

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
September 10, 2012
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, September 10, 2012 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Pro-Tem Elsaesser indicated for the record that Commissioners Ellison, Thweatt and Haque-Hausrath were present. Mayor Smith was excused. City Manager Ron Alles, City Attorney Jeff Hindoien and Deputy City Clerk Robyn Brown were present. Others present were Jim McCormick representing the Helena Citizens Council.

Pledge of Allegiance

Mayor Pro-Tem Elsaesser 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 August 20, 2012 were approved as submitted.

Proclamation

PROCLAMATION:

A. Constitution Week

Mayor Pro-Tem Elsaesser read the proclamation designating September 17 – 23, 2012 as Constitution Week.

Ms. Jane Hamman accepted the proclamation and invited the Commission to attend events celebrating the 25th anniversary of the signing of the Constitution of the United States on September 17, 2012.

Board Appointments

BOARD APPOINTMENTS:

A. City-County Planning Board, Helena Regional Airport Authority Commission (HRAA), Helena Open Lands Management Advisory Committee (HOLMAC), Public Art Committee, Tourism Business Improvement District (TBID) and Zoning Commission

Mayor Pro-Tem Elsaesser asked for concurrence on the following board appointments:

City-County Planning Board - Appointment of Steve Baiamonte to a first term as a city appointment to the City-County Planning Board. Term will begin upon appointment and expired August 31, 2015.

Helena Regional Airport Authority - Reappointment of Mark Eichler as the joint appointment to the Helena Regional Airport Authority Commission. Appointment will be contingent upon the approval of the Board of County Commission. Mr. Eichler has served two terms on the Airport Authority; however, he is interested in serving an additional term due to the large turn over in members over the last two years.

HOLMAC - Appointment of Dan Wirak to a first term on HOLMAC. Term will begin upon appointment and expired June 30, 2015.

Public Art Committee - Appointment of Cienna Cullen as an artist representative to a first term on the Public Art Committee. Term will begin upon appointment and expire December 31, 2015.

TBID - Appointment of Jeff Leverdeire to a first term on the TBID. Term will begin upon appointment and expire April 20, 2016.

Zoning Commission - Appointment of Tyler Emmert to a first term on the Helena Zoning Commission. Term will begin October 1, 2012 and expire September 30, 2015.

Public comment Mayor Pro-Tem Elsaesser asked for public comment, none was received.

Motion Commissioner Ellison moved approval of the appointments to the City/County Planning Board, HRAA, HOLMAC, Public Art Committee, TBID and Zoning Commission as listed above. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Acceptance of a grant from the United States Department of Agriculture, Forest Service for the Mount Ascension Natural Park Expansion project
C. Acceptance of the July 2012 pledged collateral report
D. Acceptance of a \$56,615.00 Lowe's Charitable & Educational Foundation grant to be used for construction of a "tot lot" at Centennial Park playground
E. A Professional Services Agreement with Current Transportation Solutions, Inc. for the update of the Helena Area Transit Service's Five Year Transit Plan
F. Sponsorship of a CDBG planning grant application on behalf of Rocky Mountain Development Council (RMDC) to complete a preliminary architectural report (PAR) for the Serendipity Apartments
G. Rocky Mountain Development Council Head Start Transportation Agreement

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

Discussion Commissioner Ellison asked that item B be removed for discussion.

Commissioner Haque-Hausrath asked that item E be removed for discussion.

Public comment Mayor Pro-Tem Elsaesser asked for public comment. Stacy Summer, 3306 Tizer; spoke in support of Item D.

Motion Commissioner Ellison moved approval of items A, C, D, F and G on the consent agenda. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

Item B

B. ACCEPTANCE OF A GRANT FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE FOR THE MOUNT ASCENSION NATURAL PARK EXPANSION PROJECT

Commissioner Ellison stated the subject grant is in the neighborhood of \$220,000 and will go towards the purchase of property in the area of Alpine Meadows. He asked a representative from Prickly Pear Land Trust (PPLT) to provide more information on the grant.

Heather Niece, PPLT, 46 N. Last Chance Gulch; gave an overview of the grant and its purpose. She urged the Commission to vote in support of the funding.

Motion

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

Item E

E. A PROFESSIONAL SERVICES AGREEMENT WITH CURRENT TRANSPORTATION SOLUTIONS, INC. FOR THE UPDATE OF THE HELENA AREA TRANSIT SERVICE'S FIVE YEAR TRANSIT PLAN

Commissioner Haque-Hausrath referred to public testimony that had been received expressing concern that the scope of work for the transit plan does not include bicycles and asked City Manager Alles to explain the purpose of the plan.

Manager Alles explained the transit plan update is for transit (bus service) only and bicycles will be included in the transportation plan.

Manager Alles stated written testimony has been received by Mr. Moon and noted it would be included in the Commission packet as part of the official record. He assured Mr. Moon he would be notified of meetings regarding the update to the plan.

HATS Supervisor Steve Larson gave an overview of the scope of work associated with the update to the transit plan.

Motion

Commissioner Haque-Hausrath moved approval of item E on the consent agenda. Commissioner Thweatt seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison referred to concerns by the Winne Avenue neighborhood regarding vehicles traveling at excessive speeds. He noted the City has performed traffic calming in the area to hopefully solve the problem and thanked the Public Works Department for their work to help remedy the issues.

Commissioner Elsaesser spoke about wildfires throughout the state and the importance of keeping Montana's communities safe.

A. CONSIDER A RESOLUTION OF SUPPORT FOR MONTANA RAIL LINK (MRL)

City Manager Alles gave the background related to the proposed resolution and noted he and Mayor Smith have had several positive meetings with MRL representatives. He spoke in support of the city and MRL working together to identify solutions to issues like quiet zones.

Public comment

Mayor Pro-Tem Elsaesser asked for public comment
Jim Lewis, MRL; urged the Commission to approve the resolution.

Motion

**Commissioner Ellison moved approval of a resolution
declaring support for Montana Rail Link.** Commissioner Thweatt
seconded the motion.

Discussion

Commissioner Haque-Hausrath expressed concern for the
resolution as approval of it could seem the city is singling MRL out for
special treatment since cooperative projects like Centennial Trail are not
listed in the resolution. She also expressed concern that the findings of
fact in the resolution are very specific and have not been verified.

Commissioner Thweatt noted he would support the resolution.
He referred to the coal train issue the Commission worked on several
months ago and noted he never intended to criticize MRL or indicate
they were not good neighbors during those discussions.

Commissioner Ellison indicated he would vote for approval of the
resolution and spoke in support of working constructively with MRL to
find solutions to quiet zone and crossing issues in the city. He noted he
is comfortable supporting the document although he agrees with
Commissioner Haque-Hausrath's concerns regarding the detailed facts
listed in the resolution.

Mayor Pro-Tem Elsaesser noted he would support the
resolution.

Vote

All voted; motion carried 3-1 with Commission Haque-Hausrath
voting no. **Res #19965**

***Report of the City
Attorney***

REPORT OF THE CITY ATTORNEY
No report was given.

***Report of the City
Manager***

REPORT OF THE CITY MANAGER
Manager Alles announced Regional EPA Director Jim Martin will
be in Helena on Friday, September 14th to announce the city has
received a "Greening America's Capitals" grant. The ceremony will be
held at 11:00 a.m. on the Walking Mall.

***Report from the
Helena Citizens
Council***

REPORT FROM THE HELENA CITIZENS COUNCIL
HCC member Jim McCormick thanked the city for the traffic
calming work that was done on Winne Avenue.
Commissioner Ellison thanked the HCC for their involvement in
the issue and working with the city to get the devices installed.

Public Hearings

PUBLIC HEARINGS:
A. CONSIDER A RESOLUTION CREATING SPECIAL
IMPROVEMENT LIGHTING DISTRICT (SLD) NO. 223

Staff Report

City Controller Glenn Jorgenson reported on August 6, 2012 the
Commission approved a resolution of intention to create SLD No. 223 in
parts of Nob Hill Subdivision. The lights were installed in 2005 by
NorthWestern Energy (NWE), but the request for the creation of the
district was inadvertently not submitted at that time. To facilitate the

creation of the light district, NWE will only bill for months after the district is created.

City staff advertised the lighting district in the Independent Record twice and mailed notices to each land owner. The City Clerk received one written protest representing 5.6% of the property within the 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 will \$14,091 with the estimate cost being \$.00734 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to establish a cash reserve to cover costs incurred prior to receipt of the first assessments. Thereafter, the annual assessments will be approximately sixty percent of the first year's assessment depending on cash flow needs and actual electrical costs.

Mr. Jorgenson recommended approval of the creation of SLD No. 223 as it will allow the City to assess the owners of property within the district so that NWE can begin to recover its installation and energy costs.

Discussion

Commissioner Ellison asked for the reasoning behind the first protest received. Mr. Jorgenson noted the property owners had only stated they feel the existing lighting in the area is sufficient.

Public Testimony

Mayor Pro-Tem Elsaesser declared the public portion of the hearing open and called for any persons wishing to address the Commission.

There being no persons wishing to address the Commission, Mayor Pro-Tem Elsaesser closed the public hearing.

Motion

Commissioner moved Thweatt moved approval of a resolution creating Special Improvement Lighting District No. 223 in the City of Helena, Montana. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19966**

B. CONSIDER A RESOLUTION LEVYING 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

City Controller Jorgenson further reported a resolution to create SLD No. 223 was just considered by the City Commission. State law requires that to levy an assessment on property within the district, the City Commission must hold a public hearing to ensure participants can voice their opinion as to the amount assessed. Staff advertised the public hearing twice in the Independent Record. Also, the letter mailed to each property owners notifying them of the proposed creation of the district included the amount to be assessed.

A list of each property within the district and the amount to be assessed for the first year is shown in Exhibit A - Assessment Roll. The first year's assessment will be \$.00734 per square foot of property owned within the district.

Mr. Jorgenson recommended approval of the resolution setting the assessment.

Public Testimony

Mayor Pro-Tem Elsaesser declared the public portion of the hearing open and called for any persons wishing to address the Commission.

There being no persons wishing to address the Commission, Mayor Pro-Tem Elsaesser closed the public hearing.

Motion

Commissioner Thweatt moved approval of a resolution levying an assessment upon all property in Special Improvement Lighting District No. 223 to defray the cost of maintaining improvements in said district for fiscal year 2013. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Res #19967**

C. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN EXISTING TRIPLEX TO CONTINUE TO BE LOCATED IN A R-2 (RESIDENTIAL) DISTRICT AT 1006 ALLISON STREET

Staff Report

City Planner Kathy Macefield reported on Tuesday, August 14, 2012 the Helena Zoning Commission unanimously (4:0 vote) recommended approval for a resolution granting a Conditional Use Permit (CUP) to allow a triplex to continue to be located in a R-2 (Residential) District at 1006 Allison Street, subject to one condition. A building permit was originally obtained for a duplex in the mid-1960's, and a porch was added later; sometime during the mid-1980's, the porch was converted to a third dwelling unit without obtaining a proper building permit.

The applicant has requested the CUP to bring the existing triplex into compliance with the Helena Zoning Ordinance if she chooses to sell the property in the future. If approved, the CUP would go with the property, and the triplex would no longer be in violation of the Zoning Ordinance.

Ms. Macefield noted the applicant shall obtain, at their cost, an inspection by the Helena Fire Department and Building Division to ensure that the third dwelling unit is habitable. The applicant shall comply with any recommended findings.

Ms. Macefield recommended approval of the CUP as it would bring the existing triplex into compliance with the Helena's Zoning Ordinance. As a result, the triplex would continue to satisfy a community need for rental housing.

Public Testimony

Mayor Pro-Tem Elsaesser declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Jane Phillips, 1320 Floweree; spoke in opposition to the CUP and believes allowing a dwelling that should be in an R-3 District will destroy the neighborhood and sets a bad precedent. She also expressed concern for traffic issues in the area.

Carol Lopach, 1531 Peosta, applicant; explained the dwelling was already a triplex when she purchased it and she is trying to make the situation right and comply with city regulations and code. She referred to complaints regarding trash issues near the property and

noted she has brought the issues to the attention of her renters and clarified some of the trash issues do not come from her property and/or renters. Ms. Lopach requested the building inspection be done to review compliance with codes at the time the construction work was performed, not current code.

Dan McGowan, 1531 Peosta, applicant; explained the setback and parking conditions on the property.

There being no further persons wishing to address the Commission, Mayor Pro-Tem Elsaesser closed the public hearing.

Discussion

Commissioner Thweatt asked what would happen if the CUP were denied. City Attorney Hindoien explained the city could look at pursuing enforcement action against the property owners for non-conforming use; however, that procedure and process would have to be investigated.

Commissioner Thweatt asked which version of the building code will be used for the inspection. Community Development Director Haugen explained discussions have been held with the City Attorney's Office on the issue and staff will be looking for compliance with basic public health and safety requirements during the inspection.

Mayor Pro-Tem Elsaesser asked if the inspection would be more of a basic occupancy inspection instead of a code-compliance inspection. Director Haugen concurred.

Commissioner Haque-Hausrath acknowledged the public testimony of Ms. Phillips and disagreed that approval of the CUP would be detrimental to the neighborhood.

Motion

Commissioner Thweatt moved approval of a resolution granting a Conditional Use Permit (CUP) to allow a triplex to be located in a R-2 (Residential) District for property legally described in the resolution. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19968**

Public Communications

PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST
The next Administrative Meeting is September 19, 2012 and the next Commission Meeting is September 24, 2012.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:05 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission