

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
August 6, 2012
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, August 6, 2012 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 Elsaesser, Ellison and Thweatt were present. Commissioner Haque-Hausrath was excused. City Manager Ron Alles, City Attorney Jeff Hindoien and Deputy City Clerk Robyn Brown were present.

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 July 23, 2012 were approved as submitted.

Board Appointments BOARD APPOINTMENTS:
A. ADA Compliance Committee, Helena Regional Airport Authority Commission and Lewis and Clark County Heritage Preservation and Tourism Council

Mayor Smith asked for Commission concurrence on the following board appointments:

ADA Compliance Committee – Reappointment of George McCauley to a second term on the ADA Compliance Committee; term will begin upon appointment and expire September 1, 2015.

Helena Regional Airport Authority (HRAA) – Reappointment of Jane Fournier to a first full term on the Helena Regional Airport Authority; term will begin upon appointment and expire September 1, 2015.

Heritage Preservation and Tourism Council (HPTC) – Appointment of Donna Torgerson to the Heritage Preservation and Tourism Council; term will begin upon appointment and expire June 30, 2013.

Discussion Commissioner Ellison announced he would abstain from voting on the board appointments as HRAA appointee Ms. Jane Fournier is his spouse.

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

Motion Commissioner Elsaesser moved approval of the appointments to the ADA Compliance Committee, HRAA and HPTC as outlined above. Commissioner Thweatt seconded the motion. Motion carried 3-0, with Commissioner Ellison abstaining.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Resolution declaring certain personal property to be abandoned and unclaimed (bicycles) Res #19942

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

Public comment

Mayor Smith asked for public comment, none was received.

Motion

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Thweatt noted the Commission has received a petition to allow bikes on the Walking Mall and requested the issue be discussed at an upcoming Administrative Meeting.

Mayor Smith noted he would be out of town August 7th through 12th.

Commissioner Elsaesser announced he had attended a wedding at the Civic Center over the past weekend and commended the upkeep of the facility. He also thanked Police Department reserve officers for conducting a recent cell phone and seat belt use survey.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

A. Tom Cordingley – Grandstreet Theatre

City Manager Alles announced Mr. Tom Cordingley has retired as Director of Grandstreet Theatre after 18 years and thanked him for his work with the theatre and care of the building, which is owned by the City of Helena.

Mr. Cordingley spoke fondly of his time with Grandstreet and thanked Community Facilities Director Gery Carpenter for his aid in maintaining the building.

Mayor Smith and the Commission members thanked Mr. Cordingley for his service to the community and commended his work with Grandstreet. They also thanked him for his upkeep of the building.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

Regular Items

REGULAR ITEMS:

A. CONSIDER A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT (SLD) NO. 223

Staff Report

City Controller Glenn Jorgenson reported in 2005 NorthWestern Energy (NWE) installed lights in parts of Nob Hill Subdivision at the request of the developer, but the request for the creation of the district was inadvertently not submitted at that time. A recent audit completed by City staff and NWE discovered the error. NWE has submitted a request to the City to create the lighting district so that it can pay its electrical and installation costs. Although the installation costs will be amortized into the light district assessments, NWE will only be charging for months of service commencing after creation of the light district.

The proposed district will consist of 44 lighting units with underground wiring, fiberglass or metal poles with 16-foot mounting heights, and Lexington luminaries with 100-watt high-pressure sodium vapor lamps. The cost of maintenance, electrical energy, and administration for the first year is \$14,091 with the estimated cost being \$0.00734 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the City to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately sixty percent less than the first year's assessment depending on cash flow needs and actual electrical costs.

If the resolution of intention is approved, staff will advertise notice of the public hearing in the Independent Record twice and notify each property owner by mail. The property owners will have 15 days to protest creation of the district. If sufficient protest is received the district cannot be created according to State law and NEW has advised that it will remove the lighting infrastructure. A map of the proposed lighting district boundary, listing of all properties within the district and a light placement map were included in the Commission packet.

Mr. Jorgenson recommended approval of the resolution of intention as it would allow the city to assess the owners of the property within the district so that NWE can recover its installation and energy costs.

Discussion

Commissioner Elsaesser asked for more information on the cash flow needs of the district. Mr. Jorgenson explained a separate fund is always kept for each district so cash flow can be tracked as each one is unique.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Elsaesser moved approval of a resolution of intention to create SLD No. 223 and set a public hearing date for September 10, 2012. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19943**

B. CONSIDER A RESOLUTION OF INTENTION TO LEVY AN ASSESSMENT UPON ALL PROPERTY WITHIN SPECIAL IMPROVEMENT LIGHTING DISTRICT (SLD) NO. 223 TO DEFRAY THE COST OF INSTALLING AND MAINTAINING IMPROVEMENTS IN THE DISTRICT FOR FISCAL YEAR 2013

Staff Report

Controller Jorgenson reported staff is proposing to create SLD No. 223. State law requires a resolution of intention to levy an assessment on the owners of property within the district. If the district is created on September 10, 2012, a resolution to assess will be presented to the Commission as part of a public hearing on that same date. The properties to be assessed were listed on the assessment roll included in the Commission packet. The first year's annual assessment will be \$.00734 per square feet of property owned within the district.

Mr. Jorgenson recommended approval of the resolution of intention to allow electrical and maintenance charges from NorthWestern Energy to be paid.

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

Motion Commissioner Ellison moved approval of a resolution of intention to levy an assessment upon all property in SLD No. 223 to defray the cost of maintaining improvements in said district for fiscal year 2013 and set a public hearing date for September 10, 2012. Commissioner Thweatt seconded the motion. All voted aye, motion carried. **Res #19944**

C. CONSIDER FINAL APPROVAL FOR A MAJOR SUBDIVISION FOR RENT OR LEASE TO ALLOW 33 DWELLING UNITS IN 11 BUILDINGS ON A SINGLE LOT LOCATED IN THE B-2 (GENERAL COMMERCIAL) DISTRICT

Staff Report City Planner Kathy Macefield reported On May 21, 2012 the Helena City Commission approved a major subdivision for lease or rent for multiple buildings on a single lot located in the B-2 (General Commercial) District. Locating multiple dwelling units on the same lot is a permitted use in the B-2 District.

The subdivision approval was subject to two conditions related to local services and easements. To mitigate the impact on local services, the conditions for subdivision approval included the following requirements: infrastructure plans prior to issuance of a building permit; city-owned infrastructure located in a right-of-way or an easement to the City; an internal emergency access easement; and a plan for solid waste removal. Utility and emergency access easements also needed to be recorded. These conditions have been completed. The status of the conditions and the applicant's response to those conditions were included in the Commission packet.

Ms. Macefield recommended final approval of the subdivision is planned to address a housing need for older persons with low and moderate incomes. The subject property is located in the vicinity of commercial uses located to the east which could encourage non-motorized traffic and reduce the amount of vehicle miles travelled (vmt). The subdivision is consistent with mixed use designation of the 2011 City of Helena Growth Policy and the Housing, Public Facilities and Services, Water, and Land Use goals and objectives, and with the Montana subdivision review criteria.

Discussion Commissioner Elsaesser spoke in support of the proposal.

Public comment Mayor Smith called for public comment.
Gene Leuwer, RMDC Executive Director, applicant; urged the Commission to support final approval of the subdivision.

Motion Commissioner Thweatt moved final approval for a major subdivision for lease or rent for multiple buildings on a single lot located in the B-2 (General Commercial) District for property legally described as Lot 10, Anderson Business Park. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Public Hearings PUBLIC HEARINGS:
A. CONSIDER A RESOLUTION TO VACATE A SMALL PORTION OF CABOOSE WAY BETWEEN COMMON AREA #6 IN BLOCK A, LOT #1 IN BLOCK D AND AN ADDITIONAL PORTION

ADJACENT TO THE EASTERN PROPERTY BOUNDARY OF
LOT 1 IN BLOCK D ALL AS SHOWN ON THE GREAT
NORTHERN TOWN CENTER PUD

Staff Report

City Engineer Ryan Leland reported Artisan LLP, the primary applicant, is requesting a portion of Caboose Way be vacated to allow expansion of the existing Cinemark Theaters. The right-of-way (ROW) is currently used for fire truck access, solid waste collection and has an 8" city water main located in the street. The City Commission passed a Resolution of Intention to vacate the ROW on July 23rd.

The applicant is requesting to vacate a small portion of Caboose Way between Common Area #6 in Block A, Lot #1 in Block D and an additional portion adjacent to the eastern property boundary of Lot 1 in Block D all as shown on the Great Northern Town Center. The square footage of Caboose Way to be vacated is 614 square feet and 154 square feet respectively for a total of 764 square feet. At the time staff wrote the Commission memo, the applicant had submitted plans for the water line relocation but the plans have not yet been approved. Please note that with any fire truck turn around design, parking will have to be removed from both sides of Caboose Way. No deeds or building permits will be issued for the vacated ROW until all the conditions of the vacation have been met. The adjacent land values averaged from \$6.75 to \$19.50 per square foot. The 614 s.f. in the first section to be vacated was averaged at \$13.12 per square foot for a total of \$8,058.75. The 154 s.f. in the second section to be vacated was calculated at \$19.50 per square foot for a total of \$3,003.00. The total calculated value for the two sections to be vacated is \$11,061.75.

Mr. Leland recommended approval of the requested street vacation as it will allow for expansion of the Cinemark Theaters for more screens and additional technology.

Public Testimony

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

Tyler Emmert, Stahly Engineering, representing the applicant; spoke in support of the project.

Don Laine, President & CEO of Anderson Zurmuehlen; spoke in support of the project. Mr. Laine also read a letter of support from Mr. James Bos, Co-Owner of Silver Star Steak Company, indicating support for the proposal.

Dick Anderson, Great Northern Town Center (GNTC) property owner; urged the Commission to support the proposal.

Kathy Brown, representing the GNTC Association; spoke in support of the project.

Alan Nicholson, 1 Quarry Lane, applicant; gave the history of Cinemark's decision to locate in the downtown area and urged the Commission to support the proposal.

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

Discussion

Mayor Smith commended Mr. Nicholson for his work on the successful development of the GNTC area. Commissioners Ellison and Elsaesser spoke in support of the project.

Motion

Commissioner Ellison moved approval of a resolution to vacate a portion of Caboose Way between Common Area #6 in

Block A, Lot #1 in Block D and an additional portion adjacent to the eastern property boundary of Lot 1 in Block D all in the Great Northern PUD as shown on the attached plan with conditions as set forth in the resolution. Commissioner Thweatt seconded the motion. All voted aye, motion carried. **Res #19945**

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP FOR A ZONE CHANGE FROM R-3 TO A R-O DISTRICT FOR 812 ABBEY STREET (STEWART HOMES)

Staff Report

Ms. Macefield reported on July 10, 2012 the Helena Zoning Commission unanimously (3:0 vote) recommended approval for an Ordinance, amending the Official Zoning Map, for a zone change from R-3 (Residential) to a R-O (Residential-Office) District for 812 Abbey Street (Stewart Homes). The Helena Housing Authority originally applied for a zone change to a R-4 (Residential) District to: implement their master plan; allow the increased building height; and accommodate the Early Learning Center and an adult-oriented training program with the Career Training Institute (CTI) which would be a permitted use as an instructional facility. After the question related to spot zoning was raised, staff evaluated the proposed zone change with both the R-4 and R-O zoning options and recommended the R-O District to the Zoning Commission.

Ms. Macefield recommended approval of the proposed zone change as it is being requested to address a housing need for persons with low and moderate incomes. The subject property is located in the vicinity of commercial uses which could encourage non-motorized traffic and reduce the amount of vehicle miles travelled (vmt). The proposed zone change is consistent with mixed use designation of the 2011 City of Helena Growth Policy and the Housing, Public Facilities and Services, Water, and Land Use goals and objectives, the Montana zoning criteria, and the applicant's master plan.

Discussion

Commissioner Thweatt spoke to the master plan for the redevelopment of Stewart Homes and asked if the Commission could require it be followed if the zoning change is granted. Ms. Macefield explained conditions cannot be placed on zone changes.

Public Testimony

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

Josh LaFramboise, HHA Executive Director, applicant; spoke in support of the proposal and urged the Commission to approve the zone change.

Susan Riggs, Intrinsic Architecture, 111 N. Tracy, Bozeman, MT; provided a Powerpoint presentation to the Commission regarding the master plan for the transformation of Stewart Homes.

Brian Makula, 2217 9th Avenue; spoke in opposition to the master plan for redevelopment of Stewart Homes and submitted written testimony for the record.

Jeffrey Krott, Stewart Homes resident; spoke in support of the zone change and redevelopment master plan. Mr. Krott noted if the redevelopment is not completed he will move away from Helena because of the current condition of Stewart Homes.

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

Discussion

Mayor Smith and Commissioners Thweatt, Ellison and Elsaesser spoke in support of the proposal.

Motion

Commissioner Ellison moved approval of first passage of an ordinance amending the official zoning map described in Section 11-1-3 of the Helena Zoning Regulations, for a zone change from R-3 (Residential) to a R-O (Residential-Office) District for property legally described in the ordinance. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3160**

Public Communications

PUBLIC COMMUNICATIONS

Mr. LaFramboise, HHA Executive Director, thanked the Commission for voting in support of the zone change and stated he looks forward to working with the city as the redevelopment plan moves forward.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is August 15, 2012 and the next Commission Meeting is August 20, 2012.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:32 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission