landscaping from the adjacent property. Sussex rejected the idea because the adjacent landowner has the area landscaped. The second possible solution was to negotiate an estimated amount for the increased cost to maintain or replace the water main and have Sussex pay now. This would allow the easement to be released without a future agreement. The estimate was offered to be either a percentage of the overall replacement costs or base the payment on the cost of the easement. Sussex also rejected that solution. Sussex counter offered only a long term agreement to negotiate the future increased costs of mitigation at the time of need. Staff is uncomfortable with the counter offer due to the risks and uncertainties of tracking and administering a long term agreement of questionable enforceability. It is also highly possible that there will be future dispute about what costs Sussex would be responsible for and whether Sussex will legally exist.

Staff proposes to consider a conditional release of the City's interest in the north nine foot (9') of the pedestrian trail and utility easement across the southern lot line of Lot 15, as shown on Certificate of Survey No. 3115068. Staff has provided three options for the City Commission's consideration. Two would help remedy the situations now and the other would be a long term agreement for future increased cost for repair, maintenance, replacement and relocation of the main.

An advantage of the first two proposals would be that the property owners' home would no longer be located within the pedestrian trail and utility easement; however, the third option (a long term agreement) may be difficult to enforce. The city would have approximately seven to eight feet (7'-8') from the eaves of the house to the water main. Current engineering standards require easements for mains on private property to be within an easement that is ten feet (10') on either side of the main. The city may not be able to access the main for maintenance and repair activities, or replacement. The city may face claims for damages to the dwelling unit for maintenance activities or a water main break. The main may have to be abandoned or relocated which will affect fire flows in the area.

Staff has provided following three options for the Commission to consider:

1. Move to conditionally approve the release of the City's interest in the north nine foot (9') of the pedestrian trail and utility easement across the southern lot line of Lot 15, as shown on Certificate of Survey No. 3115068. With the condition that Sussex and the City negotiate an

estimated cost based on a percentage of the main replacement for the future repair, replacement of relocation and have Sussex pay now.

2. Move to approve a conditional release of the City's interest in the north nine foot (9') of the pedestrian trail and utility easement across the southern lot line of Lot 15, as shown on Certificate of Survey No. 3115068. With the condition that Sussex will re-contour the easement with an approved plan from the City to allow for a better area to operate and work on the main.

3. Move to conditionally approve the release of the City's interest in the north nine foot (9') of the pedestrian trail and utility easement across the southern lot line of Lot 15, as shown on Certificate of Survey No. 3115068 with a condition that an agreement with Sussex Construction will be to negotiate a payment for the future increased cost of fixing, relocating.

Public Comment

Mayor Collins called for public comment.

Cherche Prezeau, a legal representative for Sussex Construction, stated that she didn't believe that there would be any problems for the City if any maintenance work needed to be done on utilities. Ms. Prezeau also noted that it was her understanding that the directions from the Commission were that Sussex and the City would work out an agreement similar to the agreement between the City and Bryant Elementary School for indemnification. Ms. Prezeau stated that Sussex had never heard of the \$10,000 referred to by Engineer Leland and that it was an unusual proposal. Ms. Prezeau concluded by saying that she strongly believed that the agreement that she drafted would address any possible questions.

Roger St. Julian, Helena resident, asked whether, with regards to risks increasing the costs, there was potential for mitigation to reduce those costs with such specific mitigation applications as more safety equipment, fencing, etc.

Ron Bartsch, Sussex Construction, introduced himself and offered to answer any questions.

Mayor Collins closed public comment.

Discussion

Commission O'Loughlin asked City staff to elaborate further on some of the concerns they had regarding the indemnification agreement, specifically, if 40 years from now the City would damage the property while working on the main, given that the life of this main would last approximately 25 years or longer. Attorney Jodoin stated that he didn't have any problem with the proposed language of the indemnification, but if something did happen 30-40 years in the future, the practical reality was that Sussex was asking for the release of 9' of the 15' easement, so there would only be 6' on this property. Because the house now occupied the flat area that the City would have used to access the main, now the City would be disturbing the property and their established landscaping on the south lot 16; it highlighted the difficulty of tracking water and utility easements on private property. But, as far as the potential damage to the house, Sussex has agreed to cover the City for any of its negligent or willful acts related to maintaining the water main within this easement. The concern then was whether Sussex was going to be around at that time. But more concerning would be the obligation if the City would turn to this agreement that Sussex would reimburse the City for above and beyond costs that the City would incur as the result of the house being too close and the City potentially having to disturb the

neighbor's landscaping. And so it was proposed to Sussex if they were interested in resolving it by a payment now based on city staff's estimates and it was rejected. The City didn't provide the number because there was no interest in talking about that.

Attorney Jodoin advised the Mayor that he closed the public comment and that if he wished to reopen it, he could do so after the Commission discussion.

#### Discussion

Commissioner Farris-Olsen asked Attorney Jodoin to confirm whether assuming there was an exchange of funds, the City would release the easement with the payment. Attorney Jodoin concurred and added that at that point the City would not need indemnification. Commissioner Farris-Olsen stated that in that case, it would be his preference to accept cash-in-lieu of having an indemnification agreement.

Commissioner Haladay stated that indemnification agreement similar to that with Bryant School would not necessarily make sense and that he was inclined to choose the option when Sussex would pay now for conditional release of the easement.

Commissioner Noonan asked about \$10,000 and where this number came. Engineer Leland replied that this amount was staff's recommendation to cover for the increased risk that would amount to 15% of the actual price to replace the water main that would amount to approximately \$73,000. Engineer Leland pointed out that originally Sussex Construction staff referred to increased risk of 15%.

Commissioner O'Loughlin stated that she was concerned about the idea of an upfront payment for estimated costs without an indemnification provision in place in the future, as the risk for the City could be far greater than \$10,000 or it could be less. Commissioner O'Loughlin pointed out that it seemed unusual for the City to release easement in these circumstances and emphasized again that the City held a significant amount of risk for a situation that was no fault of the City and it was acknowledged at the meeting on May 21.

Commissioner Haladay referred to the idea of trying to price a risk and asked whether a private contractor would sign an indemnification agreement while working on this project. Engineer Leland replied that if the City hired a contractor, they would indemnify the City and the City would have an insurance associated with that, so that would be the increased cost for a contractor essentially to take that risk, but that an added risk would be that the city staff would have to do a repair without hiring a contractor. Commissioner Haladay asked to confirm that the risk would be coming from city work and not a contractor's work. Engineer Leland concurred.

Commissioner Noonan expressed his agreement with Commissioner Farris-Olsen and said that there was a lot of unknown but at least the situation with Carlsons, the property owners, could be cleared. Commissioner Noonan agreed that there would be risk involved but that it would be a good idea to complete the situation with approximately \$10,000 and help Carlsons.

#### Motion

**Commissioner Farris-Olsen moved to conditionally approve the release of the City's interest in the north nine foot (9') of the pedestrian trail and utility easement across the southern lot line of Lot 15, as shown on Certificate of Survey No. 3115068, with the condition that Sussex and the City negotiate an estimated cost based on a percentage of the main replacement for the future**

**repair, replacement of relocation and have Sussex pay now.**

Commissioner Noonan seconded the motion.

**Public Comment**

Ron Bartsch, Sussex Construction, pointed out that there still was 25' of space which provided sufficient length and offered a counteroffer to release 40 square feet. Mr. Bartsch expressed his disagreement with the estimates provided by the City staff and noted that the added risk was inappropriate.

**Discussion**

Commissioner O'Loughlin stated that she was disappointed in the conversations that had happened and was still uneasy about not having an indemnification. Commissioner O'Loughlin said that she was not comfortable with the motion.

**Vote**

Motion passed 3-2 with Commissioners Farris-Olsen, Haladay, and Noonan voting yes, and Mayor Collins and Commissioner O'Loughlin voting no.

Ms. Prezeau asked for clarification regarding the motion and the next step in the process. City Attorney Jodoin stated that the Commission approved option one as was spelled out by Engineer Leland, moved by Commissioner Farris-Olsen and seconded; the Attorney's Office would work on agreement releasing the claims with the payment of \$10,000. Commissioner Farris-Olsen said that he did not clarify that it would be \$10,000 word for word and instead just referred to a negotiated price, so that there would be some capacity for negotiation for both sides to discuss it more openly. Attorney Thomas concurred with the reading that essentially would be giving the City Manager or the Interim City Manager, as the case may be, the authority to negotiate a resolution moving forward as far as the above and beyond cost to replace this particular portion of the main. Commissioner Noonan said that it was his understanding of the motion as well.

***Public Hearings*****PUBLIC HEARINGS:**

- A. CONSIDER A RESOLUTION TO ADOPT FINAL BUDGETS, BUDGET AUTHORITIES AND ANNUAL APPROPRIATIONS FOR FISCAL YEAR 2019. **Resolution 20449**

**Staff Report**

Manager Alles reported the Local Government Budget Act, MCA, Title 7, Chapter 6, Part 4, requires the City to develop and adopt an annual budget. The annual budget development process has encouraged public participation and included:

- City Manager presentation of the Preliminary Budget to the City Commission on May 7, 2018;
- Five City Commission budget work sessions in which the entire Preliminary Budget was reviewed;
- Public Hearing Notices published in accordance with MCA 7-1-4127; and,
- A list of amendments to the Preliminary Budget.

Staff proposed to conclude the budget development process by:

1. Conducting the public hearing on the Preliminary Budget to receive public input.
2. Determining if there are any additional changes to be added to the list of amendments to the Preliminary Budget.
3. Adopting the annual budget resolution for the final budget.

State law requires the Commission's approval of the annual budget. Approval of the Annual Budget Resolution enhances the City's

ability to conduct business in a timely and efficient manner, while maintaining effective budgetary controls.

COLA is not included in the preliminary budget. It was discussed and decided at the administrative meeting to include COLA, at least for budgetary purposes, but not implement it until such time as the Commission has a chance to see year-end numbers and make an informed decision what the Commission would like to approve for COLA.

Manager Alles recommended approval of a resolution adopting final budgets, budget authorities and annual appropriations for the fiscal year beginning July 1, 2018 and ending June 30, 2019, and setting the salary for municipal judge.

At this time, Mayor Collins left the meeting and Commissioner Haladay assumed the position of Mayor Pro Tem.

Discussion

Commissioner O'Loughlin asked whether the proposed COLA was included in the list of amendments that the staff prepared. Manager Alles replied that number was not included in those attachments. What was included in those sheets was summary for each department and the total funds within those departments which amounted to 2.1% city-wide. Total package for COLA, which included all the anticipated auxiliary costs associated with it, totaled \$514,000 for all funds, and \$287,000 for the general fund.

Mayor Pro Tem asked that if the Commission were to adopt the COLA but not implement it for FY19, what it would look like when the budget for the next year would be prepared and whether the COLA assumption would still be built in there. Manager Alles replied that it would not be built in the next year's budget and explained how the current number for COLA came to be.

Public Testimony

Mayor Pro Tem Haladay opened the public hearing and called for anyone wishing to address the commission.

There being no persons wishing to address the commission, Mayor Pro Tem Haladay closed the public portion of the hearing.

Motion

**Commissioner Noonan moved approval of a resolution adopting final budgets, budget authorities and annual appropriations for the fiscal year beginning July 1, 2018, and ending June 30, 2019, and setting the salary for municipal judge.**

Commissioner Farris-Olsen seconded the motion.

Motion

**Commissioner Farris-Olsen moved to amend the budget with the list of amendments provided in the "List of Amendments to the FY 2019 Preliminary Budget."** Commissioner Noonan seconded the motion. All voted aye, motion carried.

Discussion

Commissioner Farris-Olsen asked for input from other Commissioners regarding adopting the COLA and whether or not to implement the COLA.

Commissioner Haladay asked when the Commission could see the projected numbers. Manager Alles replied that the numbers should be available at the second meeting in July. Manager Alles pointed out that one of the challenges could be retroactivity and that it would be beneficial to vote on COLA as soon as possible.

Commissioner O'Loughlin encouraged to hold off on the final decision as it was a significant cost, so it would be better to wait and see the balance at the end of the fiscal year.

Commissioner Noonan stated that he was comfortable with making the decision today but that if the Commission gives COLA, it should be retroactive.

Commissioner Farris-Olsen agreed that the Commission needed to see the final numbers before making the final decision and that he didn't have a preference whether to vote on COLA now or at a later meeting. City staff deserved general increase but the question would be by how much in light of where the budget was last year and what kind of projections there would be for this year. Commissioner Farris-Olsen asked whether COLA's approval could be contingent upon future discussion. Manager Alles noted that today's vote would only mean that the Commission would give the authority to apply COLA once the final decision is made with the parameters that the Commission would want to have. Likewise, the Commission could decide to go retroactive. Voting on COLA today would allow avoiding sending ads and hold a budget hearing again, etc. The Commission would still hold a discussion on the percentage, then the staff would implement Commission's decision.

**Motion**

**Commissioner Farris-Olsen moved to amend the budget to include a 2.1% COLA contingent upon future discussion and agreement after the final numbers from FY2018 budget become available to the Commission.** Commissioner O'Loughlin seconded the motion. All voted aye, motion carried.

**Discussion**

Mayor Pro Tem Haladay stated he would not be opposed to act on COLA either way but the Commission would have to be careful given where the projections were this year. A 2.1% COLA would put the City at \$1.3 million personnel services increase on all funds. Commissioner Haladay also pointed out that the wage growth for the City was not commensurate with the wage growth in Lewis and Clark County for the last decade.

Commissioner Farris-Olsen expressed agreement with Mayor Pro Tem Alles in that Commission needed to look at how the wages have grown in Lewis and Clark County over the last decade. Commissioner Farris-Olsen also thanked Manager Alles for staying with the City until the budget year was completed.

Commissioner Noonan also expressed his gratitude to the staff, especially to Director Jorgenson and Manager Lovshin, for working hard on the budget.

**Motion**

**Mayor Pro Tem Haladay announced voting on FY19 budget adoption as amended.** All voted aye, motion carried.

- B. CONSIDER A RESOLUTION TO SET FEES CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION AND REPEAL RESOLUTION 20345. **Resolution 20450**

**Staff Report**

Budget Manager Libbi Lovshin reported the City and Lewis & Clark County jointly analyze and agree each year on a recommended tipping fee for the operation of the City Transfer Station and the Lewis & Clark County landfill. The City is proposing to leave the Transfer Station tipping fee at \$30.75. The County Landfill is proposing to leave their tipping fee at \$28.00. The Public Works Department is recommending keeping the total tipping fee at \$58.75. The City Transfer Station is proposing to charge commercial customers, cash customers or any

residential customer that exceeds the permit credit \$10.00/each for mattresses and box springs plus current tipping fee.

This resolution would allow setting fees for disposal of garbage and refusing at the City of Helena Transfer Station.

Manager Lovshin recommended approval of a resolution setting fees to be charged for disposal of garbage and refuse at the City of Helena transfer station and repeal Resolution No. 20345.

Discussion

Commissioner O'Loughlin asked Manager Lovshin to elaborate on what the City currently does with respect to mattresses and how neighboring communities of Helena size deal with the same issue. Manager Lovshin explained that currently, Helena didn't charge for mattresses and people from other counties, where they get charged for disposal of the mattresses, bring them to Helena to dispose of. Manager Alles clarified that people bringing mattresses to the transfer station do get charged when they get weighed but not as a separate charge for each mattress.

Public Testimony

Mayor Pro Tem Haladay opened the public hearing and called for anyone wishing to address the commission.

There being no persons wishing to address the commission, Mayor Pro Tem Haladay closed the public portion of the hearing.

Motion

**Commissioner O'Loughlin moved approval of a resolution setting fees to be charged for disposal of garbage and refuse at the City of Helena transfer station and repeal Resolution No. 20345.**

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

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO R-2 (RESIDENTIAL), R-O (RESIDENTIAL OFFICE) AND B-2 (COMMERCIAL) DISTRICTS PRIOR TO ANNEXATION INTO THE CITY OF HELENA: FOR PROPERTY GENERALLY DESCRIBED AS PHASES TWO AND THREE OF THE WESTSIDE INFRASTRUCTURE EXTENSION PROJECT. **Ordinance 3240**

Staff Report

City Planner Dustin Ramoie reported the City initiated this proposal for this pre-zoning to start the process of providing all city services for existing and new development of the properties located within this area. City Ordinance requires property to be pre-zoned prior to annexation. Current land uses in the area include but are not limited to single dwelling residential, multi-dwelling residential, and commercial. This pre-zoning would become effective upon annexation. On February 8, 2018, City staff hosted a public information meeting at the Montana Wild Center to discuss these pre-zoning proposals with affected property owners in the area. Approximately 35 citizens attended the meeting and a good dialogue between City staff and attendees took place. Most comments and questions about zoning were answered on site and some follow-up discussions in the following days addressed the remainder. The Helena Zoning Commission held a public hearing on the portion of phase two that is west of Hiawatha Street and along Cannon Street on September 12, 2017. From that public hearing a recommendation to pre-zone the area with an R-2 District designation was approved; however, the B-2 designation was not recommended and staff was asked to bring forth another proposal for those three properties located immediately west of Hiawatha Street along Euclid Avenue. Staff changed the pre-

zoning designation to the R-O district as requested and has included the entire area that was under consideration at that meeting into this larger proposal, so it could be looked at as an entire neighborhood. The vacant property and properties developed with office uses are accommodated by right within the R-O district, with lower impacts than the initially proposed B-2 District. The Helena Zoning Commission then hosted a public hearing encompassing an expanded area on May 8, 2018, where a recommendation of approval was approved by a 3-0 vote.

This area is included in the area covered by the Treasure State Endowment Grant (TSEP) that was given to the City to help address infrastructure issues on the Westside. City infrastructure has been installed in some of the area and planned for future installation on the other portion of the area and there is now nine pending annexation requests in the subject area as well as many other property owners who have expressed an interest in annexation and connection to city services. Many of these inquiries are awaiting the pre-zoning of the property and the installation of the infrastructure.

Pre-zoning the properties is required prior to annexation and will allow the nine pending annexation requests in the area to move forward. It will also prepare the areas in phase two and three of the Westside infrastructure project for future annexation.

Pre-zoning is a required step prior to annexation. Annexation is a required step to make connection to city utilities like water and wastewater. Utilizing city water and wastewater allows for a more compact development pattern and is more efficient than development on individual well and septic.

Planner Ramoie recommended approval of the first passage of an ordinance for a pre-zoning designation to R-2 (Residential) District, R-O (Residential District) and B-2 (General Commercial) District, amending City of Helena Ordinance No. 2359 and the official zoning map after the properties are annexed; for the property as legally described in the attached ordinance.

#### Discussion

Commissioner Noonan asked about the possible timeline for when the annexation would begin. Planner Ramoie explained that the phase two area needed to be considered as soon as it could be done, so that in about a month there could be first discussions with the City Commission. With respect to the remainder of phase three area, those properties west of Granit Ave. or south of Woodward Ave. could be handled as applicants would petition the City to annex; that area was not under consideration for annexation at this time.

Commissioner O'Loughlin asked how the three properties located west of Haiwatha St. were characterized under the County zoning that were proposed in today's presentation to be zoned R-O instead of B-2, as well as general requirements differentiating between B-2 and R-O. Planner Ramoie explained that one of the owners from there initially wanted to be B-2. The growth policy showed it was Commercial. So initially staff had proposed B-2, but the zoning Commission wasn't comfortable approving that. Staff was asked to prepare a different proposal; the R-O district still fits all of the three properties uses. Planner Ramoie explained specifics with respect to differences between B-2 and R-O. Planner Ramoie noted that with what exists on the ground, R-O would make most sense even though there were no changes to the properties.

Commissioner Haladay asked what would happen to existing properties if the Commission took action on pre-zoning. Planner Ramoie explained that nothing would happen, those properties would not need to

be changed. Those properties with pre-existing non-conformities are allowed to stay with them; zoning restrictions do not get retroactively enforced on properties that already exist.

Commissioner Haladay referred to a medical marijuana dispensary located in the area that was being pre-zoned and asked whether any federal/state/local regulations would apply to it upon annexation. Attorney Jodoin replied that according to City Code regulations, all businesses are required to have a city business license and City Code precluded the City from issuing a business license to any business that is prohibited by federal law and possession of marijuana is still prohibited under the federal law, so, upon annexation, the City would not give business license even for medical marijuana, even though it's allowed by state law. Commissioner Haladay asked for clarification: if the City chose to change that part of the Code and allow business license for that, it could do so. Attorney Jodoin concurred.

**Public Testimony**

Mayor Pro Tem Haladay opened the public hearing and called for anyone wishing to address the commission.

Rebeca Wicken, Haiwatha St. resident, asked what kind of costs pre-zoning would involve for people like her, who have water but not sewer, as well as inquired why the vote needed to take place at this meeting.

Dawn Therriault, property owner in proposed phase two, stated that over a year ago she requested to have her property annexed to the City. Ms. Therriault encouraged the Commission to approve the pre-zoning.

**Motion**

**Commissioner O'Loughlin moved approval of the first passage of an ordinance for a pre-zoning designation to R-2 (Residential) District, R-O (Residential District) and B-2 (General Commercial) District, amending City of Helena Ordinance No. 2359 and the official zoning map after the properties are annexed, for the property as legally described in the attached ordinance.**

Commissioner Farris-Olsen seconded the motion.

**Discussion**

In reply to Ms. Wicken's question, Commissioner Farris-Olsen stated that there would be no associated costs right now; however, if that area gets annexed, there probably would be associated costs. Commissioner Farris-Olsen encouraged Ms. Wicken to talk with the City Planner, City Manager, or City Attorney.

Mayor Pro Tem Haladay noted that normally, when the City does annexations, pre-zoning and annexation are done simultaneously and asked why there was change in approach for the west side. Planner Ramoie replied that because it was a big project, the staff's recommendation was to have a multi-stage project.

Commissioner Farris-Olsen asked to confirm that in order to annex a property, it would have to pre-zoned first. Planner Ramoie concurred.

**Vote**

All voted aye, motion carried.

**Public  
Communications**

PUBLIC COMMUNICATIONS  
No comments received.

***Meetings of  
Interest***

MEETINGS OF INTEREST

The Administrative Meeting is scheduled for July 11 and the next Commission Meeting is July 16, 2018.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:51 p.m.

/S/ WILMOT COLLINS  
MAYOR

ATTEST:

/S/ DEBBIE HAVENS  
CLERK OF THE COMMISSION