

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
September 23, 2013
6:00 P.M.

- Time & Place*** A regular City Commission meeting was held on Monday, September 23, 2013 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, Thweatt and Haque-Hausrath were present. Acting City Manager Troy McGee, City Attorney Jeff Hindoien and Deputy City Clerk Robyn Brown were present. Others present were Andres Haladay 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 September 9, 2013 were approved as submitted.
- Proclamation*** PROCLAMATION:
A. United Way Week
- Mayor Smith read the proclamation designating September 23rd through September 30th as "United Way Week". United Way Executive Director Brian Johnson accepted the proclamation and spoke of the services the United Way provides in the community. Mr. Johnson urged citizens of Helena to donate to the organization.
- Board Appointments*** BOARD APPOINTMENTS:
A. Civic Center Board
- Mayor Smith recommended the following board appointment:
- Civic Center Board - Appointment of Jennifer Thompson to the Civic Center Board; the unexpired term will begin upon appointment and expire March 1, 2015.
- Public comment Mayor Smith asked for public comment, none was received.
- Motion*** **Commissioner Ellison moved approval of the appointment to the Civic Center Board as listed above.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.
- Consent Agenda*** CONSENT AGENDA:
A. Claims
B. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing disposal of that property (vehicles/equipment) **Res #20052**
- City Manager Ron Alles recommended approval of the claims and the consent agenda.
- Public comment Mayor Smith asked for public comment, none was received.

Commissioner Elsaesser requested item B be removed for discussion.

Motion

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

Item B

- B. RESOLUTION DECLARING TANGIBLE PERSONAL PROPERTY OWNED BY THE CITY OF HELENA TO BE SURPLUS PROPERTY AND AUTHORIZING DISPOSAL OF THAT PROPERTY (VEHICLES/EQUIPMENT)

Commissioner Elsaesser asked if the garbage trucks being surplus could be kept from sale if it was decided they could be used for expansion of the recycling program. City Attorney Hindoen stated yes and explained the resolution is authorizing the City Manager to surplus the property according to City Code; staff would have the authority to decide to keep it.

Motion

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

Bid Awards

BID AWARDS:

- A. 2013 Case SV250 Skid Steer Loader with attachments for the Utility Maintenance Division

Staff Report

Fleet Superintendent Ben Sautter reported bids were received for one new 2013/2014 skid steer loader with attachments for the Utility Maintenance Division. The lowest responsible bid was received from Titan Machinery in the amount of \$58,541.00 for a 2013 Case SV250 Skid Steer Loader with attachments. This piece of equipment is new to the division and will provide for operations efficiency. The analysis of the bid indicates the submitted item meets specifications and is a reasonable bid. The submitted price of \$58,541.00 will not exceed the Utility Maintenance Division's budget appropriation of \$58,860.00.

Mr. Sautter recommended the purchase of the 2013 Case SV250 Skid Steer Loader with attachments at the bid price of \$58,541.00. This purchase will allow the Utility Maintenance Division to continue regular maintenance operations with reliable equipment and reduce maintenance costs.

Public comment

Mayor Smith asked for public comment.
Kiki Moses, asked for the second place bid amount.

Mayor Smith asked Superintendent Sautter for the information requested Ms. Moses. Superintendent Sautter reported approximately \$67,000.

Motion

Commissioner Ellison moved approval of the bid award to Titan Machinery for one (1) new 2013 Case SV250 Skid Steer Loader with attachments in the amount of \$58,541.00 for the Utility Maintenance Division. Commissioner Thweatt seconded the motion.

Comment Commissioner Ellison noted the bid was approximately \$300 less than staff's estimated cost and stated he would support the bid award.

Vote All voted aye, motion carried.

B. 2014 Open Top Solid Waste Transfer Trailer for the Solid Waste Division

Staff Report Fleet Superintendent Ben Sautter reported one bid was received for one (1) new 2014 Open Top Transfer Trailer from Wilkens Industries, Inc. in the amount of \$87,612.00. This will replace a 2005 Reliance trailer (Unit #232). A trade-in value of \$10,000.00 was quoted for the older trailer and will be applied to the bid price for a total purchase price of \$77,612.00. The analysis of the bid indicates the submitted item meets specification and is a reasonable bid.

Mr. Sautter recommended the purchase of the new unit at the bid price of \$77,612.00 for the replacement of existing unit #232. Unit #232 will be used as a trade-in of \$10,000.00 and applied to the total price of the new unit. This purchase will allow the Solid Waste Division to continue regular maintenance operations with reliable equipment and reduce maintenance costs.

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

Motion Commissioner Haque-Hausrath moved approval of the bid award to Wilkens Industries, Inc. for one (1) new 2014 Open Top Solid Waste Transfer Trailer in the amount of \$77,612.00.

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

C. 2012 Caterpillar Skid Steer Loader with attachments for the Street Maintenance Division

Staff Report Fleet Superintendent Ben Sautter reported bids were received for one new 2013/2014 skid steer loader with attachments for the Street Maintenance Division. The lowest bid was rejected due to not meeting bid specifications of overall weight and hydraulic capacity. The lowest responsible bid was received from Tractor & Equipment Company in the amount of \$97,828.00 for a 2012 Caterpillar skid steer loader with attachments. The quoted price exceeded the budget appropriation of \$97,500.00. It was determined the division could eliminate the pallet forks for a deduction of \$982.00 which will bring the purchase price to \$96,846.00 This piece of equipment is new to the division and will provide for operations efficiency. The analysis of the bid indicates the submitted item meets specification and is a reasonable bid.

Superintendent Sautter recommended the purchase of the 2012 Caterpillar skid steer loader with attachments minus the pallet forks at a bid price of \$96,846.00. This purchase will allow the Street Maintenance Division to continue regular maintenance operations with reliable equipment.

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

- Motion** Commissioner Elsaesser moved approval of the bid award to Tractor and Equipment Company for one (1) new 2012 Caterpillar skid steer loader with attachments in the amount of \$96,846.00 for the Street Maintenance Division. Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Elsaesser welcomed the Montana Association of Counties convention to Helena.
He acknowledged the Commission's conversation about expanding the city's recycling program at the last Administrative Meeting and expressed appreciation for the discussion.
- Report of the City Attorney** REPORT OF THE CITY ATTORNEY
No report was given.
- 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)
HCC Chair Andres Haladay reported the HCC is in support of Commissioner Haque-Hausrath's amendments #2 and #4 related to updates to the city's Subdivision Regulations.
- Regular Items** REGULAR ITEMS:
A. CONSIDER A RESOLUTION OF INTENTION TO CLOSE THE FULL WIDTH OF A PORTION OF THE EAST-WEST ALLEY RIGHT-OF-WAY (ROW) BETWEEN OLIVE STREET AND HAMILTON STREET IN THE WASHINGTON PLACE SUBDIVISION IN THE CITY OF HELENA.
- Staff Report** City Engineer Ryan Leland reported Mike Menahan and Stacy Tureck, the applicants, are requesting a closure of a portion of this alley because the weight and vibration of vehicle traffic in the alley is contributing to problems with the foundation of their home. The closure will eliminate vehicle traffic but will allow adjacent residents limited access and parking. The alley is located between Lots 8-11 and 13-16 in Block 1 of the Washington Place Subdivision.
Notifications were sent out and city staff has received objections from Northwestern Energy, Optimum and Century Link. All three companies have utilities in the alley and are concerned about access to ensure their facilities are maintained. Staff also received objections from emergency services and an adjacent land owner.
The City Street Department will not maintain the closed alley for vehicle traffic and it could become a weed problem that would have to be addressed by the City.
- Discussion** Commissioner Thweatt asked for an explanation of closure of the alley versus vacation of the alley. Engineer Leland stated it would be closed to public access and not maintained for public use. He commented it could be difficult to allow adjacent property owners to access a closed street. Commissioner Thweatt asked if property owners that abut the alley be allowed to use it to access the rear of their property. Engineer Leland stated the proposal would mean it is closed to

all public access, including adjacent property owners. Special privileges could be granted if a right-of-way use permit were applied for. Commissioner Ellison asked if the alley could be closed to the public but left open for emergency services. Engineer Leland stated breakaway flyswatters could be used to allow emergency services access for fire suppression. However, the city would not maintain it so it is unclear what kind of surface the alley would have.

Commissioner Haque-Hausrath referred to the applicant's complaints of cars being parked in the middle of the alley and asked if those cars could be ticketed. Acting Manager McGee stated yes, if the cars are blocking ingress and egress and the Police Department were notified.

Commissioner Elsaesser asked if the adjacent property owners had been notified of the proposal. Engineer Leland stated if the resolution of intention is approved then surrounding property owners will be notified of the public hearing. Commissioner Elsaesser asked if the alley is misaligned as it appears in the overhead photos. Engineer Leland stated yes, there is a slight bend.

Public comment

Mayor Smith called for public comment.

Joel Chavez, Clarke & Hamilton; spoke in support of the resolution of intent.

Judge Mike Menehan, applicant; urged the Commission to vote approval for the resolution of intention and set a public hearing. He noted five of the six landowners that abut the alley are in support of the closure.

Paul Spengler, 307 Clarke Street; spoke in support of the closure.

Matt Culp, 1 Washington Place; spoke in opposition to the proposal.

Motion

Commissioner Ellison moved approval of a resolution of intention to close the east-west alley ROW between Lots 8-11 and 13-16 in Block 1 in the Washington Place Subdivision and set a public hearing date of October 7, 2013. Commissioner Elsaesser seconded the motion.

Comment

Commissioner Ellison referred to the first hearing on the matter and explained he thought the proposal was for vacation, not closure, of the alley. Commissioner Elsaesser concurred with Commissioner Ellison and noted he would look forward to hearing how 1 Washington Place will be given access.

Commissioner Haque-Hausrath stated she would be voting against the proposal because of emergency services objections and concern that adjacent property owners will not be given access. She noted she does not believe the closure will stop people from parking in the alley.

Commissioner Thweatt stated he would be voting against the resolution of intention because he believes all homeowners should be able to access the alley. Also, the alley appears wide enough for vehicles to travel through safely and he is concerned by the objection of emergency services.

Commissioner Ellison expressed the same concerns as Commissioner Thweatt but believes the proposal merits a public hearing so all sides can be heard. He noted he too is concerned with emergency

services opposition but was glad to hear the utility companies are no longer objecting. He commented he is unsure why the closure would not extend all the way to Hamilton Street.

Mayor Smith agreed with Mr. Culpo's concerns and that of emergency services; however, he feels a public hearing should be held on the proposal.

Vote

Motion carried 3-2, with Commissioners Thweatt and Haque-Hausrath voting no. **Res #20053**

B. CONSIDER A SIDEWALK VARIANCE FOR 720 HIGHLAND STREET.

Staff Report

Engineer Leland reported the property at 720 Highland Street is currently undeveloped and located adjacent to undeveloped Highland Street right-of-way. The water and wastewater service area was recently expanded to include this property. The current owner is in the process of designing infrastructure plans for water, sewer and a 20' all-weather fire access and turn-around.

The owner of the property, Mike Kadas, is requesting a sidewalk variance to defer the installation of sidewalk, drive approach, curb and gutter until Highland Street is constructed to City Standards. The stated reasons on the application are:

1. The adjacent property to the west (716 Highland) has no sidewalk to connect to.

2. The pedestrian access to the east is an undeveloped dirt/gravel trail.

Engineer Leland noted staff does not have a recommendation on the proposal.

Discussion

Commissioner Elsaesser asked if drainage issues could be created by installing sidewalks in the undeveloped street. Engineer Leland stated not if designed appropriately. Commissioner Elsaesser referred to the possibility of requiring sidewalks be constructed at the time of installation by an adjacent property. Engineer Leland stated that is an option but the Commission would need to be cautious because the topography and design of the street will make installation more complicated.

Commissioner Haque-Hausrath asked if a sidewalk could be installed. Engineer Leland stated yes. She asked if curb and gutter would be installed. Engineer Leland stated no, not at this time. The extension of services was accompanied by the requirements of an all-weather surface and fire truck turn-around only.

Mayor Smith asked when the road will be developed. Engineer Leland stated there is no schedule for its construction.

Public comment

Mayor Smith called for public comment.

Mike Kadas, 319 N. Rodney, applicant; urged the Commission to approval the deferral.

Elizabeth Andrews, 727 12th Avenue; spoke in opposition to the proposal.

Comment

Mayor Smith referred to Mr. Kadas' testimony and asked if the sidewalk would need to be torn up to develop the street. Engineer Leland confirmed there would be difficulties with getting a sidewalk, fire

truck turnaround and 20-foot all-weather surface in this location. He explained further development to the east would take a total re-design of the road.

Commissioner Ellison noted he has become increasingly disinclined to defer sidewalk installation but believes if there has been a case over the past year for deferral, this situation is it. Commissioner Elsaesser concurred with Commissioner Ellison.

Commissioner Haque-Hausrath commented she is extremely tired of applications for sidewalk deferrals as they take a lot of staff and Commission time. She noted she may vote no on all applications going forward.

Mayor Smith agreed with Commissioner Haque-Hausrath's sentiments but believes this is a rational and logical case where sidewalks need to be deferred.

Motion **Commissioner Ellison moved to defer the installation of sidewalks for the property at 720 Highland Street until such time the street is constructed to City Standards.** Commissioner Elsaesser seconded the motion.

Friendly Amendment Commissioner Elsaesser offered a friendly amendment to add the language or sidewalks are installed on an adjacent property following "City Standards". Commissioner Ellison accepted the amendment.

Amended Motion **Commissioner Ellison moved to defer the installation of sidewalks for the property at 720 Highland Street until such time the street is constructed to City Standards or sidewalks are installed on an adjacent property.** Commissioner Elsaesser seconded the motion.

Vote Motion carried 4-1, with Commissioner Haque-Hausrath voting no.

C. CONSIDER A SIDEWALK VARIANCE FOR 2110 CHOTEAU STREET.

Staff Report Engineer Leland reported the property at 2110 Choteau is currently being developed and has an approved building permit for a multi-family building. The adjacent streets are paved but have no curb and gutter or sidewalks.

The owners of the property, Jeff and Debbie Grewett, are requesting a sidewalk variance to defer the installation of sidewalk, drive approach, double ADA ramp, curb and gutter until Choteau and Winston streets are constructed to City Standards.

Engineer Leland noted staff does not have a recommendation on the proposal.

Discussion Commissioner Ellison asked if there is a sidewalk on the property next to the applicant's home. Engineer Leland stated no, there is a dirt path with obstacles on it.

Public comment Mayor Smith called for public comment. Jeff Grewitt, applicant; stated they are not opposed to installing sidewalks but would not like to see their money wasted by having to remove them in a few years with future development.

Michael O'Neill, 601 Hillsdale; urged the Commission to deny the deferral.

Elizabeth Andrews, 727 12th Avenue; spoke against the requested deferral.

Discussion

Commissioner Thweatt asked if there would be a disadvantage to installing the sidewalks now as opposed to later. Engineer Leland stated with boulevard sidewalks there is less risk of having to tear them out in the future with construction of the street.

Mayor Smith and Commissioner Ellison noted they would support denial of the variance.

Motion

Commissioner Elsaesser moved to deny the deferral of installation of sidewalks, which include ADA ramps and drive approach, for the property at 2110 Choteau Street until such time Choteau and Winston Streets are constructed to City Standards.

Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3164 AMENDING CHAPTER 1 TITLE, PURPOSE, DEFINITIONS IN TITLE 12 SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3166 AMENDING CHAPTER 2 PROCEDURES IN TITLE 12, SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3167 AMENDING CHAPTER 4 DESIGN STANDARDS, IMPROVEMENTS IN TITLE 12 SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- D. CONSIDER FINAL PASSAGE OF ORDINANCE NO.3168 AMENDING CHAPTER 5 MINOR SUBDIVISIONS IN TITLE 12 SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- E. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3169 AMENDING CHAPTER 6 AMENDMENTS, FEES, GENERAL PROVISIONS IN TITLE 12 SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- F. CONSIDER FINAL PASSAGE OF ORDINANCE NO.3170 AMENDING CHAPTER 7 AMENDED PLATS IN TITLE 12 SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.

Staff Report

City Planner Lucy Morell-Gengler reported the Consolidated Planning Board conducted public hearings on October 18 and November 1, 2011, and held an additional Planning Board meeting November 29, 2011. After reviewing public comments, staff's recommendations and the City Growth Policy, the Planning Board recommended changes to the City subdivision regulations.

On January 14, 2013, the City Commission passed first reading of Ordinances amending the City subdivision regulations and set a public

hearing date of February 11, 2013. At the February 11th City Commission meeting, a public hearing was held and the City Commission voted to delay action on the revised subdivision regulations to allow coordination with changes to the City Engineering Standards.

Amendments to the City Engineering Standards have now been incorporated facilitating some of the proposed changes to the City subdivision regulations. A notice of the public hearing to continue review of the subdivision regulations has been advertised not less than 15 days prior to the public hearing per MCA 76-3-503.

The ordinances amending Chapter 1 of the City subdivision regulations includes language to reorganize and clarify sections of the City subdivision regulations. Sections 12-1-6: "Lands Unsuitable for Subdivision Development" and 12-1-7: "Subdivision for Building Purposes Prohibited" were moved from Chapter 2 to this chapter and the language was consolidated. The definition section was changed to reflect proposed changes to other sections of this Title regarding water body protection.

Due to several reconfigurations of Chapter 2 resulting in numerous underlining and cross outs which made the revisions difficult to understand, the entire chapter will be repealed and presented as a new chapter; the majority of the chapter has not changed.

The ordinance amending Chapter 2 of the City subdivision regulations includes language that updates procedures and final plat requirements. The items required for a complete application have been amended and a one year time frame for submitting missing preliminary plat information is added. The changes include a new section on Parks Board review of applications and requirements for final plat approval including infrastructure installation. The amendments also include changes to assure compliance with state law.

An Amendment to 12-2-19: EXPEDITED SUBDIVISION REVIEW in Chapter 2, Ordinance No. 3166, is being proposed. Approval of this amendment to the City subdivision regulations will update the regulations to reflect the action taken during the last legislative session which removed the renting or leasing of multiple buildings on a single tract of land from subdivision review.

The ordinances amending Chapter 4 of the City subdivision regulations include language amending the requirements for the following:

- Changing the right-of-width (ROW) for city streets;
- Street components within the ROW such as pavement width, sidewalk width, etc. will be required to meet City standards such as those in the City Engineering Standards;
- The minimum 400-foot long block length would be removed and a maximum 600-foot long block length would be required;
- The current limitations for double frontage lots (lots that are adjacent to a street on two sides of the lot), and the requirement for two tiers of lots will be eliminated.
- Every lot will be required to be adjacent to a street ROW;
- The requirement for water, wastewater, stormwater infrastructure and solid waste disposal to meet city standards will be specifically in the subdivision regulations;
- Setbacks for waterbody protection have been included: a 200-foot building setback and 150-foot vegetative setback for perennial streams and a 130-foot building setback and 100-foot vegetative setback for intermittent streams, wetlands, ponds, lakes, or reservoirs.

- Park dedication will be required for subdivisions located in a zoning district that allows residential uses by right and for minor subdivisions; and
- Other amendments to the chapter include reorganizing sections and making changes to be consistent with other proposed changes in this Title.

New language is being proposed amending 12-4-2: STREETS in Chapter 4, Ordinance No. 3167, to reflect the coordination between the Engineering Standards requirements for street design and right-of-way widths and the subdivision regulations.

Ms. Morell-Gengler recommended approval of the amendments to the City Subdivision Regulations as they will update the regulations to better reflect the City Growth Policy and other city planning documents, changes to state law, recent court rulings, and community concerns.

Public Testimony

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

Mark Simonich, Montana Association of Realtors; urged the Commission to compromise with developers on the issue of when to require sidewalk installation. He also requested the Commission adopt the same watercourse set-back and buffer requirements as Lewis & Clark County.

John Rundquist, 1680 Virginia Dale Street; urged the Commission to require the installation of sidewalks at the time of final plat and approve Haque-Hausrath Amendment #2.

Bob Maffit, Montana Independent Living Project; urged the Commission to support Haque-Hausrath Amendment #2.

Ondray LaRose, Stewart Street; urged the Commission to require the installation of accessible sidewalks at final plat approval.

Verner Bertelsen, Helena; asked the Commission to require sidewalks with final plat approval.

M.C. Beeby, 1620 Townsend; commented on the benefits of sidewalks.

Kiki Moses, 110 South Hannaford; urged the Commission to require sidewalk installation with approval of development.

Nedra Chandler, Helena; requested the Commission require sidewalk installation because it's a public and mental health benefit.

Michael O'Neill, Aware, Inc.; urged the Commission to require sidewalk installation at final plat approval.

Connie LeVeque, Helena; urged the Commission to require the installation of sidewalks.

Allen Tompkins, Helena; spoke in support of Haque-Hausrath Amendment #2.

Michael Hendrix, spoke in support of the installation of sidewalks.

Melanie Bush and Brian Persons; spoke in support of Haque-Hausrath Amendment #2

Joann Maffit, 1500 Garfield Street; spoke on the importance of sidewalks. Ms. Maffit also submitted written testimony from Margale Presipino for the record.

Elizabeth Andrews, 727 12th Avenue; spoke in support of Haque-Hausrath Amendment #2, submitted petitions for the record and read testimony from ARC, Montana into the record.

T.J. Moses, 110 South Hannaford; spoke in support of Haque-Hausrath Amendment #2.

Les Clark, Helena; read a letter from Lori Ann Steuss into the record.

Lloyd Sparks, MILP; urged the Commission to support Haque-Hausrath Amendment #2.

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

Motion

Commissioner Ellison moved approval of final passage of Ordinance No. 3164 amending Chapter 1- Title, Purpose, Definitions in Title 12, Subdivision Regulations, of the Helena City Code.

Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3164**

Motion

Commissioner Elsaesser moved approval of final passage of Ordinance No. 3166 amending Chapter 2- Procedures in Title 12, Subdivision Regulations, of the Helena City Code.

Commissioner Ellison seconded the motion.

Amendment

Commissioner Haque-Hausrath moved approval of Haque-Hausrath Amendment #2, striking Section A from the amendment.

Commissioner Thweatt seconded the motion.

Discussion

Commissioner Elsaesser stated while he is committed to solving sidewalk deficiencies in the city, he is concerned that the amendment would add to the cost of a home in the city, forcing homebuyers outside the city limits which is further away from medical care and public transportation. For these reasons he noted he would oppose the amendment.

Commissioner Ellison concurred with Commissioner Elsaesser's comments. He stated if Commissioner Haque-Hausrath's amendment does not pass he is prepared to present an amendment that would offer a compromise on sidewalk installation.

Commissioner Thweatt noted he would support the amendment. He referred to ordering in sidewalks and asked if the city were to require the sidewalks be built, would they then assess the cost onto the homeowner. Attorney Hindoi explained the city would direct the homeowner to install the sidewalks and then undertake construction if they did not comply.

Commissioner Thweatt stated the Commission has received very credible testimony from developers that sidewalks would be ruined during home construction and also very credible testimony that they could be saved; however, he tends to believe the latter.

Mayor Smith noted he would vote in support of the amendment and thanked everyone for their testimony.

Commissioner Haque-Hausrath thanked all the supporters of her amendment.

Vote

Motion carried 3-2, with Commissioners Ellison and Elsaesser voting no.

Amendment

Commissioner Thweatt moved approval of Thweatt Amendment #2, striking the language "and other property intended for public ownership" from the amendment. Commissioner Haque-Hausrath seconded the motion. Motion carried 4-1, with Mayor Smith voting no.

- Amendment** Commissioner Haque-Hausrath moved approval of Staff Amendment #1. Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Motion** Commissioner moved of final passage of Ordinance No. 3166, as amended. Commissioner seconded the motion. All voted aye, motion carried. Ord #3166
- Motion** Commissioner Ellison moved approval of final passage of Ordinance No. 3167, amending Chapter 4- Design Standards, Improvements in Title 12, Subdivision Regulations, of the Helena City Code. Commissioner Thweatt seconded the motion.
- Amendment** Commissioner Thweatt moved approval of Thweatt Amendment #3. Commissioner Haque-Hausrath seconded the motion.
- Comment** Commissioner Thweatt explained his amendment in detail. Commissioner Elsaesser asked if the amendment conforms to Lewis & Clark County's requirements for setbacks. Commissioner Thweatt stated yes.
- Vote** Motion carried 4-1, with Mayor Smith voting no.
- Amendment** Commissioner Elsaesser moved to amend 12-4-2: GENERAL REQUIREMENTS FOR STREETS, item F to add the language "compliance with complete streets" following the word "safety". Commissioner Ellison seconded the motion.
- Comment** Commissioner Haque-Hausrath noted she could not support the amendment as she would need more specific information to understand its intent. Commissioner Elsaesser spoke in support of the amendment and gave the rationale behind it. Commissioner Ellison stated he does not believe Commissioner Elsaesser's amendment will do any harm and is in-line with discussions held by NMTAC.
- Vote** Motion carried 3-2 with Commissioner Haque-Hausrath and Mayor Smith voting no.
- Motion** Commissioner Ellison moved approval of final passage of Ordinance No. 3167, as amended. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. Ord #3167
- Motion** Commissioner Haque-Hausrath moved approval of final passage of Ordinance No. 3168, amending Chapter 5- Minor Subdivisions in Title 12, Subdivision Regulations, of the Helena City Code. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. Ord #3168
- Motion** Commissioner Ellison moved approval of final passage of Ordinance No. 3169, amending Chapter 6- Amendments, Fees, General Provisions in Title 12, Subdivision Regulations, of the Helena City Code. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. Ord #3169

Motion

Commissioner Haque-Hausrath moved approval of final passage of Ordinance No. 3170, amending Chapter 7- Amended Plats in Title 12, Subdivision Regulations, of the Helena City Code.
Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3170**

G. CONSIDER GRANTING PERMISSION FOR THE DEMOLITION OF A STRUCTURE LOCATED AT 43 SPENCER STREET.

Staff Report

Community Development Director Sharon Haugen reported Helena Area Habitat for Humanity (Habitat) has requested permission to demolish a house located at 43 Spencer. They have had a contractor look at the house and he is recommending that the house be demolished. In place of the existing structure, Habitat will construct a new dwelling that will be made available to a lower income family. Habitat relies on volunteer labor and donations to construct its housing units and has built over 20 affordable units in the community.

The 43 Spencer house is located in the South Central Historic District and any demolition of any building that is contributing to that district is subject to the demolition review process as outlined in Title 3 Chapter 15 of the Helena City Code.

This is a two step process that requires a review from the Lewis and Clark County Heritage Preservation and Tourism Development Council to determine if the property is considered a contributing property and if the proposed demolition would have a negative impact on the historic nature of the district. As part of that review they are required to hold a public hearing. The Council then makes a recommendation to the Helena City Commission on whether to recommend approval or denial of the demolition permit. The City Commission is also required to hold a public hearing to review the Heritage Council's recommendation and any public comment. No conditions can be placed on the applicant in the grating of the demolition permit. On August 20, 2013 the Heritage Council held their public hearing and received no comment regarding the demolition of the building. In a special meeting on August 27 the Council voted unanimously to approve the demolition.

The advantage of the proposal is that it would allow the demolition of a building that is in total disrepair and to allow the construction of a new housing unit to be available to a Helena-area family in need. The construction of the new house could be completed in such a manner that it would be in character of the neighborhood and would also provide for an opportunity for infill development

Public Testimony

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

Melony Johnson-Bruhn, Habitat for Humanity Executive Director; urged the Commission to support the proposal.

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

Motion

Commissioner Thweatt moved approval of a demolition permit for a house located at 43 Spencer Street. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

**Public
Communications**

PUBLIC COMMUNICATIONS

Matthew Culpo, 1 Washington Place; noted he would be out of town for the public hearing on the alley closure and requested the Commission reschedule the date of the hearing.

Motion

Commissioner Elsaesser moved to revise the public hearing date for the closure of the alley in the Washington Place Subdivision to the call of the City Manager on October 21, 2013.
Commissioner Ellison seconded the motion. All voted aye, motion carried.

**Meetings of
Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is October 2, 2013 and the next Commission Meeting is October 7, 2013.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:28 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission