

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
April 9, 2018 - 6:00 P.M.
City Commission Chambers, Room 330

Time & Place A regular City Commission meeting was held on Monday, April 9, 2018, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present Mayor Collins indicated for the record that Commissioners Farris-Olsen, Haladay, Noonan, and O'Loughlin were present. Acting City Manager Thomas Jodoin, Executive Assistant Sarah Elkins and City Clerk Debbie Havens were present.

Pledge of Allegiance Mayor Collins 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 March 12, 2018, were approved as submitted.

Presentations PRESENTATIONS:
A. Confirmation of Officer Tanner Singh and Presentation of Officer Dakota Becker

Staff Report Chief of Police McGee reported Officer Dakota Becker was confirmed on January 22, 2018; however, was unable to be at the meeting.

Officer Tanner Singh has successfully completed his one-year probationary period. Chief McGee recommended Officer Singh be confirmed.

Chief McGee then introduced Officers Singh and Becker and spoke of their background.

Public Comment Mayor Collins asked for public comment, none was received.

Motion Commissioner O'Loughlin moved the confirmation of Officer Singh. Commissioner Haladay seconded the motion. All voted aye, motion carried.

Officers Singh and Becker addressed the Commission and introduced their families.

Chief McGee presented Officers Singh and Becker a Helena Police Department coin and Assistant Chief Hagen and his wife Barbara, presented the officers' families with "I Love a Cop" book.

Board Appointments BOARD APPOINTMENTS:
A. Board of Adjustment, Helena Public Art Committee, Civic Center Board

Mayor Collins recommended the following appointments:

Business Improvement District/ Helena Parking Commission

- Appointment of Steven J. Potuzak to an unexpired term on the BID/HPC. Term will begin upon appointment and expire October 31, 2018.

Non-Motorized Travel Advisory Council - Reappointment of David Warner and appointment of Greg Wirth to NMTAC. Terms will begin upon appointment and expire March 31, 2021.

Transportation Coordinating Committee - Appointment of Joel Peden as the city voting member on the TCC. Term will begin upon appointment and expire December 31, 2019.

Public Comment Mayor Collins asked for public comment, none was received.

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

Consent Agenda CONSENT AGENDA:
A. Claims
B. The release of the City's interest in a utility and access easement on Carroll College property
C. An amended plat vacating right of way (ROW) located in the Capital Hill Addition
D. Resolution Accepting Jurisdiction of Roadways from the State Highway System Resolution **20436**

Acting City Manager Jodoin recommended approval of the claims.

Public Comment Mayor Collins asked for public comment, none was received.

Motion **Commissioner Noonan moved approval of Items A - D on the consent agenda.** Commissioner Haladay seconded the motion. All voted aye, motion carried.

Communications From Commissioners COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Noonan spoke on the impact the closing of Helena Industries will have in our community. He acknowledged and recognized the services Helena Industries has provided over the years.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
Acting City Manager Jodoin had no items to report on.

Report of the City Manager REPORT OF THE CITY MANAGER
Acting City Manager Jodoin reported there are 3 line items in the Traffic Maintenance Division (Street Maintenance Fund) that deal with striping – Pavement Markings (\$40,000 budgeted, \$16,688.76 spent – balance \$23,311.24), Bike/Ped Street Markings (\$27,500 budgeted, \$6,208.80 spent – balance \$21,291.20), and other contracted services (\$30,000 budgeted, \$4,080.45 spent - \$25,919.55 remaining). Contracted Services are for the centerline striping contract.
Commissioner Haladay asked if there are any plans to spend the remaining funds prior to the end of fiscal year. City Engineer Leland noted the normal process is to paint the striping in the spring and all funds should be expended by end of fiscal year.
Commissioner Haladay specifically mentioned the bike lanes on Lyndale Avenue and Helena Avenue and placement of the sharrows markings on Benton Avenue. Engineer Leland stated he has reviewed the email received from Ms. Melinda Barnes and noted the city does not control the streets addressed in the email. The city has to get permission to do anything on MDT right of way. The city did install the sharrows on Benton Avenue per the standards for pavement markings.
Engineer Leland stated staff will look at the sharrows on Benton Avenue to see if there is room for adjustment. Staff will also look at the bike lanes on Helena Avenue and Sanders Street. He noted the city could have wider bike lanes and spoke of the various types of bikes lanes allowed. Engineer Leland recommended chip sealing the current

bike lanes and reconfiguring them; this would eliminate the need to sand the lines out and reinstall them.

Commissioner Haladay asked what the city has to do to have the conversation with MDT to get the bike lanes installed along their right of way. Engineer Leland stated MDT has certain specifications regarding their right and way; city staff can send a formal letter requesting the installation of bike lanes on certain MDT right of ways. He noted MDT recognizes the needs for bike lanes.

The city has written formal requests to MDT regarding the need for bike lanes on their right of ways. There are recommendations in the Greater Helena Transportation Plan to install bike plans along MDT right of way.

Commissioner Haladay recommended the city continue to work with MDT to get bike lanes installed on their right of ways. He then asked how much is it to install a separated bike lane on Helena Avenue. Engineer Leland stated a regular bike lane costs are between \$12,000 to \$16,000 per mile and a buffered bike lane would be approximately 1/3 higher. The paint usually last approximately one to two seasons on the painting of bike lanes. Thermo-plastic could be used; however, it is much more expensive.

**Report from the
Helena Citizens'
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chair Sumner Sharpe reported the HCC has completed and adopted a budget report and will present it to the city commission. Alyssa Townsend has been appointed as the HCC representative on NMTAC.

The HCC has identified the following four items as priorities:

- Pro-active enforcement of ordinances and traffic laws;
- Continue to be actively involved in the Civic Center strategic plan;
- Identify other ways to engage and find volunteers for neighborhood projects that the city is involved with;
- Look generally at the city's role in economic development, including redevelopment and attracting development.

HCC member Bob Habeck has volunteered to develop a survey strategy for the HCC to receive feedback from the citizens.

Commissioner Noonan asked when the commission may want to look at the structure of the Civic Center Board; hopefully sometime prior to budget discussions.

Commissioner Haladay noted the commission approved the submittal of confidential complaints regarding public nuisance violations and asked if the HCC has discussed the confidentiality provisions. HCC Chair Sharpe stated not at this time; but it is a discussion they will have.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FINAL PASSAGE OF ORDINANCE 3239 AMENDING CHAPTER 7 OF TITLE 2 OF THE HELENA CITY CODE TO REPEAL THE CIVIL SERVICE BOARD AND ESTABLISH THE SAME AS THE POLICE COMMISSION.

Staff Report

Acting City Manager Thomas Jodoin reported the City is required to have a three member police commission by Mont. Code Ann. § 7-32-4151. The role of the police commission is to examine applicants for the police force and to hear appeals brought by police officers in accordance with the procedures as outlined in Mont. Code Ann. § 7-32-4154 *et. seq.*

The current city ordinance places the responsibilities of the police commission on the city's three member Civil Service Board. Based

on staff's recollection, there used to be a standalone police commission previously; however, at some point it was converted into the present Civil Service Board and assigned additional duties. Currently, in addition to performing the functions of the police commission, the Civil Service Board is also assigned duties of:

- Conducting firefighters examinations;
- Hearing complaints of any firefighter who has been demoted or incurred an adverse personnel action, other than suspension or termination (HCC 2-7-24);
- Hearing complaints of any other city employee, who has been dismissed, demoted or suspended (HCC 2-7-25).

Furthermore, City of Helena Personnel Policy 9-2 allows an employee to proceed to a hearing before the Civil Service Board as the last step in the city's grievance procedure. Finally, the same policy designates the Civil Service Board as the Employee Grievance Committee; however, the policy does not describe in what circumstances the Employee Grievance Committee is utilized and how the functions of the Grievance Committee are different from the functions performed by the Board when hearing a Level Four grievance.

Members of the current Civil Service Board have raised a number of questions with respect to their duties which caused staff to look more closely at the Board's operations. In conducting this review, staff found several issues:

- Some of the City Code provisions with respect to the Board's police commission duties are at odds with provisions in state law;
- Firefighters examinations are conducted through the fire consortium;
- Firefighters do not utilize the Board's hearing process because their collective bargaining agreement provides for a different grievance process that does not involve the Board;
- Other city employees do not routinely utilize the Board's hearing process. The process has only been utilized once in the last ten years.
- The Board's process and authority with respect to city employee complaints is not clearly defined within the City Code which has caused significant confusion on the part of the parties and the Board and may potentially expose the City to liability claims.

This amendment will clarify the duties and responsibilities of the Civil Service Board and eliminate conflicting provisions from City Code. The amendment will also simplify the grievance procedure for non-union city employees.

The city commission first passed this ordinance on March 12, 2018, and set the public hearing for March 26, 2018. That public hearing was tabled and reset for April 9, 2018.

Acting City Manager Jodoin recommended approval of final passage of Ordinance 3239 amending Chapter 7 of Title 2 of the Helena City Code to repeal the civil service board and establish the same as the Police Commission.

Public Testimony

Mayor Collins opened the public hearing and called for anyone wishing to address the commission.

There being no persons wishing to address the commission, Mayor Collins closed the public portion of the hearing.

Motion

Commissioner Farris-Olsen moved to approve final passage of Ordinance 3239 amending Chapter 7 of Title 2 of the Helena City Code to repeal the civil service board and establish the same as the Police Commission. Commissioner O'Loughlin seconded the motion. All voted aye, motion carried. **Ordinance 3239**

- B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW A CONTRACTOR YARD USE IN A B-2 (GENERAL COMMERCIAL) DISTRICT FOR PROPERTY LEGALLY DESCRIBED AS LOT 5A OF THE RAVEN ROCK SUBDIVISION, PER COS #3084419, HELENA, MONTANA.

Staff Report

City Planner Ellie Ray reported the applicant is seeking a Conditional Use Permit (CUP) to allow a Contractor Yard Use to be located on the southern end of Shephard Way. The property is 8.81-acres, and it is located in the B-2 (General Commercial) District. Helena City Code requires a CUP be granted in order to establish a Contractor Yard Use within the B-2 District.

On March 13, 2018, the Helena Zoning Commission voted 4-0 to recommend approval of the CUP with no recommended conditions. During the hearing, there was discussion on public comment that had been received from an adjacent landowner, who expressed concern over the anticipated nuisance posed by dust, dirt, and noise from the proposed Contractor Yard. In stating his concerns, the adjacent landowner recommended (1) paving and landscaping the entirety of the 8.81 acre lot to reduce dust and dirt/mud impacts; (2) installing a decorative wall around the property to serve as fencing; and (3) creating an agreement between Golden Eagle Construction and the City to maintain the right-of-way to keep it clean and clear of dust/dirt accumulations. While Section 11-2-3 of City Code requires Contractor Yard uses to provide 0.5 off-street parking spaces per 1,000 square feet of gross floor area, there is no requirement currently in City Code to compel the paving of an entire Contractor Yard lot, as per the adjacent landowner's request. Additionally, the Public Works Department has commented noting that any proposed developments that increase a site's impervious area by 5,000-square feet (e.g., buildings, pavement, and gravel/soil parking areas) requires temporary and permanent stormwater controls. Public Works staff also noted the site's major drainageways that bisect the property, stating that the City encourages leaving such drainageways open/natural and undisturbed. They further stated that the City requires the passage of upstream flows must continue to be accommodated for up to and including the 100-year peak flows. Such on-site stormwater-related issues would be addressed at the time a building permit is sought by the applicant.

The applicant's intent is to obtain a Conditional Use Permit (CUP) to allow a Contractor Yard Use for office, shop, and a storage parking area to be located in the B-2 (General Commercial) District on the southern end of Shephard Way.

Approval of the Conditional Use Permit would promote commercial infill development within the City of Helena.

Commercial development within city limits may produce lower resource(s) and infrastructural impacts by promoting the reuse of an undeveloped site with connections to City services and infrastructure.

Planner Ray recommended approval of the resolution granting a Conditional Use Permit (CUP) to allow a Contractor Yard use in a B-2 (General Commercial) District for property legally described as Lot 5A of the Raven Rock Subdivision, per COS#3084419, Helena, Montana.

Discussion

Commissioner Haladay noted some previous CUP's have included both city and county properties and asked if this specific CUP includes any county property. Planner Ray stated it is solely contained in this lot.

Commissioner Haladay noted there was some discussion in the Zoning Commission hearing about environmental concerns with the storage of large machinery sitting on the lot. There appears to be an existing stormwater drainage pond on the property and asked what is the plan for stormwater that is on the unpaved storage area, that has the potential to have fluids leak onto the ground. Engineer Leland noted the applicant will have to hire an engineer to design the stormwater drainage plan that is acceptable to the city. Any environmental issues would be handled through DEQ. The current pond will not be used for the requested use.

Commissioner Haladay asked if the portion of property that is designated for storage, is it all impervious area and will DEQ be the agency that will address any contamination issues from spilled liquids. Engineer Leland concurred.

Public Testimony

Mayor Collins opened the public hearing and called for anyone wishing to address the commission.

There being no persons wishing to address the commission, Mayor Collins closed the public portion of the hearing.

Discussion

Acting City Manager Jodoin asked the city commission to acknowledge that they have considered whether the proposed conditional use meets the requirements of Helena City Code 11-3-5A1 and A2 by weighing and balancing the following factors as set forth in Helena City Code 11-3-5B.

Commissioner Haladay addressed the following requirements:

- (a) Pedestrian, vehicular, and bicycle traffic – report clearly shows there will be no issues or impact from the additional traffic
- (b) On-street parking – on-street parking will have no impact and on-site parking requirements have been met
- (c) Noise - no impact
- (d) Glare and noise – no impact
- (e) Odor – no impact
- (f) Type and size of structures and improvements and their relative locations on the subject property – meets criteria of CUP; there is a more offensive property (county property) to the west; a truck repair shop to the east and other commercial uses in the area.

Commissioner Haladay stated overall, the application meets the criteria for a conditional use permit.

Commissioner Noonan noted the applicant has offered to install a vegetative buffer between the two lots.

Commissioner Haladay noted he has concerns with having machinery setting outside; unfortunately, there is no stormwater drainage plan the city can put into effect that will deal with. DEQ will handle any issues that may occur. Commissioner Haladay stated he is comfortable moving forward.

Motion

Commissioner Noonan moved to approve a resolution granting a Conditional Use Permit (CUP) to allow a Contractor Yard use in a B-2 (General Commercial) District for property legally described as Lot 5A of the Raven Rock Subdivision, per

COS#3084419, Helena, Montana. Commissioner O'Loughlin seconded the motion. All voted aye, motion carried. **Resolution 20437**

***Public
Communications***

PUBLIC COMMUNICATIONS
No comments received.

***Meetings of
Interest***

MEETINGS OF INTEREST
The Administrative Meeting is scheduled for April 18, 2018 at 4:00 p.m. in Room 326 and the next Commission Meeting is April 23, 2018 at 6:00 p.m. in Room 330, Commission Chambers.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 6:50 p.m.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE COMMISSION