

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
February 12, 2018 - 6:00 P.M.
City Commission Chambers, Room 330

Time & Place

A regular City Commission meeting was held on Monday, February 12, 2018 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Pro Tem Haladay indicated for the record that Commissioners Farris-Olsen, Noonan, and O'Loughlin were present. City Manager Ron Alles, City Attorney Thomas Jodoin, and Deputy City Clerk Katya Grover were present. Mayor Collins was excused.

Pledge of Allegiance

Mayor Pro Tem Haladay 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 January 22, 2018, were approved as submitted.

Presentations

PRESENTATIONS:

A. Confirmation of Officers Jay Lopez and Dakota Becker

Staff Report

Chief of Police Troy McGee reported Officers Lopez and Becker have successfully completed their one-year probationary period and recommended they be confirmed.

Chief McGee then spoke on Officers Lopez's and Becker's background and noted that Officer Becker could not attend the meeting today.

Motion

Commissioner Farris-Olsen moved the confirmation of Officers Lopez and Becker. Commissioner O'Loughlin seconded the motion. All voted aye, motion carried.

Officer Lopez addressed the Commission and introduced his family.

Chief McGee presented Officer Lopez a Helena Police Department's coin and Assistant Chief Hagen and his wife Barbara presented the officer's wife with "I Love A Cop" book.

Board Appointments

BOARD APPOINTMENTS:

A. Board of Adjustment, Helena Public Art Committee, Civic Center Board

Mayor Pro Tem Haladay recommended the following appointments:

Board of Adjustment - Appointment of Burton Federman to the Board of Adjustment. The unexpired term will begin upon appointment and expire October 1, 2020.

Civic Center Board - Reappointment of Joann Christnacht, Mike DaSilva, Steve Crider, Bonnie Lorang, Rick Schlenker and Tim Andridge. Terms will begin upon appointment and expire March 1, 2021.

Helena Public Art Committee - Reappointment of Chris Riccardo to the Helena Public Art Committee. Term will begin upon appointment and expire December 31, 2020.

Public Comment

Mayor Pro Tem Haladay asked for public comment, none was received.

Motion **Commissioner Noonan moved approval of the board appointments as outlined above.** Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Resolution declaring a 2015 Ford Interceptor Police Cruiser tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property. **Resolution 20428**
C. Turnout Gear Extractor Grant in the amount of \$7,000.

City Manager Alles recommended approval of the claims.

Public Comment Mayor Pro Tem Haladay asked for public comment, none was received.

Motion **Commissioner Farris-Olsen moved approval of Item A - C on the consent agenda.** Commissioner O'Loughlin seconded the motion. All voted aye, motion carried.

Communications From Commissioners COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Noonan talked about a strong, new educational center that was added to the area – Montana carpenters training center; Commissioner Noonan attended the open house event. Commissioner Noonan noted that it was an efficiently built facility, but he was most impressed that throughout the day high school students from central and western Montana came to this center. Commissioner Noonan elaborated on the curriculum that the center provides and that two students he spoke to expressed their enthusiasm about a six-stage curriculum that could be started by students while they are in school. Commissioner Noonan referred to the conversations in the community about the desire to see more internships and development of craftsmanship and noted that that kind of places were out there and they were providing just that. Commissioner Noonan congratulated young men and women attending this center and encouraged public to visit that educational center.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
City Attorney Jodoin had nothing to report on.

Report of the City Manager REPORT OF THE CITY MANAGER
Manager Alles reminded the public that because the transfer station would be closed on February 19th due to a holiday, the garbage would be picked up on the following day in those areas where garbage is normally picked up on Mondays. Manger Alles also reported today the city has put about eleven thousand cubic yards of sand on the streets, with the crew paying special attention to the potholes.

Report from the Helena Citizens REPORT FROM THE HELENA CITIZENS COUNCIL
No report was provided.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RIGHT-OF-WAY USE AGREEMENT WITH THE RIALTO FOR A SIDEWALK CAFE ON THE WALKING MALL AT 52 LAST CHANCE GULCH.

Staff Report

City Engineer Ryan Leland reported the Rialto is planning an outdoor elevated patio in the Walking Mall. The Rialto is located in the Original Helena Town site 1869 in S30,T10N,R03W, Block 30 Amended Lot 29A, COS 351445.

This Exclusive Right-of-Way Use Agreement is being requested by the applicant, Mike Cetraro, the owner of the building and restaurant.

The request, if approved, would allow outdoor patio seating for the Rialto Bar and Restaurant.

Engineer Leland recommended to approve, table, or deny an Exclusive Right-of-Way Use Agreement with Mike Cetraro for a Sidewalk Café for the Rialto bar and Restaurant.

Discussion

Commissioner O'Loughlin asked whether both doors that Engineer Leland referred to lead into the Rialto property. Engineer Leland said that that was correct. Commissioner O'Loughlin asked what was allowable on the walking mall as it related to smoking, with other patios that had been approved in the area. Engineer Leland redirected the question to Attorney Jodoin. Attorney Jodoin said that as in the past, the city had restricted smoking on the sidewalk in these cafes, most recently in places like Ten Mile Creek Brewing and Sapphire Bar, where the main substantive regulation was to keep the area clear of debris, cigarette butts, etc.

Public Comment

Mayor Pro Tem Haladay asked for public comment.

Mike Cetraro, owner of Rialto bar and Restaurant, asked for approval of the right-of-way use agreement and offered to answer questions.

Motion

Commissioner Farris-Olsen moved to approve an Exclusive Right-of-Way Use Agreement with Mike Cetraro for a Sidewalk Café for the Rialto bar and Restaurant. Commissioner Noonan seconded the motion. All voted aye, motion carried.

- B. CONSIDER AN AMENDMENT TO THE RESURRECTION CEMETERY ASSOCIATION AGREEMENT FOR SATISFACTION OF ANNEXATION CONDITIONS DEFERRING THE INSTALLATION AND CONSTRUCTION OF A WESTBOUND RIGHT-HAND TURN LANE AND INSTALLATION AND CONSTRUCTION OF THE RE-STRIPING ON SANDERS STREET.

Staff Report

Senior Planner Dustin Ramoie reported on August 30, 2016, the Owner and the City entered into an Agreement for Satisfaction of Annexation Conditions ("Agreement") relating to the annexation of Tract B-1-A in Lewis and Clark County, Montana, as shown on Certificate of Survey No. 3207070, filed in the office of the Clerk and Recorder of Lewis and Clark County. Pursuant to that Agreement, both Parties agreed to defer the installation and construction of a westbound right-hand turn lane from Custer Avenue onto Sanders Street and the re-striping of Sanders Street until final occupancy is requested for any structure on Tract B-1-A-1. The Agreement provided for further deferral

of those improvements past final occupancy of any structure on Tract B-1-A-1 if the applicant could demonstrate that he has diligently pursued all needed permits and review from local and state agencies and the delay is due to government review. The applicant has applied for all needed permits by the Montana Department of Transportation (MDOT) and the City of Helena. The applicant first met with MDOT and City staff in May of 2017 and has submitted plans for review and approval to MDOT, who has been working with MDOT on that submittal and any additional comments on the submittal of the plans. MDOT and the City of Helena have reviewed the plans and were not able to give final approval of the plans to date. The applicant has requested that they be granted final occupancy of the hotel prior to the final approval of the plans and construction of the infrastructure. It is anticipated that final plan approval will be granted this spring from MDOT and that construction will commence soon thereafter. In the signed construction contract it is stated that once work commences this spring, they expect to complete the project within two months. The applicant has proved a final financial guarantee for the completion of the work. The Agreement also required that any extension or further deferral of the above infrastructure past final occupancy of Tract B-1-A-1 be secured by a financial guarantee and letter of credit in a form required by the City. The applicant has provided a financial guarantee that has been reviewed and approved by the City Public Works department.

The applicant is requesting to amend the Resurrection Cemetery Association Agreement for Satisfaction of Annexation Conditions to extend the time frame for installation of required street infrastructure after a certificate of occupancy has been issued for a structure on tract B-1-A-1.

The proposed change would defer a portion of the annexation agreement and allow time for the developer to install required street infrastructure. On the other hand, the conditions of annexation that were intended to mitigate the impacts of the opening of the hotel and associated increase in traffic will not be mitigated until such time the infrastructure described above is completed.

Senior Planner Ramoie recommended to amend the Resurrection Cemetery Association Agreement for Satisfaction of Annexation Conditions deferring the installation and construction of a westbound right-hand turn lane and installation and construction of the re-striping on Sanders Street to be completed and approved for final acceptance by the City of Helena and the Montana Department of Transportation by November 30, 2018.

Discussion

Mayor Pro Tem Haladay asked what would happen if the DOT did not approve the plan. Planner Ramoie replied that in that case, the turn lane would not be installed, but Planner Ramoie pointed out that there was no reason to believe that the plan would be denied as the city was far enough in the process. Planner Ramoie emphasized that he was not concerned about such possibility.

Public Comment

Mayor Pro Tem Haladay asked for public comment.
Matt Selvig, WWCEngineering, offered to answer any questions Commissioners may have.
John Amsden, Trinity Development Partnership, LLC, also offered to answer any questions Commissioner may have.

Discussion

Commissioner Noonan asked Mr. Amsden to provide an update on how the other projects were going, specifically, the hotel. Mr.

Amsden reported they had a 75 thousand square foot self-storage facility built; this facility is ramping up and providing funds for the infrastructure that has been put in so far. The hotel was scheduled to be opened at the end of February or at the beginning of March but because one of the valve failure, the opening would be delayed by three or four weeks. Mr. Amsden reported they had hired director of sales, a general manager, and would be hiring 30 full time hourly workers and noted that it was important to start the hotel operating because it provides funds necessary for continued development of infrastructure. Mr. Amsden's firm had two pre-application meetings with the City Planning Division and they were looking forward to the third meeting because it is a substantial development in significant issues that they would like to resolve with the City, including development of the low income housing and other things that the ownership had requested to be a priority level. Commissioner Noonan said that he was glad to hear that it would be a good place to put low income housing and thanked Mr. Amsden for his report.

Commissioner Farris-Olsen asked Mr. Amsden to confirm that his company applied for all the necessary permits. Mr. Amsden said that the Department of Transportation's process is not completely transparent; one of the things his firm did with the city staff was they met with the DOT several times and one thing they did immediately upon getting the annexation agreement was to look at the intersection and try to understand what was going on in this intersection. Mr. Amsden's firm hired a traffic engineer to determine what exactly the problem was. Mr. Amsden said he believed that they had assisted the DOT in moving forward with the understanding of why Montana and Custer were so impacted. To the extent that if there was any delay in completing this project, it was a conscious decision that everybody agreed with: those involved in the project needed to have the underlined information about what infrastructure were being put in, as well as how that infrastructure would affect the planning. After applying with the DOT, Mr. Amsden's firm has had multiple meetings with the DOT staff. Mr. Amsden pointed out that when even interim changes are made to a particular design, the DOT has eight weeks to respond. The hope was to get final approval of the electrical sub-design and that was the point where the hang-up was at the moment. However, Mr. Amsden emphasized that his firm received assurance from the DOT over and over again that they could start this spring. Mr. Amsden said that they have already signed a contract to put in the infrastructure developments.

Commissioner Farris-Olsen explained why he asked this question: because the City has had other developments where the Commission granted multiple deferrals and the project that Mr. Amsden is involved in seems to be more than a systematic, delayed process vs. the firm just needing more deferrals. Commissioner Farris-Olsen said that he appreciated that Mr. Amsden had a different reason. In reply, Mr. Amsden said that his firm and city staff all worked hard to the extent that if there was any frustration, it's not on the city side, or on his side; it was with the DOT. Mr. Amsden, however, said that he was confident that the DOT was going through all the right processes but it was simply taking longer than was anticipated.

Motion

Commissioner Farris-Olsen moved to amend the Resurrection Cemetery Association Agreement for Satisfaction of Annexation Conditions deferring the installation and construction of a westbound right-hand turn lane and installation and construction of the re-striping on Sanders Street to be completed and approved for final acceptance by the City of Helena and the

Montana Department of Transportation by November 30, 2018.

Commissioner O'Loughlin seconded the motion. All voted aye, motion carried.

***Public
Communications***

PUBLIC COMMUNICATIONS
No comments received.

***Meetings of
Interest***

MEETINGS OF INTEREST
The Administrative Meetings are scheduled for February 14 and 21, 2018, and the next Commission Meeting is February 26, 2018.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 6:35 p.m.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE COMMISSION