

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
September 15, 2014
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, September 15, 2014 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, Haque-Hausrath and Haladay were present. City Manager Ron Alles, Acting City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were Shawn White Wolf 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 August 18, 2014 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Acceptance of the FY 15 100% State of Montana Funded Hazmat Team grant in the amount of \$44,167
- C. Resolution declaring eight (8) bicycles to Drug Treatment Court that are unclaimed and/or abandoned property of the City of Helena impound lot
- D. Final passage of Ordinance #3198 amending the Official Zoning Map for a zone change from R-3-T#25 to B-2 District for Lots 9-A and 10-A, Block 11, Flower Garden Addition, Helena, Montana; generally located west of Cooke Street and north of Chestnut Street **Ord #3198**
- E. Final passage of Ordinance No. 3197 to eliminate the Transitional #22 District and retain the B-2 (General Commercial) District for Lots 5, 6, and 8 in Block 2 of the Hagler & Waddell Subdivision; with property addresses of 1021 and 1051 Enterprise Drive and 2801 National Avenue **Ord #3197**
- F. Construction Management Contract with Anderson Montgomery Consulting Engineers for the Centennial Trail Phase I, City Project #13-1
- G. Professional Services Agreement for the completion of the design of the West Main Street Reconstruction, City Project 11-4

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

Commissioner Elsaesser asked that items E and F be removed for discussion.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

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

Item E E. FINAL PASSAGE OF ORDINANCE NO. 3197 TO ELIMINATE THE TRANSITIONAL #22 DISTRICT AND RETAIN THE B-2 (GENERAL COMMERCIAL) DISTRICT FOR LOTS 5, 6, AND 8 IN BLOCK 2 OF THE HAGLER & WADDELL SUBDIVISION; WITH PROPERTY ADDRESSES OF 1021 AND 1051 ENTERPRISE DRIVE AND 2801 NATIONAL AVENUE

Commissioner Elsaesser noted he voted against item E during first passage of the ordinance and intends to vote against it again tonight. He commented he feels there is a rationale for separating commercial from residential in this neighborhood and noted he thought the staff presentation at the first hearing implied the zoning was temporary. In this case it is a higher density residential development that would have primary access via the alleyway, in addition to concerns for allowing that much access off any alleyway. For those reasons he noted he would vote against final passage of the ordinance.

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

Motion Commissioner Haque-Hausrath moved approval of item E on the consent agenda. Commissioner Haladay seconded the motion. Motion carried 4-1, with Commissioner Elsaesser voting no.

Item F F. CONSTRUCTION MANAGEMENT CONTRACT WITH ANDERSON MONTGOMERY CONSULTING ENGINEERS FOR THE CENTENNIAL TRAIL PHASE I, CITY PROJECT #13-1

Commissioner Elsaesser expressed concern that staff did not go through an adequate Request for Proposals (RFP) process for this construction management contract and that the chosen contractor may be perceived to have a perverse incentive based on other contracts related to design of the trail for CTEP applications. Commissioner Ellison echoed Commissioner Elsaesser's concerns. Both Commissioners confirmed the importance of the project and support for moving forward with the current recommendation due to timing.

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

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Mayor Smith announced HCTV Channel 11 has changed to Channel 189.
Commissioner Haladay expressed disappointment that citizens cannot watch HCTV without purchasing basic cable service or internet service.
Commissioner Ellison announced *U.S. News and World Report* has designated Carroll College as the #1 rated school in the western region. He noted Helena is very blessed to have a school of that caliber in the community and congratulated the College on achieving that ranking once again. Commissioner Ellison added that two members of the City Commission are alumni of Carroll College, those being Mayor Smith and Commissioner Elsaesser, and Helena's citizens are fortunate to have graduates from such an excellent academic institution serving on the Commission.

Mayor Smith concurred with Commissioner Ellison and spoke of a recent visit to Centennial Park where he was very pleased to be reminded there is no barrier, or tall fence separating the College campus and park. He commended the open access between the two properties.

Commissioner Elsaesser commented he would support anything that could be done to make the City's meetings more accessible to the public, agreeing with Commissioner Haladay's comments related to HCTV.

He then spoke about possible changes to the city's zoning regulations that could create more building within the city limits, citing the need for flexibility with infill development and green infrastructure. Commissioner Elsaesser described a higher density residential designation for single family homes in new development, a custom designation for newly annexed properties that included existing homes, and a commercial mixed use designation that would allow higher buildings based on green criteria for areas near downtown.

He referred to his comments on Consent Agenda Item F and indicated in the coming months he would like to hold further discussions on how the city chooses contractors for its large Public Works Projects.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Alles reported Water/Wastewater Superintendent Don Clark, Water Supervisor Jason Fladland and Natural Resources Coordinator Brad Langsather received awards from Governor Bullock today for their work on the upper Tenmile Watershed and Red Mountain Flume wildfire mitigation projects and their excellent cooperation with numerous government agencies.

The Commission congratulated Mr. Clark, Mr. Fladland and Mr. Langsather on their awards. It was noted all three were nominated by the Department of Natural Resources and Conservation (DNRC).

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL (HCC)

HCC member Shawn White Wolf reported the Council has been busy working on increasing their presence in the community through social media.

Commissioner Ellison thanked Mr. White Wolf for attending the Commission Meeting tonight to give an HCC report, as with the different priorities the HCC is working on it is very helpful to have timely communications between the HCC and City Commission.

Commissioner Elsaesser asked Mr. White Wolf to let the members of the HCC know the *DRAFT* City /County Solid Waste Study is available on the City's website – www.helenamt.gov

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RESOLUTION OF INTENTION TO TERMINATE CERTAIN RESIDENTIAL PARKING DISTRICTS.

Staff Report

Acting City Attorney Thomas Jodoin introduced items A, B and C and gave an overview of the intent of the resolutions.

Parking Commission Director Dave Hewitt reported various residential parking districts have been created by the City Commission pursuant to the authority granted by 8-14-17, Helena City Code. In

February 2014, the City Commission passed Resolution No. 20071 which established a consolidated listing of all previously created and designated Residential Parking Districts. That action also established an annual review of existing residential parking. Any residential parking district that had less than fifty percent (50%) of the affected properties' involvement in the district through the purchase of at least one permit should be considered by the commission for termination. City staff has identified numerous residential parking districts where permit purchases by the affected property owners is less than 50%. Staff sent letters to property owners in these districts advising them that if they wished to retain the residential parking district for their property, they needed to purchase permits by July 1, 2014. As a result of that process, the residential parking districts listed in the attached resolution of intention have been identified as having less than 50% of permits purchased by the affected property owners.

The proposed resolution of intention will begin the process for the Commission to consider termination of the residential parking districts with less than 50% permit purchases by the affected property owners.

Director Hewitt recommended approval of the resolution of intention to removing residential parking districts that fall below the 50% permit purchase criteria. There will be a reduction in the City's obligation to enforce parking restrictions in these districts. In areas where permits are not purchased by the majority of residents, removing the residential district will offer more parking to the general public, increasing awareness that roads are public rights-of-way.

B. CONSIDER A RESOLUTION OF INTENTION TO AMEND RESOLUTION NO. 9646 BY REMOVING VARIOUS RIGHTS-OF-WAY FROM THE TYPE B RESIDENTIAL PARKING ZONE ESTABLISHED BY RESOLUTION NO. 9646.

Staff Report

Attorney Jodion reported On August 6, 1984, the City Commission adopted Resolution No. 9646 which established a Type B residential parking zone for certain streets bordered by Olive Street on the west, Ming Place on the south, Benton Avenue on the east (including the eastern side of Benton abutted by residences from Clarke Street to Edwards Street), and Clarke Street on the north.

On July 22, 2002, the City Commission adopted Resolution No. 11785 which amended Resolution No. 9646. Specifically, portions of Benton Avenue and Clarke Street adjacent to 303 Clarke Street were removed from the residential parking zone at the request of that property owner.

In February 2014, the City Commission passed Resolution No. 20071 which established an annual review of existing residential parking. Any residential parking district that had less than fifty percent (50%) of the affected properties' involvement in the district through the purchase of at least one permit should be considered by the Commission for termination.

City staff has identified certain portions of the residential parking district created by Resolution No. 9646 as meeting this criterion. Staff sent letters to property owners in these districts advising them that if they wished to retain residential parking districts for their properties, they needed to purchase permits by July 1, 2014. As a result of that process, portions of Clarke Street, Olive Street, and Edwards Street have been

identified has having less than 50% of permits purchased by the affected property owners.

This proposed resolution of intention will start the process for the Commission to consider amending Resolution No. 9646 and remove portions of Clarke Street, Olive Street, and Edwards Street from the residential parking district created thereby.

Amend the residential parking district created by Resolution No. 9646 and remove Clarke Street, Olive Street, and Edwards Street from the underlying resolution creating that district.

By removing Clarke Street, Olive Street, and Edwards Street from this residential parking district, there will be a reduction in the City's obligation to enforce parking restrictions in these areas. In the areas that are being removed, more on-street parking will be available to the general public, increasing awareness that roads are public rights-of-way.

C. CONSIDER A RESOLUTION OF INTENTION TO AMEND RESOLUTION NO. 20071 TO CREATE AN UPDATED LIST OF EXISTING RESIDENTIAL PARKING DISTRICTS.

Staff Report

Attorney Jodoin continued In February 2014, the City Commission passed Resolution No. 20071 which established a consolidated listing of all previously created and designated Residential Parking Districts. That resolution also established an annual review of existing residential parking. Any residential parking district that had less than fifty percent (50%) of the affected properties' involvement in the district through the purchase of at least one permit should be considered by the Commission for termination.

The Commission is concurrently considering termination of various residential parking districts pursuant to that review. Further, the Commission is considering amending one of the residential parking districts.

Finally, certain residential parking districts exist where establishing resolutions could not be located. Legal authority for those districts does not currently exist and should not be included within the list of valid residential parking districts.

The proposed resolution of intention will start the process for the Commission to consider amending Resolution No. 20071 and creating a new updated consolidated list of the remaining residential parking districts.

Attorney Jodoin recommended approval of the proposed resolution in order to maintain one consistent and accurate list of the remaining residential parking districts.

Discussion

Commissioner Elsaesser asked for an explanation on how some of the districts didn't meet the new criteria set by the Commission in February. Director Hewitt explained some districts didn't include five properties and/or 50% of the residents did not purchase permits. Director Hewitt showed the affected districts using a PowerPoint presentation and Manager Alles noted the information was also available on pages 43 and 44 of the Commission packet.

Commissioner Haque-Hausrath referred to public comment submitted regarding the narrow width of Wedgewood Lane in the Sunhaven Subdivision. She asked if staff had investigated the option of striping one side of the street as no parking. Manager Alles apologized

he did not have that information tonight but would request an update from engineering staff and provide an answer to the Commission tomorrow. He reminded the Commission this is a resolution of intention and can always be amended when the final resolution is considered.

Commissioner Haque-Hausrath referred to public comment from a resident on the 1300 block of Broadway, across from the Capitol Complex and just east of Montana Avenue; stating there is already yellow "no parking" paint on their curbs and that is why the residents have not purchased permits, since the yellow paint indicates they cannot park in front of their homes. Director Hewitt indicated he was unaware of any situation existing as referenced in that public comment.

Manager Alles explained the process the City uses to identify which curbs to paint yellow. He stated he would provide more information on the City's standards and policy at the public hearing.

Commissioner Haque-Hausrath referred to public comment received expressing concern that a handicap spot would be lost by termination of a district. Director Hewitt clarified the handicap spot would remain; those spots are addressed by the Engineering Department and separate from these districts.

Commissioner Haladay if residential parking signs were left up in an area, yet it was not patrolled and ultimately kind of a pretend residential-only parking zone, what issues would that result in for the Parking Commission. Director Hewitt commented he feels all regulatory signage that is up should be enforced and patrolled. Commissioner Haladay asked if a sign was up but not patrolled/enforced and a violation of that sign requirement occurred and was reported by a citizen, would law enforcement respond to that violation. Attorney Jodoin stated he does not feel comfortable answering on behalf of the Police Department regarding what their workload would be; however, officers are almost always too busy with other pressing issues to address parking violations. Ultimately, if the signs are up and there is a resolution authorizing the district the city has the authority to enforce it.

Commissioner Elsaesser asked if amendments to the resolutions related to grandfathering districts or leaving the signs in place could be introduced during the hearing for final passage. Attorney Jodoin stated yes.

Manager Alles explained the history of the Residential Parking Districts and the scope of the Parking Commission and their related enforcement ability.

Public comment

Mayor Smith called for public comment;

Larry Williams, 2 Terry Court; urged the Commission to retain his Residential Parking District and noted the associated signs help greatly.

Robert Schlausser, 1300 Broadway; asked the Commission to preserve his district.

Dave Barnes, 1423 Broadway; requested the Commission allow his district to remain.

Discussion

Commissioner Elsaesser spoke to the districts that are not meeting the criteria and asked why the ticket revenue is not covering the enforcement of the district. Director Hewitt explained it largely isn't covered because the districts are out of the Parking Commission's jurisdiction and the time and manpower needed to patrol outweighs the revenue.

Discussion was held issues related to the purchasing of parking permits and at the same time not allowing any parking. In the case of the neighborhoods around the Capitol Complex the City may be able to work directly with the State of Montana on the issue.

Commissioner Haladay asked if any of the terminated districts could re-apply for district status. Director Hewitt stated yes, noting there is an application process; however, it would not be available to those districts with less than five residences.

Commissioner Haque-Hausrath requested Manager Alles investigate whether the 1300 and 1400 Block of Broadway is eligible to be striped "no parking". Manager Alles agreed to provide that answer at the public hearing. He also gave the background behind staff's proposals to terminate and amend Residential Parking Districts.

Motion **Commissioner Elsaesser moved to table a resolution of intention amending Resolution No. 9646 by removing the Clarke Street, Olive Street, and Edwards Street rights-of-way from the Type B residential parking zone established by Resolution No. 9646 as shown on the resolution of intention, to the call of the City Manager.**
Motion died for lack of a second.

Motion **Commissioner Elsaesser moved approval of a resolution of intention amending Resolution No. 9646 by removing the Clarke Street, Olive Street, and Edwards Street rights-of-way from the Type B residential parking zone established by Resolution No. 9646 as shown on the resolution of intention, and set a public hearing date to the call of the City Manager, to a date beyond September 29, 2014.** Commissioner Ellison seconded the motion.

Comment Commissioner Ellison stated he can see there is rationale to consider retaining a small number of the residential districts proposed for closure and very good rationale to terminate most of the districts that have fewer than five properties or less than 50% participation. Regarding the district on Broadway across from the Capitol he stated he is skeptical about the concerns expressed on what will happen if public parking is allowed there, since resident's cars are parking there now, and no safety concerns have come to his attention. He encouraged the City Manager to work with city staff to investigate whether "no parking" yellow striping might be the better course of action on that section of Broadway if that parking district is closed.

He noted he is inclined to support staff's recommendations on which districts to terminate and wants to balance Manager Alles' concerns related to balancing the use of public right-of-way, yet also balance the concerns of the public that may be adversely affected by the dissolution of their district.

Commissioner Haque-Hausrath commented the majority of the parking districts do seem to need to be eliminated. However there seems to be three areas of town that include institutions that provide service to the citizens of Helena: the Capitol Complex, Capital High and the Helena High/College of Technology area. She requested more outreach be done with the residents of those areas to find a balance that does not burden the neighborhoods.

Commissioner Haladay commented he feels the areas that have failed to participate in the very easy regulations to keep their districts active need to be terminated. He also spoke against leaving any "no

parking” signs in place that would not be enforced as it is almost rewarding those residents for non-participation.

Mayor Smith indicated he would not support extending the public hearing date any further than September 29th. Commissioner Elsaesser urged the Commission to support taking more time to work on the issues related to these districts.

Vote

Motion carried 3-2, with Mayor Smith and Commissioner Haladay voting no. **Res #20131**

Motion

Commissioner Elsaesser moved approval of a resolution of intention amending Resolution No. 9646 by removing the Clarke Street, Olive Street, and Edwards Street rights-of-way from the Type B residential parking zone established by Resolution No. 9646 as shown on the resolution of intention, and set a public hearing date to the call of the City Manager, to a date beyond September 29, 2014. Commissioner Ellison seconded the motion. Motion carried 3-2, with Mayor Smith and Commissioner Haladay voting no. **Res #20132**

Motion

Commissioner Ellison moved approval of a resolution of intention amending Resolution No. 20071 by updating the consolidated listed of valid residential parking districts as shown on the resolution of intention, and set a public hearing date to the call of the City Manager, to a date beyond September 29, 2014. Commissioner Elsaesser seconded the motion. Motion carried 3-2, with Mayor Smith and Commissioner Haladay voting no. **Res #20133**

Public Communications

PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST
The next Administrative Meeting is September 24, 2014 and the next Commission Meeting is September 29, 2014.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:23 p.m.

/S/ James E. Smith
Mayor James E. Smith

ATTEST:

/S/ Debbie Havens
Clerk of the Commission