

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
May 20, 2019 - 6:00 P.M.
City Commission Chambers, Room 330

Time & Place A regular City Commission meeting was held on Monday, May 20, 2019 at 6:00 p.m., in the City Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present Mayor Pro Tem Haladaya requested City Clerk Havens call roll call: Attorney Jodoin, City Manager Cortez, Deputy Clerk Clayborn, Commissioner Noonan, Commissioner O'Loughlin, and Commissioner Wicks all responded present. Mayor Collins was excused.

Pledge of Allegiance Mayor Pro Tem Haladaya 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 May 6, 2019 were approved as submitted.

Proclamation PROCLAMATION:
A. Don't Fry Day

Mayor Pro Tem Haladaya read the Don't Fry Day Proclamation and presented it to Karrie Fairbrother.

Karrie Fairbrother thanked the commission for their participation in spreading awareness surrounding skin cancer prevention.

Discussion Commissioner Noonan thanked Ms. Fairbrother for her work bringing this issue to the attention of the community.

Board Appointments BOARD APPOINTMENTS:
A. Helena Open Lands Management Advisory Committee, Tourism Business Improvement Board

Mayor Pro Tem Haladaya recommended the following appointments:

Helena Open Lands Management Advisory Committee Appointment of Mark O'Keefe to a first term on HOLMAC. Term will begin upon appointment and expire June 30, 2022.

Tourism Business Improvement District Appointment of John Lytle to a first term on the TBID. Term will begin upon appointment and expire April 20, 2023

Public Comment Mayor Pro Tem Haladaya asked for public comments. None was received.

Motion **Commissioner O'Loughlin moved approval of the board appointments as outlined above.** Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladaya voted aye. **The motion carried, 4-0.**

Consent Agenda CONSENT AGENDA:
A. Claims

City Manager Cortez recommended approval of the consent agenda, item A Claims.

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

Motion Commissioner O’Loughlin moved approval of the claims and consent agenda item A, Claims. Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O’Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

Communications from City Commissioners COMMUNICATIONS/PROPOSALS FROM CITY COMMISSIONERS
No reports given.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
No report given.

Report of the City Manager REPORT OF THE CITY MANAGER
City Manager Cortez spoke about Project Renaissance, stating last week she was informed by the BID they would not like to move forward with the City partnership in Project Renaissance. The City will be seeking out new partnerships for the City’s goals in the Downtown area, and with the Downtown Master Plan, and the current relationship structure with the BID would be reviewed for future plans.

Discussion Commissioner Noonan stated, as the Commission liaison with the BID, the role of non-profits and utilizing them for city business and projects should be used with caution, to avoid asking a non-profit entity to do work which would be better suited to city staff. The Commissioner further stated the decision was not a financial one, and he would be supportive in finding another partner for the maintenance and improvement of downtown.

Manager Cortez reported on the commentary received by the Helena Parking Commission at the Civic Center and downtown events, regarding the new parking equipment, stating it was positive. Media outreach was also being performed by the Helena Parking Commission Director Hewitt in order to inform the public as much as possible.

Discussion Commissioner Haladay asked the City Manager to explain where the public could receive information from the City on the Parking Strategies, and more information on the updates. City Manager Cortez stated the webpage, as well as, Helena Parking Commission staff would all be able to provide further information, in person or over the phone.

City Manager Cortez updated the Commission on the Front Street Construction Project, as to the completed phases of the project. The Manager asked all citizens to be aware of the construction zones, and proceed with caution in these areas for the safety of the workers and pedestrians.

A. City Manager Cortez presented the FY 2020 & 2021 Preliminary Biennial Budget

As required by City Charter, the fiscal years 2020 and 2021 preliminary budgets are presented to the Commission for review and discussion. The Biennial 2020-2021 Budget is the City's first biennial document.

The City Manager proposes the adoption of a Biennial Budget for 2020 and 2021 to more effectively manage limited revenues, increasing expenditures, general fund reserves, general fund balances, restricted revenues and expenditures and restricted fund balances.

As this document is the City's first Biennial Budget, staff anticipates budget amendments due to inexperience with 24 months forecasts. Staff expects to spend 6 to 8 months in the first year of the biennial cleaning data and making corrections.

Discussion

Commissioner O'Loughlin asked for a historical comparison of beginning and ending cash balances, asking if the current numbers are consistent with previous years. Manager Cortez discussed the difference between sourcing and expenditures of enterprise funds and the general funds. Director Jorgenson confirmed the numbers presented for this year were consistent with previous years.

Manager Cortez stated the Comprehensive Capital Improvement Program (CCIP) budget will not be ready in June, which is not required to be prepared as part of the regular city budget. This item would need to be approved as a separate item, and will be discussed further at an upcoming Administrative meeting, prior to any formal adoption by the Commission. The Manager finished with providing an overview of the timeline of the budget process, and encouraged the public to review the materials provided on the City's webpage and ask questions at budget@helenamt.gov. The budget hearing will be June 24, 2019, and additional public input will be received at that time. The resolution of intent for rates will be held July 15, 2019 and the public hearing on those rates will be August 26, 2019.

Manager Cortez recommended acceptance of the fiscal years 2020 and 2021 preliminary budgets so that this information may be shared with the public and through community input, finalize the 2020-2021 Biennial Budget to be presented in June.

Discussion

Commissioner O'Loughlin asked the Fire Departments funding to be explained further, specifically if the fire levy was reflected in the numbers provided. Director Jorgenson stated while the levy was accounted for in an additional fund, the numbers the Commissioner was referencing did reflect the levy numbers, and the levy dollars were accounted for quarterly as they were transferred into the general fund.

Commissioner O'Loughlin asked for clarification on the open space district maintenance fund, and if City Staff anticipates these funds will be spent fully, due to this fund being a possible area for rate increases. Director Jorgenson stated the Finance department would provide clarification on this item.

Commissioner O'Loughlin asked if the proposed rate increases would be sufficient to cover the necessary vacancies to fulfill the required workload. Manager Cortez stated this was a goal of the City to fill the necessary vacancies in the upcoming fiscal year, to improve the budgetary projections going forward.

Commissioner O'Loughlin asked for discussion about the water service line and wastewater service line, due to the different nature of these programs. Director Jorgenson explained these items were essentially a loan program, and thus were not considered traditional revenues and expenditures, at this point the amount of dollars set aside

for this program were expected to fully spent through the loan program, and an update would be provided as the loans were enacted.

Commissioner O'Loughlin thanked the staff and City Manager Cortez for their efforts on this budget. Commissioner O'Loughlin stated she felt due to the level of detail of this budget process, it allowed the Commission to make decisions based upon a more complete picture of the City's needs and priorities.

Commissioner Noonan stated he appreciated the promise of quarterly budget reports and felt this would help the commission make more informed decisions going forward.

Commissioner Wicks thanked the staff and City Manager for the openness of the budget process.

Commissioner Haladay echoed the thoughts of the other Commissioners, and thanked the Manager for making this budget process an informative and open one.

Motion

Commissioner O'Loughlin moved to accept the fiscal years 2020 and 2021 preliminary budgets so that this information may be shared with the public and through community input, finalize the 2020-2021 Biennial Budget to be presented in June. Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

Public Comment

Mayor Pro Tem Haladay asked for public comment. None was received.

Commissioner Noonan moved to direct staff to bring the FY 2020-2025 CCIP plan no later than 12/31/2019. Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

Public Comment

Mayor Pro Tem Haladay asked for public comment. None was received.

Report from the Helena Citizens

REPORT FROM THE HELENA CITIZENS COUNCIL

Dylan Klapmeier, Representative District 4, spoke on behalf of the HCC. Mr. Klapmeier stated the HCC would be reviewing the Preliminary Budget at the May 22nd monthly meeting, and would be providing feedback to the commission after the discussion.

Regular Items

- A. **CONSIDER EXPIRATION OF TEMPORARY BUSINESS LICENSES ISSUED TO MEDICAL MARIJUANA DISPENSARIES AND GROW OPERATIONS PURSUANT TO ORDINANCE NO. 3248.**

Staff Report

Deputy City Attorney O'Connor reported on December 17, 2018, the City Commission passed Ordinance No. 3248 placing a moratorium on the enforcement of section 4-1-11 of the Helena City Code to allow temporary business licenses to be issued to medical marijuana dispensaries and to grow operations wishing to operate within the city limits. Per the terms of the Ordinance, these temporary business licenses were set to be automatically revoked upon expiration on the

moratorium unless the City Commission repeals or amends section 4-1-11 of the Helena City Code prior to the expiration of this moratorium. The Ordinance also clearly provided that no business that was allowed to continue operations or was newly formed and began operation as a result of this moratorium was entitled to any expectation of ongoing business operations should this moratorium be permitted to expire or should the City Commission not modify section 4-1-11 upon its expiration. During this moratorium, medical marijuana dispensaries were allowed to operate wherever general retail land use was permitted.

The purpose of the moratorium was to allow the medical marijuana businesses that were annexed into the city to operate while the City Commission considered the question of whether or not medical marijuana dispensaries or grow operations should be permitted within the city limits. Later this evening, the City Commission will consider final adoption of ordinances which will amend the City's current business regulations to permit business licenses being issued to medical marijuana businesses and which will put in place certain zoning restriction on where these types of businesses may operate.

During the moratorium, ten (10) temporary business licenses were issued for operation of medical marijuana dispensaries. Two (2) of these businesses will become non-conforming land uses if the City Commission adopts the new zoning regulations as proposed and allows the business licenses issued during the moratorium to continue past June 30, 2019.

The City Commission may elect to either allow the business licenses issued to medical marijuana dispensaries during the moratorium to remain in effect, or have these licenses expire and require all temporary license holders to re-apply for new business licenses on July 1, 2019, and be subject to the new zoning regulations applicable to these types of businesses.

If the City Commission elects to allow the business licenses issued to medical marijuana dispensaries during the moratorium to remain in effect past the June 30, 2019, expiration date, those businesses will be able to continue to operate, however, two (2) of those businesses will become non-conforming land uses.

If the City Commission elects to terminate the business licenses issued to medical marijuana dispensaries during the moratorium, all current license holders will have to re-apply for a new business license and be subject to the new zoning regulations in order to continue operating their businesses. Two (2) of the businesses will have to relocate in order to be compliant with the new zoning regulations.

If the City Commission elects to allow the business licenses issued to medical marijuana dispensaries during the moratorium to remain in effect past the June 30, 2019, expiration date, those businesses will be able to continue to operate, however, two (2) of those businesses will become non-conforming land uses.

According to the Office of the City Attorney, the same arguments could be considered an advantage or a disadvantage.

Deputy City Attorney O'Connor proposed two options to the Commission, as follows:

Move to expire, effective June 30, 2019, all temporary business licenses issued to medical marijuana dispensaries and grow operations pursuant to Ordinance No. 3248. All temporary business license holders are required to re-apply for a new business license and must comply with

the zoning regulations in effect on July 1, 2019, to continue operation past the temporary licenses expiration date.

OR

Move to allow all temporary business licenses issued to medical marijuana dispensaries and grow operations pursuant to Ordinance No. 3248 to remain in effect past the June 30, 2019, expiration date. Any temporary business license holder operating a business that does not comply with the zoning regulations related to medical marijuana dispensaries and grow operations is permitted to continue operation as a non-conforming land use.

Discussion

Commissioner O'Loughlin asked if the temporary business license application(s) which would be considered "non-conforming" were informed of the Zoning Commission's recommendations, in that, there a possibility existed their license would no longer be valid in the future given these recommendations. Director Haugen stated the Zoning Commission held their public hearing on March 12th, 2019, but community outreach did start in January 2019 with multiple opportunities for public participation along with efforts to educate the public on the process. The Community Development department has been in contact with the owner who may be impacted by the Commission's decision tonight, and made it clear the license stipulates "temporary," and there was a possibility they would no longer be able to operate without a business license.

Commissioner Noonan asked if the non-conforming business which would be affected tonight was the original business impacted by the Granite annexation. Director Haugen stated the location of the business in question was 1400 Euclid, and will be non-compliant due to the proximity of the CR Anderson Schools activities field.

Mayor Pro Tem Haladay asked if the non-conforming property had a process to apply for a variance in order to address the non-compliance issue. Deputy City Attorney O'Connor stated she was not aware of any variance that would allow relief in this matter. City Attorney Jodoin agreed, this is a non-discretionary matter. Deputy City Attorney O'Connor stated there would be a process for the matter to be appealed to and reviewed by the City Manager, should the Commission pass the revisions to the City Code, which was on the agenda this evening.

Mayor Pro Tem Haladay asked for confirmation if the business with the possible non-conforming license is not the original business which was affected by the Granite Annexation. Director Haugen confirmed this was a new license, and not the original business.

Public Comment

Mayor Pro Tem Haladay called for public comment. None was received.

Discussion

Commissioner O'Loughlin offered support for the first option of allowing the temporary business licenses to expire, and require a new application process, and commended the Zoning Commission for their recommendations and their criteria put forth.

Motion

Commissioner O'Loughlin moved to expire, effective June 30, 2019, all temporary business licenses issued to medical marijuana dispensaries and grow operations pursuant to Ordinance No. 3248. All temporary business license holders are required to re-apply for a new business license and must comply with the zoning

regulations in effect on July 1, 2019, to continue operation past the temporary licenses expiration date. Commissioner Wicks seconded the motion.

Discussion

Commissioner Noonan asked the reapplication process not be too onerous for the applicants, but stated he was in support of this decision.

Mayor Pro Tem Haladay offered support for the motion, and said the process was an open one and the public was notified multiple times to the possibility the temporary licenses they were applying for could become invalid at some point.

Vote

City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

- B. CONSIDER THE FINAL PASSAGE OF ORDINANCE 3255 PROHIBITING MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA GROW OPERATIONS AS HOME OCCUPATIONS BY AMENDING CHAPTER 26 OF TITLE 11 OF THE HELENA CITY CODE.

Staff Report

Community Development Director Sharon Haugen reported the State of Montana legalized medical marijuana with the Medical Marijuana Act of 2017. State law under the Medical Marijuana Act of 2017 gives the State the ability to deny a license or endorsement if the applicant's proposed registered premise is within five hundred (500') feet of and on the same street as a building used as a school. State law allows the community to consider restrictions. Although the State legalized the use of medical marijuana Federal law does not recognize that as a legal use. The City of Helena has disallowed any business that is prohibited under any law of the United States. On December 17, 2018 the City Commission passed Ordinance 3248 suspending the enforcement of Section 4-1-11 of the Helena City Code. This section of City Code prohibits the issuing of a city business license to a business, occupation, vocation, profession or entertainment that is permitted by the state law but is prohibited under any law of the United States. The moratorium will remain in effect until June 30, 2019.

The Zoning Commission held a public hearing on March 12, 2019 and recommended the following: a) medical marijuana dispensaries should be defined and allowed within the City limits in commercially zoned districts (B1, B2, B3, CLM and MI) with a restriction to not be within five hundred (500') feet of a school; and b) grow operation should be defined and allowed as a conditional use permit (CUP) in the Commercial Light Manufacturing (CLM) zone and in the Manufacturing and Industrial (MI) zone with a restriction to not be within one thousand (1000') from a school or a residential zone. The Zoning Commission recommended against allowing either use as a home occupation.

On April 22, 2019, the Helena City Commission held a public hearing to consider the Zoning Commission's recommendations. The City Commission voted unanimously to approve first passage of an ordinance prohibiting Medical Marijuana Dispensaries and Medical Marijuana Grow Operations as Home Occupations by Amending Chapter 26 of Title 11 of the Helena City Code.

This proposed ordinance will provide clarity to Chapter 26 of Title 11 of the Helena City Code in the implementation of the home occupation permit regulations.

Public Comment

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

Motion

Commissioner Noonan moved to to approve final passage of Ordinance 3255 prohibiting Medical Marijuana Dispensaries and Medical Marijuana Grow Operations as Home Occupations by amending Chapter 26 of Title 11 of the Helena City Code.

Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0. Ordinance 3255**

- C. CONSIDER FINAL ADOPTION OF ORDINANCE 3254 ESTABLISHING THE PERMITTED LOCATIONS FOR MEDICAL MARIJUANA DISPENSARIES AND GROW OPERATIONS BY AMENDING CHAPTER 2 OF TITLE 11 OF THE HELENA CITY CODE.

Staff Report

Community Development Director Sharon Haugen reported the State of Montana legalized medical marijuana with the Medical Marijuana Act of 2017. State law under the Medical Marijuana Act of 2017 gives the State the ability to deny a license or endorsement if the applicant's proposed registered premise is within five hundred (500') feet of and on the same street as a building used as a school. State law allows the community to consider restrictions. Although the State legalized the use of medical marijuana Federal law does not recognize that as a legal use. The City of Helena has disallowed any business that is prohibited under any law of the United States. On December 17, 2018 the City Commission passed Ordinance 3248 suspending the enforcement of Section 4-1-11 of the Helena City Code. This section of City Code prohibits the issuing of a city business license to a business, occupation, vocation, profession or entertainment that is permitted by the state law but is prohibited under any law of the United States. The moratorium will remain in effect until June 30, 2019.

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On April 22, 2019, the Helena City Commission held a public hearing to consider the Zoning Commission's recommendations. The City Commission voted unanimously to approve first passage of an ordinance amending Chapter 2 of Title 11 of the Helena City Code establishing the permitted locations for Medical Marijuana dispensaries and grow operations.

This complies with the growth policy. The proposed text amendments will allow a functioning business model to operate in the

City of Helena contributing to the economic vitality of the City. Additionally, the proposed text amendment will allow businesses to establish in the City that will contribute to the diversification of the economic base of the City. One of the objectives of the economic conditions chapter of the Growth Policy is to support efforts to encourage the creation and expansion of small business and help reduce the rate of failure. The proposed text amendment supports small businesses. However, Marijuana is still classified as a schedule one drug at the federal level.

Director Haugen recommended approval of the final passage of Ordinance 3254 establishing the permitted locations for Medical Marijuana Dispensaries and Grow Operations by amending Chapter 2 of Title 11 of the Helena City Code.

Discussion

Commissioner O'Loughlin asked what the City's verification process was for licensure and registration of these businesses with DPHHS, in order to be compliant with state law; and if so, was there a follow-up verification process in place. Director Haugen stated there were processes for other licenses which asked for confirmation of compliance with state law and registration, and this process could be used for this matter, as well, and the Community Development would work with the Finance department to put such measures in place. Commissioner O'Loughlin asked staff to follow-up with DPHHS to ensure the City was compliant and to confirm the date the new legislation would take effect.

Commissioner Wicks asked if the current resolution would allow for business operation within 500 feet of a church. Director Haugen confirmed this, but stated the commission has discussed previously the need for possible revisions to the CUP review process. This would be an opportunity to address concerns such as church proximity.

Public Comment

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

Motion

Commissioner Noonan moved to approve final passage of Ordinance 3254 establishing the permitted locations for Medical Marijuana Dispensaries and Grow Operations by amending Chapter 2 of Title 11 of the Helena City Code. Commissioner O'Loughlin seconded the motion.

Discussion

Mayor Pro Tem Haladay thanked the City Attorney's office and the Community Development office for the expediency with which the City staff had responded to the issue raised by the Granite St. business and the Westside Annexation.

Commissioner Noonan stated the Commission was in accordance with legislation passed with a strong majority at the state level, and as such was confident in the Commission's decision.

Vote

City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0. Ordinance 3254**

Public Hearings

PUBLIC HEARINGS

- A. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW A CASINO IN THE B-2 ZONING DISTRICT; FOR PROPERTY LEGALLY DESCRIBED AS SKELTON ADDITION PHASE 1, BLOCK 1, LOT 6B PROPERTY ADDRESSED AS 1151 PARTRIDGE PLACE, HELENA, MT 59601.

Staff Report

Community Development Director Haugen reported The applicant/property owner is seeking a Conditional Use Permit (CUP) to allow a casino located on a property that is zoned B-2, (General Commercial). The property is developed with an approximately 3,030 square foot building and associated off-street parking and landscaping and is currently vacant. The proposed use requires thirty (30) off-street parking places and the current site plan for the property only shows twenty-nine (29) spaces of which two (2) are ADA compliant. The original owner was required to install only twenty-seven (27) parking spaces because they were allowed reductions for bicycle parking spaces. The owner never installed the bicycle spaces that were associated with the reduction. The applicant will be required to provide nine (9) bicycle spaces to meet the parking requirements and associated reductions for the addition of bicycle parking. The casino will be in an existing structure and is compatible with the type and uses within the surrounding commercial buildings. To the north across the street is a bank. To the south is a health club/gym facility, and to the west is a strip mall with various commercial uses. To the east of the property is N. Montana Avenue According to the Institute of Transportation Engineers, Trip Generation 9th Edition Casino/Video Lottery Establishments have an average rate of 13.43 trips/1,000 square feet of gross floor area. This amount of traffic is considerably less than the restaurant uses that have been located on the site previously. The current street network will handle the traffic generated by the CUP and there is an existing sidewalk network adjacent to the property.

On April 9, 2019, the Helena Zoning Commission held a public hearing and voted to recommend granting conditional approval for a Conditional Use Permit to allow a casino in a B-2 zoning district, and satisfies all review criteria for a CUP as established by the Zoning Commission. This will fill an existing vacant building with a viable business.

Director Haugen recommended approval of a resolution granting a conditional use permit to allow a 1,900 square foot casino use in an existing building in a B-2 (General Commercial) Zoning District on property legally described as Lot 6B in Block 1 of Lot 6 Minor Subdivision of the Skelton Addition Subdivision, Phase 1, generally located south of Partridge Place and west of Montana Avenue, as shown on Certificate of Survey #613622, subject to the following condition: the applicant must install a minimum of nine (9) bicycle parking spaces in accordance with City Code.

Discussion

Commissioner Wicks asked if the odor from patrons smoking outside of the Casino had been considered. Director Haugen stated the risk of smoke would not be expected to be more conspicuous than outside existing businesses and residential areas.

Public Testimony

Mayor Pro Tem Haladay declared the public portion of the hearing open and called for any public testimony. The following persons addressed the commission:

Josh Cary, Manager Fuel Fitness, supported granting of the CUP, stating this would help Fuel Fitness remain in operation.

Chris Sandrock, owner of the Sunset Casino and the applicant for the CUP, asked the commission to approve the CUP, stating it will offer a viable business in a currently vacant commercial space.

Alice Crofts spoke in opposition to the granting of the CUP, stating concerns over a casino and its impact on an area where there were health related businesses, and a residential area.

Dr. Sandra Marsten spoke in opposition of the CUP, stating concerns over installation of a casino, in an area which contained several health related industries and services.

Susanne Pate, an employee of the Sunset Casino, spoke in support of the CUP, stating her experience as an employee of the CUP applicant's other business was a positive one.

Heather, Manager of Fuel Fitness, spoke in support of the CUP.

Karrie Fairbrother spoke on behalf of a resident of the adjacent subdivision, opposing the CUP.

Julia Pate, spoke in support of the CUP, stating casino and bar industry offered jobs and living wages for many in the area, including many women, such as herself.

Parker Heller, resident at 4200 Fox Den, spoke in support of the CUP, stating the residential and health related industries which were in place developed after a similar business was established in vicinity of this CUP application.

Joe Passamani, attorney for the applicant, stated there would be no additional gaming license established at this address, it would be transferred from another business.

Discussion

Commissioner Wicks stated she had received large amount of public comment on this CUP and would be considering this matter as a public health issue, and as a result, would be a no vote on this CUP.

Commissioner O'Loughlin addressed the Zoning Commissions recommendations and the reasoning behind their recommendations for issuing the CUP. The commissioner stated when considering the data the and the conditions.

City Attorney Jodoin recommended tabling item, due the new information provided there were communications between Commissioner Noonan and Commissioner Wicks, and allow for full disclosure of any communications given to Commissioners to full

There being no further public testimony, Mayor Pro Tem Haladay closed the public portion of the hearing.

Motion

Commissioner Noonan moved to table consideration of a resolution granting a conditional use permit to allow a 1,900 square foot casino use in an existing building in a B-2 (General Commercial) Zoning District on property legally described as Lot 6B in Block 1 of Lot 6 Minor Subdivision of the Skelton Addition Subdivision, Phase 1, generally located south of Partridge Place and west of Montana Avenue, as shown on Certificate of Survey #613622, subject to the following condition: the applicant must install a minimum of nine (9) bicycle parking spaces in accordance with City Code. Commissioner seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye,

Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

Discussion

Commissioner O'Loughlin asked if it would possible to place this item on the next Commission meeting agenda, due to the public interest.

City Attorney Jodoin stated this item was a Public Hearing, and there should be consideration for a public notice. Director Haugen stated the recommendation would be to table the item and bring the matter forward for consideration, following a public notice, and bring the item back to the agenda for the second meeting in June.

Commissioner O'Loughlin asked the public testimony which was made this evening, be placed as part of the packet for the upcoming commission meeting where this matter would be revisited.

B. CONSIDER FINAL PASSAGE OF ORDINANCES AMENDING AND REPEALING SECTIONS OF TITLE 4, BUSINESS REGULATIONS, TITLE 5 POLICE REGULATIONS, AND TITLE 7, PUBLIC WAYS AND PROPERTY, OF THE HELENA CITY CODE TO ELIMINATE OUTDATED AND DUPLICATIVE CITY BUSINESS REGULATIONS.

Staff Report

The City's business regulations are contained in Title 4 of the City Code. However, over the years many of the regulations contained in Title 4 have become conflicting, duplicative, or unnecessary, or do not fit with the current operations of the city.

Repeal Title 4 of the Helena City Code in its entirety and re-adopt parts of the title with a new organizational structure. The proposed re-adoption of Title 4 will eliminate conflicting, duplicative, or unnecessary provisions, move certain sections to other titles of city code for easier referencing, and clarify the regulations, process, and administration of business licenses within the city. The changes to the code will be as follows:

Title 4 Business Regulations:

- Adopt new Chapter 1: Business Licenses - this chapter outlines the regulations with respect to business licensing requirements, endorsements for particular types of business, application requirements, fees, and revocation and suspension process.
- Adopt new Chapter 2: Business Regulations – this chapter consolidates non-duplicative and non-superseded regulations specific to particular types of businesses such as pawnbrokers and tobacco retailers that are currently contained in separate chapters.
- Current Chapters 2 through 14 are repealed with numbering reserved for future use.

Title 5 Police Regulations:

- Amend Section 5-1-1: Possession of Intoxicating Beverages to remove reference to Section 4-2-11 of the Helena City Code.
- Amend Section 5-1-4: Smoking Prohibited in Certain Areas to incorporate the prohibition on smoking within a reasonable distance of an indoor public place such that tobacco smoke may enter nonsmoking areas. Currently this regulation is contained in Title 4 Chapter 13.

Title 7 Public Ways and Property:

- Adopt new Chapter 14 that outlines permitting requirements for consumption of alcoholic beverages on city property such as

streets or city parks. Currently these regulations are contained in Title 4 of the Helena City Code.

The following staff amendments (indicated by double strikethroughs and double underlines) are proposed to be included as part of the final passage of the proposed ordinances.

Chapter 1, Title 4

- Include a cross reference to definitions contained in Title 11 and eliminate definitions for terms defined in Title 11. Public Testimony.
- Include a requirement that each location of a commercial enterprise requires a separate application and license.
- Include casinos as a commercial enterprise that requires an additional endorsement.
- Include language to allow a legal representative to sign the license application.
- Eliminate the requirement to submit other required licensure as part of the city business license application.
- Explicitly state that no business license will be issued or renewed if either the owner, officer, or the commercial enterprise owes any arrears to the city.

Chapter 2, Title 4

- Violations of Section 4-2-2 are made into civil penalties rather than criminal misdemeanors.

The proposed re-adoption of Title 4 will eliminate conflicting, duplicative, or unnecessary provisions, move certain sections to other titles of city code for easier referencing, and clarify the regulations, process, and administration of business licenses within the city.

City Attorney Jodoin recommended the following motions:

Move to amend the ordinance, as attached, establishing Business License Regulation by repealing the current Chapter 1 of Title 4 and adopting a new Chapter 1, Business Licenses, of Title 4, Business Regulations, of the Helena City Code.

Move to amend the ordinance, as attached, recodifying reasonable distance smoking regulations from Title 4, Business Regulations, into Title 5, Police Regulations, of the Helena City Code.

Move to amend the ordinance, as attached, eliminating outdated and duplicative business regulations by repealing Chapters 2 through 14 of Title 4, and adopting a new Chapter 2, Business Regulations, of Title 4 of the Helena City Code.

Move to approve final passage of an ordinance recodifying reasonable distance smoking regulations from Title 4, Business Regulations, into Title 5, Police Regulations, of the Helena City Code.

Move to approve final passage of an ordinance recodifying regulations addressing consumption of alcoholic beverages on city property from Title 4, Business Regulations, by adopting a new Chapter 14, Consumption of Alcoholic Beverages on City Property, of Title 7,

Public Ways and Property, of the Helena City Code, and amending Section 5-1-1, of the Helena City Code.

Move to approve final passage of an ordinance eliminating outdated and duplicative business regulations by repealing Chapters 2 through 14 of Title 4, and adopting a new Chapter 2, Business Regulations, of Title 4 of the Helena City Code.

Public Testimony

Mayor Pro Tem Haladay declared the public portion of the hearing open and called for any public testimony.

There being no public testimony, Mayor Pro Tem Haladay closed the public portion of the hearing.

Motion

Commissioner Wicks moved to amend Ordinance 3250, as follows:

- **Include a cross reference to definitions contained in Title 11 and eliminate definitions for terms defined in Title 11.**
- **Include a requirement that each location of a commercial enterprise requires a separate application and license.**
- **Include casinos as a commercial enterprise that requires an additional endorsement.**
- **Include language to allow a legal representative to sign the license application.**
- **Eliminate the requirement to submit other required licensure as part of the city business license application.**
- **Explicitly state that no business license will be issued or renewed if either the owner, officer, or the commercial enterprise owes any arrears to the city.**

And, establishing Business License Regulations by repealing the current Chapter 1 of Title 4 and adopting a new Chapter 1, Business Licenses, of Title 4, Business Regulations, of the Helena City Code.

Commissioner O'Loughlin seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

Commissioner O'Loughlin moved to approve final passage of Ordinance 3250, as amended, establishing Business License Regulations by repealing the current Chapter 1 of Title 4 and adopting a new Chapter 1, Business Licenses, of Title 4, Business Regulations, of the Helena City Code.

Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0. Ordinance 3250**

Commissioner Noonan moved to amend Ordinance 3251, in Section 5-1-1: Possession of Intoxicating Beverages to remove reference to Section 4-2-11 of the Helena City Code, and recodifying reasonable distance smoking regulations from Title 4, Business Regulations, into Title 5, Police Regulations, of the Helena City Code.

Commissioner O'Loughlin seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted

aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

Commissioner O'Loughlin moved to approve final passage of Ordinance 3251, as amended, recodifying reasonable distance smoking regulations from Title 4, Business Regulations, into Title 5, Police Regulations, of the Helena City Code. Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0. Ordinance 3251**

Commissioner Noonan moved to approve final passage of Ordinance 3252, recodifying regulations addressing consumption of alcoholic beverages on city property from Title 4, Business Regulations, by adopting a new Chapter 14, Consumption of Alcoholic Beverages on City Property, of Title 7, Public Ways and Property, of the Helena City Code, and amending Section 5-1-1, of the Helena City Code. Commissioner O'Loughlin seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0. Ordinance 3252**

Commissioner O'Loughlin moved to amend Ordinance 3253, stating violations of Section 4-2-2 are made into civil penalties rather than criminal misdemeanors, and eliminating outdated and duplicative business regulations by repealing Chapters 2 through 14 of Title 4, and adopting a new Chapter 2, Business Regulations, of Title 4 of the Helena City Code. Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

Commissioner O'Loughlin moved to approve final passage of Ordinance 3253, as amended, eliminating outdated and duplicative business regulations by repealing Chapters 2 through 14 of Title 4, and adopting a new Chapter 2, Business Regulations, of Title 4 of the Helena City Code. Commissioner Wicks seconded the motion.

Discussion

The Commission thanked the City Attorney's office and staff for their efforts in reorganizing the City Code.

Vote

City Clerk Havens called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0. Ordinance 3253**

**Public
Communications**

PUBLIC COMMUNICATIONS
None Received.

Adjournment

There being no further business to come before the City Commission, the meeting adjourned at 7:58 p.m.

Meetings of Interest MEETINGS OF INTEREST

Administrative Meeting – June 5, 2019 - 4:00 p.m. - Room 326, City-County Building

Regular City Commission Meeting – June 10, 2019 - 6:00 p.m. - Commission Chambers,
City-County Building

/S/ ANDRES HALADAY
MAYOR PRO TEM

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE CITY COMMISSION