

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
November 5, 2018 - 6:00 P.M.
City Commission Chambers, Room 330

- Time & Place** A regular City Commission meeting was held on Monday, November 5, 2018 at 6:00 p.m., in the City Commission Chambers, 316 N. Park Avenue, Helena, Montana.
- Members Present** Mayor Collins indicated for the record that City Commissioners Haladay, Noonan and O'Loughlin were present. Commissioner Farris-Olsen was excused. Deputy City Attorney Iryna O'Connor; City Manager Dennis Taylor 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 October 15 and 29, 2018 were approved as submitted.
- Board Appointment** BOARD APPOINTMENT:
A. Tax Increment Financing Advisory Board (Railroad District)

Mayor Collins recommended the appointment of Rose Casey to the TIF Advisory Board.
- Public Comment Mayor Collins asked for public comment, none was received.
- Motion** Commissioner O'Loughlin moved approval of the appointment of Rose Casey to the TIF Advisory Board (Railroad District). Commissioner Haladay seconded the motion. All voted aye, motion carried.
- Consent Agenda** CONSENT AGENDA:
A. Claims
B. Resolution of Intention to establish fees to be charged for the Bill Roberts Golf Course, 2019 season. **Resolution 20496**
C. 2019 Utility Bill Inserts

City Manager Taylor recommended approval of the claims.
- Public Comment Mayor Collins asked for public comment.
Golf Board Chair Pete Aspinwall spoke in support of the resolution of intention and noted the Golf Board was unanimous in the recommendation.
- Motion** Commissioner moved Haladay approval of Items A-C on the consent agenda and set a public hearing date for November 19, 2018 for the fees of the Bill Roberts Golf Course. Commissioner Noonan seconded the motion. All voted aye, motion carried.
- Communications From City Commissioners** COMMUNICATIONS/PROPOSALS FROM CITY COMMISSIONERS
- Report of the City Attorney** REPORT OF THE CITY ATTORNEY
Deputy City Attorney O'Connor had no items to report on.
- Report of the City Manager** REPORT OF THE CITY MANAGER
Manager Taylor reported construction has begun on the 406 Building.

Manager Taylor introduced Ron Waterman, who gave a presentation on the Equity Project he has been working on. Mr. Waterman proposed to give the Sphere of Interconnectedness gift to the city. He then recognized and thanked the many volunteers and artists who have assisted with the project. He also recognized the Helena Public Art Committee and Parks & Recreation staff.

Mr. Waterman gave the background of how the project has moved forward and how the final design was selected. Mr. Waterman noted there is a budget of \$100,000 and he has pledges close to \$70,000. He has partnered with the Montana Community Foundation to allow donations to the project to be tax deductible.

Commissioner Noonan asked what the next steps are to get the art installed, if the gift is accepted. Mr. Waterman stated he anticipates the installation occurring in the summer of July 2019. If accepted the artist will visit Helena and there are other details that will need to be addressed with city staff.

A contract with the city will need to be signed authorizing the installation the art. The design is from Artist James Dinh. Commissioner O'Loughlin asked what the full jurisdiction is of the Public Art Committee (PAC) and what type of criteria do they look at.

Manager Taylor noted the duties and responsibilities of the PAC is outlined in the resolution creating the committee. If the commission accepts the gift, staff will work with the PAC to get their advice and recommendation and to assure the correct process is used.

The ultimate decision will be up to the city commission to accept the gift or not.

John Moore, Chair of the PAC, has submitted a letter of support to accept the gift from Mr. Waterman.

Commissioner O'Loughlin referred to the description of the fountain and asked if there is an inclusive process on what the wording will be. Mr. Waterman explained if this was going to be an equity fountain, he wanted to assure the language was equitable and he worked closely with a native representative who worked with the various tribes in Helena.

Mayor Collins asked for public comment. Public Art Committee members Mitch Carroll and Anastasia Burton spoke in support of the project and noted Mr. Waterman did meet with the committee at the very beginning of the project.

Commissioner Haladay asked what the next step is; will it be put on an upcoming agenda for formal action.

Manager Taylor stated if there is commission consensus, he will confer with the Public Art Committee and staff and be prepared to put it on an administrative meeting agenda and regular city commission meeting in December 2018.

Commissioner O'Loughlin stated she would like formal recommendation from the Public Art Committee prior to taking action.

Motion

Commissioner O'Loughlin moved to direct City Manager Taylor to confer with the Public Art Committee and the city staff on the process to accept this gift and report back to the commission.

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

Mayor Collins recognized and thanked Mr. Waterman for the work he has done on the proposal.

**Report from the
Helena Citizens**

REPORT FROM THE HELENA CITIZENS COUNCIL
No report from the HCC.

**Public
Communications**

PUBLIC COMMUNICATIONS
There were no public communications.

**Communications from
City Commission**

Commissioner Noonan stated he would like to address the location of cannabis businesses with the recent annexation of the Westside. Commissioner Noonan stated the commission had discussed the impact the annexation would have on the one business and he believed there was to be further discussion prior to the business owner being told he had to relocate due to the annexation.

Commissioner Noonan then spoke of the openness and communications between the commission and the City Manager.

It is his understanding when the area was annexed, the City staff and Commission would consider the possibility that the cannabis store could be allowed to remain in the current location. Again, when this was discussed, Commissioner Noonan was under the understanding that this would be brought back for further discussion. However, the owners of the business are being told they have to move by December 1st.

Commissioner Noonan again addressed the importance of clear communication between the commission and the city manager. Being elected public officials, the commission needs to set the policy and direction of the city.

Commissioner Noonan noted he had been asked about the location of the current business and told those that the commission would discuss it prior to a final decision being made.

Manager Taylor noted the owner of the business has been told he has to move as his business would not be allowed under the current city codes; the business is not an allowable use in the city of Helena. Manager Taylor stated he does not remember the commission asking the ordinance be brought back to make the cannabis business an allowable use. He does recall indicating our ordinance is similar to Billings and the sale of marijuana would not be allowed. The annexation was not contingent upon making this one business legal in the city limits.

Commissioner Noonan stated the issue of this coming back is one issue and if there is interest in amending the ordinance is another.

Commissioner O'Loughlin recalled the city attorney providing a summary of what the current ordinance is and the ordinance was really a prohibition era that was put into place. It was her understanding there was potential to modify the ordinance that would allow a business that is legal in the state of Montana to operate in the city of Helena. She too thought this would come back to the commission for further discussion. The commission has not had a substantive conversation on this topic or received additional information from the city attorney's office on what might be possible.

Mayor Collins noted the next administrative meeting is November 14th; which is two weeks before the annexation takes effect. He asked if the commission wants to schedule a special meeting to discuss this.

Commissioner Haladay stated he originally brought this up and the expectation was the commission would discuss it again. Commissioner Haladay noted the ordinance has one sentence that includes "under federal law"; and noted it would not be that hard to omit the language from the city code. The main question is there enough time to discuss it. It would probably have to be an emergency ordinance for it to be effective prior to December 1st.

Manager Taylor noted if there is consensus to amend the ordinance, staff will figure out how to move forward. The change will be effective city wide and not just grandfather the one business in. If it was the commission's expectation that he was to bring it back prior to December 1 that was not his understanding.

Commissioner Noonan stated he is not asking for approval to amend the ordinance, what he is asking is to have the discussion. If the answer is there is not time, is there a way to postpone a decision on this until the commission has had the time to discuss it.

Manager Taylor asked what decision needs to be postponed, if it is the annexation, the commission would have to move to reconsider their action on the annexation.

Commissioner Haladay stated it is his understanding upon annexation, the city would notify the business owner they cannot get a city business license and would have to cease and desist the business. Manager Taylor noted that is the communication staff has had with both the property owner and business owner.

Commissioner Haladay asked if there is a way to bring in a business contingent upon obtaining a business license. It is important for the commission to have the discussion.

Deputy City Attorney O'Connor stated she is not sure of a way to delay the enforcement action; staff can look into it and see if there has been any precedent for any non-forming uses coming into the city. She does not recall any situations. Attorney O'Connor cautioned the commission if you delay enforcement of a city ordinance, you could potentially lose the ability to enforce against a businesses at a later date. She referred to a case in Billings where there was an error and a marijuana business was allowed to operate in the city and was issued a business license; once the error was discovered, the city tried to revoke the business license and the lawsuit claimed they could no longer do so because they granted the ability to operate the business. Again if you delay enforcement the city could be challenged on the enforcement action. She will look into what could be done to delay the enforcement.

Attorney O'Connor stated an emergency ordinance is only applied of health and safety situations. Staff will look into it and report back to the commission.

Commissioner Noonan suggested this come back to the commission at the November 14th administrative meeting. One aspect was to create a special zone for this area.

Manager Taylor stated staff will research all options and report back to the commission. Commissioner Noonan appreciates having the discussion tonight.

Meetings of Interest MEETINGS OF INTEREST

City Manager Interviews – November 10, 2018 – 8:45 a.m. – 5:30 p.m. - Room 326, City-County Building

City Manager Interviews – November 11, 2018 – 8:45 a.m. – 11:30 a.m. - Room 326, City-County Building

Administrative Meeting is scheduled for November 14, 2018, and the next City Commission Meeting is November 19, 2018.

Adjournment

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

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE CITY COMMISSION