

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
November 1, 2010
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, November 1, 2010 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 Cartwright, Ellison, Thweatt and Elsaesser were present. City Manager Ron Alles, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Lorabelle Behlmer 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 October 18, 2010 were approved as submitted.

Appointments

APPOINTMENTS:

- A. City-County Planning Board
- B. Bill Roberts Golf Advisory Board
- C. Helena International Affairs Council

Mayor Smith asked for Commission concurrence on the following appointments:

City-County Planning Board - Appointment of Lisa L. Scates to a first term on the City County Planning Board. Term will begin upon appointment and expire September 1, 2013.

Bill Roberts Golf Advisory Board - Appointment of Arthur Pembroke and Christopher DeVerniero to first terms on the Bill Roberts Golf Advisory Board. Terms will begin on November 1, 2010 and expire October 30, 2013.

Helena International Affairs Council - Appointment of Annie Glover to a first term on the Helena International Affairs Council. Term will begin upon appointment and expire October 28, 2013. Reappointment of Doreen Kutufam and Mark Annas to HIAC. Terms will begin upon appointment and expire October 28, 2013.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved approval of the appointments to the City/County Planning Board, Bill Roberts Golf Advisory Board and Helena International Affairs Council as outlined above. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. A one-year time extension for final plat approval for the Burnham Ranch Marketplace Subdivision; generally located northeast of the Custer Avenue /Kelleher Drive intersection
- C. Memorandum of Understanding for East Valley Bus Service

City Manager Ron Alles recommended approval of the claims and the consent agenda.

Commissioner Cartwright asked item B be removed for discussion.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved approval of items A and C on the consent agenda. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Item B

- B. A one-year time extension for final plat approval for the Burnham Ranch Marketplace Subdivision; generally located northeast of the Custer Avenue /Kelleher Drive intersection

Discussion

Commissioner Cartwright noted a building is being built on what appears to be property included in the subdivision and asked how that is possible before final plat approval. Community Development Director Sharon Haugen explained the property is currently in the city limits. There is an existing lot within the subdivision with building rights; regardless of whether or not the subdivision moves forward, the right exists to build the building.

Commissioner Cartwright indicated he would support the proposed one-year time extension but would have concerns with extending final plat approval beyond that timeframe.

Motion

Commissioner Ellison moved approval of item B on the consent agenda. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser reminded citizens to vote tomorrow, Tuesday, November 2, 2010.

Commissioner Cartwright reminded candidates election signs are not allowed on city property. He quoted François de La Rochefoucauld- "Hypocrisy is the homage that vice pays to virtue" and discussed concern for CI-105; although it is a citizen initiative the majority of the funding was donated by the National Association of Realtors.

Commissioner Thweatt spoke of handing out candy to a large number of trick-or-treaters on Halloween.

Commissioner Ellison thanked Commissioner Cartwright for taking him on a tour of worrisome pedestrian and bike travel areas.

He congratulated Helena High on their state championship soccer win and undefeated season, and commended Capital High for making it to the soccer finals.

Commissioner Ellison further reported Forbes Magazine had ranked Helena 9th out of 126 communities as a great place to live and raise a family.

Mayor Smith stated he too would like to participate in a tour of bike and pedestrian-ways. He also congratulated Helena High on their soccer championship win.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

Attorney Nielsen updated the Commission on negotiations with MT Rail Link (MRL)/Burlington Northern Santa Fe (BNSF) for use of their property for Centennial Trail. Manager Alles thanked the Non-motorized Transportation Advisory Council for their work on the Centennial Trail project. Commissioner Elsaesser commented this project reaffirms the city's commitment to safe non-motorized travel.

Report of the City Manager

REPORT OF THE CITY MANAGER

No report was given.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Lorabelle Behlmer gave an overview of the HCC's October 24, 2010 regular meeting. She reported the annual Neighborhood Fair will be held February 8, 2011 at 6:00p.m.

The HCC will be discussing the proposed Lamb/Beausoleil Park SID. City Manager Alles noted the HCC was approached when the SID was first proposed months ago and they declined participation.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO PLI (PUBLIC LANDS & INSTITUTIONS) DISTRICT PRIOR TO ANNEXATION A DEVELOPED TRACT OF LAND CONTAINING APPROXIMATELY 2.34 ACRES GENERALLY LOCATED SOUTH OF STUART STREET AND EAST OF GRANITE AVENUE WITH A PROPERTY ADDRESS OF 2450 FLOWERREE STREET.

Staff Report

City Planner Dustin Ramoie reported on June 8, 2010 the Zoning Commission unanimously recommended approval (4:0 vote) for the adoption of an ordinance pre-zoning to PLI (Public Lands and Institutions) District in reference to property legally described as Block 1 of the Highland Park Addition, Helena Montana; generally located north of Flowerree Street, south of Stuart Street, east of Granite Avenue, and west of Silverette Street, with a property address of 2450 Flowerree Street.

Mr. Ramoie recommended approval of the pre-zoning as it will help facilitate the future expansion of the Neighborhood Assembly of God Church. The proposal will allow for the elimination of a well and eventually a septic system and provide City of Helena water and wastewater services, which helps with water quality issues being experienced in the Westside area. The PLI pre-zoning designation is less restrictive than the existing County Special Zoning District #9, in which the property is now located, but is still compatible with the surrounding neighborhood as the district allows for churches, government offices, parks, and other public services. Many PLI based uses are desirable near residential areas due to the service and public use type of establishments that are allowed in the district.

He noted on October 18, 2010 the City Commission passed a resolution of intent to annex the subject property.

Discussion

Commissioner Thweatt asked how adjacent properties located in the city limits are zoned. Mr. Ramoie explained the only adjacent zoned property is located in a Planned Unit Development (PUD).

Commissioner Thweatt asked if churches are typically zoned PLI. Mr. Ramoie responded PLI is a common zoning designation for churches. Commissioner Thweatt asked if the city's residential zoning allows for churches. Mr. Ramoie stated yes, in the R-O and R-4 designations.

Commissioner Elsaesser asked if this is spot zoning. City Attorney Nielsen stated on its face, the proposal may appear as spot zoning but is not and should not be problematic. The PLI designation is a broad category that the city also uses for public parks, among other things, which are interspersed throughout neighborhoods. PLI also allows public-type facilities. He noted spot zoning doesn't mean zoning just one small area; it has to do with how the zoning fits into the entire zoning structure.

Public Testimony

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

Jeff Larson, applicant; urged the Commission to zone the property to allow for the church use.

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

Motion

Commissioner Ellison moved approval for the adoption of an ordinance pre-zoning to PLI (Public Lands and Institutions) District, amending City of Helena Ordinance No. 2359 and the official zoning map after the property is annexed, for property commonly known as the Neighborhood Assembly of God Church; legally described as Block 1 of the Highland Park Addition, all in Lewis & Clark County, Montana; generally located north of Flowerree Street, south of Stuart Ave, between Silverette Street and Granite Avenue. Commissioner Thweatt seconded the motion.

Discussion

Commissioner Thweatt asked if there is a cemetery located on the property. Mr. Larson stated no.

Commissioner Elsaesser expressed concern for future use of the property with the height allowed in the PLI District. Discussion was held on the allowable height in the district and the rights of existing buildings in the area at non-conforming heights.

Vote

All voted aye, motion carried. **Ord #3140**

B. CONSIDER ENLARGEMENT OF THE CITY'S WATER SERVICE AREA BOUNDARY TO INCLUDE THE FOLLOWING PROPERTY: WARREN ELEMENTARY SCHOOL, LEGALLY DESCRIBED AS SECTION 11, T10N, R3W, TRACT 1-A PER COS# 4938791E, LEWIS AND CLARK COUNTY MONTANA.

Staff Report

City Manager Alles reported the applicant, Helena Public Schools, has temporarily withdrawn their application for a water service extension.

C. CONSIDER A RESOLUTION VACATING A PORTION OF ALEXANDER AVENUE AND A PORTION OF THE ALLEY RIGHT-OF-WAY, BOTH IN THE WOODLAWN PARK ADDITION TO THE CITY OF HELENA.

Staff Report

City Engineer Ryan Leland reported since the resolution of intention was passed setting tonight's public hearing, staff has been notified that the full width of ROW should be vacated, instead of the original request for 15 feet. Mr. Leland recommended the Commission table action to allow for re-advertisement of the vacation with the correct dimensions.

There was Commission consensus to postpone the public hearing until proper advertising can be accomplished.

Public comment

Terrie Casey, applicant; thanked the Commission for considering vacating the full width of ROW instead of the original request of 15-feet.

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is November 10, 2010 and the next Commission Meeting is November 15, 2010.

Additional meetings include the City/County Joint Work Session on November 4, 2010 and Growth Policy Work Sessions on November 3 and 8, 2010.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:04 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission