

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 24, 2019 - 6:00 P.M.
City Commission Chambers, Room 330

Time & Place A regular City Commission meeting was held on Monday, June 24, 2019 at 6:00 p.m., in the City Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present Mayor Collins requested City Clerk Havens call roll call: Deputy City Attorney O'Connor, City Manager Cortez, Deputy Clerk Clayborn, Commissioner Haladay, Commissioner Wicks, Commissioner Noonan, Commissioner O'Loughlin, and Commissioner Wicks all responded 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 June 10, 2019 were approved as submitted.

Board Appointments BOARD APPOINTMENTS:
A. Helena Housing Authority, Railroad Tax Increment Financing Advisory Board

Mayor Collins recommended the following appointments:

Helena Housing Authority

Reappointment of David Regghanti to a first full term on the Helena Housing Authority. Term will begin upon appointment and expire August 1, 2021. Clerk Havens spoke with Executive Director Michael O'Neal, who recommended the reappointment.

Reappointment of Judy Nielsen to a two-year term, per the attached request of the Helena Housing Authority Board Members and Executive Director Michael O'Neil. Term will begin upon appointment and expire August 1, 2021.

Railroad Tax Increment Financing Advisory Board

Appointment of Donna Brietbart, Marketing & Development Director, as representative from Helena College, to the Railroad Tax Increment Financing Advisory Board, per the attached recommendation from Helena College. There is not a specific term for members of the Railroad Tax Increment Financing Advisory Board.

Public Comment Mayor Collins asked for public comments. None was received.

Motion **Commissioner Halday moved approval of the board appointment as outlined above.** Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution of intention to increase rates for all customers of the City of Helena water system for fiscal years 2020 and 2021, and set a public hearing date for August 26, 2019.
Resolution 20529
- C. Resolution of intention to increase residential and commercial wastewater base and usage rates for fiscal years 2020 and 2021, and set a public hearing date for August 26, 2019.
Resolution 20530

City Manager Cortez recommended approval of the consent agenda, items A-C.

Public Comment

Mayor Collins asked for public comment. None was received.

Motion

Commissioner Noonan moved approval of the claims and consent agenda item A - C. Commissioner O'Loughlin seconded the motion.

Discussion

Commissioner O'Loughlin stated for the record these resolutions are setting a public hearing date, and these rates are open to further discussion. The Commissioner encouraged public comment at this time, prior to the adoption of the consent agenda.

Commissioner Noonan stated should the public have questions, to contact the City Manager's office and the City Finance office for further information.

Manager Cortez stated these rates were set based upon 5 criteria, and carefully considered by City staff. The rates would be discussed and debated further in upcoming forums, before final adoption.

Vote

City Clerk Havens called a roll call vote, as follows:
Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motions carried, 5-0.**

Bid Award

BID AWARD

- A. Bid Award for Malben Water Storage Tank Lining Project #19-05

Interim Public Works Director Libbi Lovshin reported the Malben water storage tank, located off South Montana Avenue, is approximately 60 years old. The tank was last re-coated in 2007 and is in need of interior corrosion control/coating to allow for the elimination of minor leakage and to inhibit corrosion. Installation of a new geomembrane liner and liner cushion has been proposed and designed as an alternative to interior coating at the storage tank. The liner is expected to last 25 years.

The City received one bid for the Malben Water Storage Tank Lining Project #19-05 on May 7, 2019. The lowest responsible bidder for the project was Layfield USA Corporation of Spring Valley, CA with a bid price of \$351,835.00. Water Treatment capital funds have been budgeted for this project, which is a planned upgrade to the City's water treatment and storage system.

Installing the new CSPE (hypalon) tank liner system will eliminate the existing minor water losses at the tank and inhibit or even

eliminate any additional interior tank corrosion. The new liner will come with a 5 year installation warranty and 30 year material warranty. Installation of the new liner will eliminate the need for additional periodic interior recoating/painting at the tank.

Interim Director Lovshin recommended awarding the Malben Water Storage Tank Lining Project #19-05 to the lowest responsible bidder Layfield USA Corporation in the amount of \$351,835.00.

B. Bid Award for Hale Water Storage Tank Lining Project #17-07

The Hale water storage tank, located on Rodney Ridge south of town, is approximately 130 years old. The tank was leak tested in 2016 when it was drained for maintenance and found to leak between 60,000 and 70,000 gallons of treated water daily. Installation of a new geomembrane liner and liner cushion has been proposed and designed to eliminate leakage at the storage tank.

The City received one bid for the Hale Water Storage Tank Lining Project #17-07 on May 7, 2019. The lowest responsible bidder for the project was Layfield USA Corporation of Spring Valley, CA with a bid price of \$339,860.00. Water Treatment capital funds have been budgeted for this project, which is a planned upgrade to the City's water treatment and storage system.

Installing the new CSPE (hypalon) tank liner system will eliminate the existing water losses at the tank. The additional water will serve the Malben and Hale pressure zones and conserve water. The new liner will come with a 5 year installation warranty and 30 year material warranty. Installation of the new liner will eliminate the need for additional periodic concrete maintenance at the tank and save water pumping and treatment costs.

Installation of the new water storage tank liner system will significantly reduce electrical use at the Eureka pump station and save the energy associated with the treatment of 60,000-70,000 gallons of water daily.

Interim Director Lovshin recommended awarding the Hale Water Storage Tank Lining Project #17-07, to the lowest responsible bidder Layfield USA Corporation in the amount of \$339,860.00.

Discussion

Commissioner O'Loughlin asked for a timeline on the projects. Interim Director Lovshin turned the questions over to the City Engineer Leland.

City Engineer stated there was not a specific timeline, due to the nature of the work to be done and that climate and weather would play a factor, but the early fall would be an estimate.

Motion

Commissioner Noonan moved awarding the Malben Water Storage Tank Lining Project #19-05 to the lowest responsible bidder Layfield USA Corporation in the amount of \$351,835.00.

Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

Motion

Commissioner Haladay moved to award the Hale Water Storage Tank Lining Project #17-07, to the lowest responsible bidder Layfield USA Corporation in the amount of \$339,860.00.

Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

Communications from City Commissioners COMMUNICATIONS/PROPOSALS FROM CITY COMMISSIONERS

Commissioners Wicks and Haladay both thanked the participants, businesses, and visitors for Pride week in the Downtown District. Commissioner Haladay also praised the First Responders for their professionalism over the week's events.

Commissioner Noonan spoke to a spirit of cooperation within City affairs, and the resistance to rumor and innuendo.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report given.

Report of the City Manager

REPORT OF THE CITY MANAGER

Kristi Ponzoso, Ellie Utter, and Mauricio Morfin were introduced by City Manager Cortez.

Ms. Ponzoso, the new Open Lands, Parks and Recreation Director, thanked the Commission and made brief remarks.

Mr. Mauricio Morfin and Ms. Ellie Utter both addressed the Commission stating their areas of study, and the work they anticipate they will be doing for the City.

Report from the Helena Citizens

REPORT FROM THE HELENA CITIZENS COUNCIL

Sumner Sharpe, HCC chair, requested, due to the nature of his comments, he be allowed to make his report at a more appropriate time with the Budget presentation. This was granted by the Commission.

Regular Items

- A. CONSIDER ACQUISITION OF APPROXIMATELY 74 ACRES OF REAL PROPERTY, GENERALLY LOCATED WEST OF THE CITY LIMITS, FOR USE AS OPEN SPACE, FROM PRICKLY PEAR LAND TRUST, INC., (PPLT) FOR A NOMINAL PRICE OF \$10.00.

Staff Report

Open Lands, Parks and Recreation Director Kristi Ponzoso reported PPLT is in the process of purchasing approximately 74 acres of real property from the Estate of William Whyte Jr. The property is generally located west of the city limits, is adjacent to the Mt. Helena City Park, is vacant, and is not zoned. An appraisal conducted on March 27, 2019, values the property at \$1,588,500. Although currently privately owned, this property is often used by the general public to access nearby open lands.

PPLT wishes to donate this property, for a nominal sum of \$10.00, to the City once it acquires it from the Estate. As part of its financing package, PPLT is using funding available from the United States Army through to a special military project cooperative agreement pursuant to 10 U.S.C. § 2668a ("Cooperative Agreement"). As such, the use of the property must comply with the terms and conditions as set forth in the Cooperative Agreement. The Cooperative Agreement limits the use of the property to open space. Furthermore, if the City ever wishes to dispose of the property the City would have to get prior written

approval from the Army before conveying any interest in the land. The transfer of this property from PPLT to the City is subject to approval of the Draft Deed by the United States Army. The objective is to secure continued public access to the above described property. By accepting this donation the City will add approximately 74 acres of open space for use by the public. However, the City would be responsible for maintaining an additional 74 acres of open space.

Director Ponozzo recommended accepting acquisition of approximately 74 acres of real property, generally located west of the city limits, for use as open space, from PPLT for a nominal price of \$10.00. City Manager is hereby authorized to execute any documents necessary to finalize this acquisition.

Discussion

Commissioner O'Loughlin asked Director Ponozzo for clarification on the Maintenance Costs provided within the staff presentation. Director Ponozzo, asked Open Lands Manager Brad Langsather to respond to the Commission questions. Mr. Langsather stated he had done after walking through the property, he stated in his determination this was going to be one of the most challenging properties in the City's Open Lands projects, however, grant monies from a Department of Agriculture would be able to cover the costs for the land management and maintenance. It is projected the work will begin almost immediately in Mid-July, due to the urgency of the maintenance.

City Manager Cortez stated the land was reviewed and the initial maintenance costs were built into the overall assessment given to the Commission Open Lands Management Plan in a previous conversation.

Public Comment

Mayor Collins asked for public comment.

Evan Kulesa stated he was representing the PPLT, and thanked the City for their cooperation over the years with PPLT in the expansion of the Open Lands in the surrounding area. Mr. Kulesa stated PPLT had taken on the upfront cost of the property, and asked the City take on the long term maintenance of the property. PPLT would also be available with an on-call volunteer community to assist in the maintenance of the property.

Leroy H. Schramm, Vice President Board of PPLT, thanked the City for their cooperation over the years with PPLT in land use issues.

John Doran, board member PPLT, gave brief comments on the LeGrande Cannon trail system, and thanked the City for their efforts in expanding the outdoor spaces in the Helena.

Motion

Commissioner Wicks moved to accept acquisition of approximately 74 acres of real property, generally located west of the city limits, for use as open space, from PPLT, for a nominal price of \$10.00. City Manager is hereby authorized to execute any documents necessary to finalize this acquisition. Commissioner O'Loughlin seconded the motion.

Discussion

Commissioner Noonan echoed the sentiments of Mr. Doran. He further stated the acquisition of this property would prove to also protect the City from future dangers from wild fire.

Commissioner Haladay stated his firm represented an heir of Whyte Family Estate, and while this individual did not stand to gain financially from this acquisition, to avoid any appearances of impropriety, he would abstain from the vote.

Vote

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

B. CONSIDER THE ACCEPTANCE OF THE 2019 HELENA OPEN LANDS WORK PLAN.

Staff Report

Parks and Recreation Director Kristi Ponozzo reported the 2019 Helena Open Lands Work Plan was drafted in consultation with the Helena Open Lands Management Advisory Committee (HOLMAC). This plan is a collaborative effort that includes input from HOLMAC members and the public. The 2018 Helena Open Lands Work Plan was made available for public comment on the city's website on March 11, 2019 and formally reviewed with HOLMAC and the public on April 9, 2019. Forty-two citizens who submitted electronic comments and numerous Helena citizens who attended the HOLMAC Open House were given an opportunity to provide input into the final draft of the 2019 Open Lands Work Plan.

City staff and the HOLMAC committee recommend approval of the 2019 Helena Open Lands Work Plan. The work plan will be amended annually to address land management needs that have emerged as a result of input from the citizens of Helena, HOLMAC, and/or city staff. f the site. Approval will allow the City to implement land stewardship activities required to manage the city's open lands over the next 12 months.

Director Ponozzo recommended approval of the 2019 Helena Open Lands Work Plan.

Discussion

Commissioner Haladay asked for clarification of the version of the Work Plan which would be approved this evening. Ms. Ponozzo confirmed the version of the Work Plan in the evenings meeting packet was the correct version, and the version posted on the HOLMAC website was the outdated version, it has since been replaced.

Commissioner Haladay asked why the older plan was posted on the webpage, when an alternate version was available. Director Ponozzo responded this was a staff oversight and this would be dealt with more proficiently in the future.

Commissioner Haladay asked for the minutes from the open house meeting which occurred on April 9, 2019, and these were provided by Director Ponozzo. Commissioner Haladay acknowledged the receipt of the minutes, but state due to the minutes being provided so late, he would be voting to table this item, to give time to absorb the information.

Commissioner Wicks stated she also would like to review the items provided and would prefer to table this item given the lateness to which the current work plan was provided and posted publicly, stating she would like additional time for review prior to adoption.

Commissioner Noonan referenced a specific item in the public commentary provided in the packet, and stated this was an example of the miscommunication of the current work plan and he would support a tabling of this item at this time.

Commissioner Haladay stated he would like to know where the recommendation of bike jumps arose in the previous work plan, stating he felt they were a poor recommendation given the public commentary received by the city on this matter, specifically calling out the jumps as a point of controversy. Director Ponozzo stated the jumps were user created and were not in compliance with the safety regulations

sanctioned by the City. Commissioner Haladay stated he would like further information from staff on this particular topic, and was troubled by the inclusion of the jumps given the previous conversations had. Director Ponozzo confirmed staff would follow-up.

Commissioner Noonan asked how the interviews being conducted with consultants right now, pertained to the Open Lands Work Plan. Director Ponozzo stated the consultants were being interviewed for the shaping of the Open Lands Recreation Plan, they will be asked to set the broad scope of the policies of Recreation Management on the City's Open Lands system.

City Manager Cortez stated, following the update of the Open Lands Management Plan, the City would be working under standard operating procedures, and have defined processes to avoid inconsistencies in the policy decisions of the City, and to involve all relevant stakeholders in an open and transparent process, prior to the policy formation.

Commissioner Noonan asked Director Ponozzo would verify the timeline of the Request for Proposal for the contractors and involved in the work on the Open Land Work Plan, and confirm if the Request for Proposal was re-posted, prior to the contracting of the current Consultant.

Commissioner Haladay moved to table the item.

Commissioner Wicks seconded the motion.

Discussion

Commissioner Haladay stated he was particularly concerned with the process by which the work plan was brought forth, and it was worth further discussion as to how this matter and others like it would be handled in the future.

Vote

Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

C. CONSIDER FINAL PASSAGE OF ORDINANCES NECESSARY TO CREATE AND ESTABLISH THE DOWNTOWN (DT) AND TRANSITIONAL RESIDENTIAL (TR) ZONING DISTRICTS AND ATTENDANT REGULATIONS.

In 2017, the planning process began to develop and new mixed-use district for the city's downtown, in alignment with the 2011 Growth Policy and the Downtown Neighborhood Plan. The code devised as part of the Zoning Commission's planning process has led to the creation of two new, proposed land use districts: the Downtown and Transitional Residential Districts. The Downtown District's intent is to promote mixed-use development and, by extension, bring renewed vitality to the city's historic downtown core in a manner that is sustainable and inclusive to current and prospective residents, businesses, and developers alike. The Transitional Residential District is intended to serve as a transitional buffer between the Downtown District and the residential districts bordering the downtown, with shorter height and, by extension, decreased density. The two new districts will ultimately replace the nine existing district that comprise the historic downtown core, in an effort to streamline the development permitting process for the area.

On March 13, 2018, the City of Helena Zoning Commission held a hearing and recommended amending City Code to establish regulations for both a Downtown District and a Transitional Residential District, thereby affirming that the proposed districts' code changes are both consistent with the 2011 Growth Policy and Montana zoning criteria. Due to the scope of this rezoning effort, City staff spent the past year meticulously refining the language to assure the proposed changes are consistent with the current format of the adopted City Code, addressing errors of consistency between the proposed code language and existing chapters, reducing redundancies between the proposed and existing code, and parsing out the language into separate ordinances for chapters affected by the language update.

In recent months, City staff have conducted a public information session in March— and scheduled a further event for June 13, 2019—to present information about the proposed zoning changes and to allow the public to comment on the final code language and boundary. Thirty-three business owners, residents, developers, and commercial realtors attended the first event. Following this meeting, city staff met with the Zoning Commission to further refine code wording and review permitted and non-permitted uses.

The City Commission held a first passage public hearing on June 10, 2019. At that hearing, the Commission unanimously moved to approve first passage of all ordinances to amend Titles 11 and 7 of the City Code to establish the Downtown and Transitional Residential Zoning District. Final passage of the code remains, followed by public hearings on the adoption of the district boundaries later this summer.

The Downtown and Transitional Residential Districts will promote mixed-use development patterns in the city's historic downtown core, in a manner that is consistent with both the 2011 Growth Policy and the 2016 Downtown Neighborhood Plan.

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.

The implementation of zoning that includes building design standards and regulation of location of buildings and parking lots may make existing buildings nonconforming.

Director Haugen recommended approval of the following Ordinances:

1. Move to approve final passage of Ordinance 3256 creating the Downtown and Transitional Residential Zoning Districts and uses allowed therein by amending Chapter 2 of Title 11 of the Helena City Code.

2. Move to approve final passage of Ordinance 3257 establishing district dimensional and design standards for the Downtown and Transitional Residential Districts by amending Chapter 4 of Title 11 of the Helena City Code.

3. Move to approve final passage of Ordinance 3258 limiting setback variances in the Downtown and Transitional Residential Districts by amending Chapter 5 of Title 11 of the Helena City Code.

4. Move to approve final passage of Ordinance 3259 establishing Downtown and Transitional Residential District zoning regulations by adopting Chapter 9 of Title 11 of the Helena City Code.

5. Move to approve final passage of Ordinance 3260 establishing off-street parking regulations in the Downtown and Transitional

Residential Districts by amending Chapter 22 of Title 11 of the Helena City Code.

6. Move to approve final passage of Ordinance 3261 establishing sign regulations for the Downtown and Transitional Residential Districts by amending Chapter 23 of Title 11 of the Helena City Code.

7. Move to approve final passage of Ordinance 3262 amending chapter 13 of Title 7 of the Helena City Code to allow sandwich board signs as a permitted encroachment.

Discussion

Commissioner Wicks thanked the staff on their work on this item, but cautioned staff regarding public outreach in further endeavors, she was particularly concerned the public have a full understanding on the practical impact on the community, in matters such as these.

Commissioner O'Loughlin asked for clarification of the process for CUP for the pre-release centers, casinos, and emergency shelters, and what would trigger this process. Director Haugen stated any new property of this type would need to apply for a CUP, and technically speaking the Ordinance's intent was to address an expansion of the physical property; and in practical terms if the build-out was on 75% or more of the property, it would trigger the CUP process.

Commissioner O'Loughlin stated concerns over an article in the Independent Record, and felt the quote attributed in the article as a direct quote from her was inaccurate. The Commissioner stated for the record, she would never presume to speak for the Commission as a whole.

Deputy Attorney O'Connor clarified for the record the CUP process would not be necessarily be automatically triggered, and would depend on the types of renovations.

Brief discussion occurred on the proper parliamentary procedure on the motions, including the Wicks amendment.

Public Comment

Mayor Collins called for public comment. None was received.

Motion

Commissioner O'Loughlin moved to approve final passage of 3256 an ordinance creating the Downtown and Transitional Residential Zoning Districts and uses allowed therein by amending Chapter 2 of Title 11 of the Helena City Code. Commissioner Noonan seconded.

Commissioner Wicks Move to amend the ordinance creating the Downtown and Transitional Residential Zoning Districts and uses allowed therein by amending Chapter 2 of Title 11 of the Helena City Code to make prelease center, casino, and emergency shelter uses allowed in the Downtown District through the conditional use process, as presented in Section 11-2-3.

Commissioner Haladay seconded the motion.

Discussion

Commissioner O'Loughlin thanked the Zoning Commission for their efforts, and felt this CUP amendment would allow the Commission to be more reflective of the community's needs and wishes in this matter.

Commissioner Wicks echoed Commissioner O'Loughlin's sentiments.

Vote

City Clerk Havens called a roll call vote, as follows:
Commissioner Haladay voted aye, Commissioner Wicks voted aye,

Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

Commissioner O'Loughlin moved to approve final passage of an ordinance creating the Downtown and Transitional Residential Zoning Districts and uses allowed therein by amending Chapter 2 of Title 11 of the Helena City Code, as amended. Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0. Ordinance 3256.**

Commissioner Haladay moved to approve final passage of an ordinance establishing district dimensional and design standards for the Downtown and Transitional Residential Districts by amending Chapter 4 of Title 11 of the Helena City Code. Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0. Ordinance 3257.**

Commissioner Haladay moved to approve final passage of an ordinance limiting setback variances in the Downtown and Transitional Residential Districts by amending Chapter 5 of Title 11 of the Helena City Code. Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0. Ordinance 3258.**

Commissioner Noonan moved to approve final passage of an ordinance establishing Downtown and Transitional Residential District zoning regulations by adopting Chapter 9 of Title 11 of the Helena City Code. Commissioner O'Loughlin seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0. Ordinance 3259.**

Commissioner O'Loughlin moved to approve final passage of an ordinance establishing off-street parking regulations in the Downtown and Transitional Residential Districts by amending Chapter 22 of Title 11 of the Helena City Code. Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0. Ordinance 3260.**

Commissioner Haladay moved to approve final passage of an ordinance establishing sign regulations for the Downtown and Transitional Residential Districts by amending Chapter 23 of Title 11 of the Helena City Code. Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner

Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0. Ordinance 3261**

Commissioner Wicks moved to approve final passage of an ordinance amending chapter 13 of Title 7 of the Helena City Code to allow sandwich board signs as a permitted encroachment.

Commissioner Noonan seconded the motion.

Discussion

Commissioner Haladay confirmed the sentiments of the other Commissioners, and stated this was a good example of open process including all stakeholders involved, and public outreach which deflated a potentially contentious discussion.

Director Haugen thanked the Zoning Commission for all of their efforts and the efforts of City Staff for all their hard work on this matter.

Vote

City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0. Ordinance 3262**

Motion

Commissioner Noonan moved to adjust the order of the agenda, making the Public Hearing item B. first on the Public Hearing agenda. Commissioner Wicks seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

Discussion

Commissioner Wicks stated she would be recusing herself from the Public Hearing item A. for the CUP.

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 Sharon 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.

On May 20, 2019 the Helena City Commission held a public hearing to discuss this application. The item was tabled to allow for the assembly of all public comments made on this item. The packet materials have been updated to include all known public comments.

“There were seven (7) comments in support of the application. The comments in favor of the application generally cited the casino as a clean and safe environment and cited a lack of crime associated with the use. There were fifteen (15) comments made in opposition to the application. The comments in opposition to the application generally cited the number of existing casinos, and the proximity to a residential neighborhood. The comments in opposition to the application generally stated that the proposed use would negatively impair the peaceful use of the surroundings stating a correlation with crime and an impact on property values. 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, and addressed as 1151 Partridge Place, Helena, MT 59601.

Discussion

Mayor Collins asked about restrictions on signage for the building, especially as it pertains to the Zoning Commission's restrictions on glare. Director Haugen stated the signage for this CUP, would be governed by the Ordinances which pertained to signage for businesses in general.

Commissioner Haladay followed-up on this question, asking for clarification on the type of sign the applicant anticipated would be installed on the property, particularly if a lighted or change-content sign would be installed. Commissioner Haladay asked for clarification on the thresholds for a glare nuisance as considered by the Zoning Commission and how they might apply to electronic signs; finally, would this be an item which would be added as a condition to the CUP.

Director Haugen stated she would defer to the Deputy City Attorney for clarification on amending the CUP requirements. Attorney O'Connor confirmed this could be a condition added to the requirements for the CUP, as long as facts were stated on the public record supporting the condition.

Commissioner Haladay asked where the exact location of the smoking area would be. Director Haugen asked to defer the question to the applicant of the CUP to give an exact location.

Public Testimony

Mayor Collins declared the public portion of the hearing open and called for any public testimony.

Josh Cary, General Manager of multiple locations for Fuel Fitness, he spoke in support of the CUP. He stated the sale of the adjacent property would allow the Fuel Fitness club to alleviate overhead costs, which at this time were too significant to keep the location open. He asked the Commission to support the approval of the CUP.

Randall Green, Commercial Broker, representing the owner of the facility, spoke in support of the CUP, referencing the blight which is developing in the area, and requested the Commission to issue the CUP.

Paul Campbell, spoke in support of the CUP, referencing the CUP would allow for the viability of Fuel as a business, and to continue to provide health and fitness services to the community.

Nikki Campbell, spoke in support of the CUP, reiterating the importance of the services provided by Fuel Fitness, and sustaining the business.

Joel Silverman, Attorney, spoke in favor of the CUP, and stated the applicant of the CUP were at the forefront of the Casino and Liquor License industry in safety and operation.

Chris Sandrock, 1305 LeGrande Cannon Blvd, the applicant of the proposed CUP, spoke in favor of the granting the CUP, citing the cleanliness, profitability, and the positive impact on property values of his other operations as evidence to the contrary of some of the public concerns expressed previously.

Discussion

Commissioner Haladay asked Mr. Sandrock what the proposed signage for the location would be. Mr. Sandrock stated the signage was already designed, and he felt these designs were within the parameter given as part of the CUP. He stated he has no plans to install a changeable content sign. Commissioner Haladay asked if he planned on installing a sign on the western side of the building. Mr. Sandrock stated he did plan on installing a small box sign on the backside of the building.

Commissioner Haladay asked if there were plans to install a designated smoking area anywhere around the building. Mr. Sandrock stated he did not anticipate a large enough volume of smokers to warrant a smoking area, and if it was deemed necessary he would install a smoking area.

Commissioner O'Loughlin asked if Director Haugen could locate on the provided map where the Skelton Park was located.

Motion

Commissioner Noonan moved to approve 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, and addressed as 1151 Partridge Place, Helena, MT 59601.
Commissioner Haladay seconded the motion.

Discussion

Commissioner Haladay read aloud the requirements of the CUP, and the thresholds which must be observed in order to grant the CUP. The Commissioner felt there was no need upon review of these requirements to add additional requirements.

Vote

City Clerk Havens called a roll call vote, as follows:
Commissioner Haladay voted aye, Commissioner Noonan voted aye,

Commissioner O'Loughlin voted aye, and Mayor Collins voted aye.
Commissioner Wicks recused. **The motion carried, 4-0.**

- B. CONSIDER A RESOLUTION ADOPTING FINAL BUDGETS, BUDGET AUTHORITIES, AND APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 2019 AND ENDING JUNE 30 2020, AND THE FISCAL YEAR BEGINNING JULY 1, 2020 AND ENDING JUNE 30, 2021, AND SETTING THE SALARY FOR THE MUNICIPAL COURT JUDGE.

Staff Report

Finance Director Glenn Jorgenson reported the Local Government Budget Act, MCA, Title 7, Chapter 6, Part 40, requires the City to develop and adopt an annual budget. The annual budget development process has encouraged public participation and included:

1. City Manager presentation of the Preliminary Budget to the City Commission on May 20, 2019;
2. Public Hearing Notices published in accordance with MCA 7-1-4127; and
3. A list of amendments to the Preliminary Budget.

Staff proposes to conclude the budget development process by:

1. Conducting the public hearing on the Preliminary Budget to receive public input;
2. Determining if there are any additional changes to be added to the list of amendments to the Preliminary Budget;
3. Adopting the biennial budget resolution for the final budget as amended; and
4. Approval of the annual salary of the municipal judge.

State law requires the Commission's approval of the budget. Approval of the Biennial Budget Resolution enhances the City's ability to conduct business in a timely and efficient manner, while maintaining effective budgetary controls.

Finance Director Jorgenson recommended approval of a resolution adopting final budgets, budget authorities, and appropriations for the fiscal year beginning July 1, 2019 and ending June 30 2020, and the fiscal year beginning July 1, 2020 and ending June 30, 2021, and setting the salary for the municipal court judge.

Discussion

Commissioner O'Loughlin asked for clarification on the motions in the amended staff recommendations.

Commissioner Wicks asked the City Manager to clarify several line items, within the budget. City Manager Cortez stated the School Resource Officers were continuing to be funded for the time being, but talks will continue with the School District to come to an agreement on the balance of funding for these positions. Ken Wood was publicly stated by the City Manager to be the Acting Fire Chief, and Steve Hagen the Acting Police Chief. Manager Cortez listed the following funded programs/priorities: \$35,000 for a Sustainability Coordinator, \$33,000 was allocated for IT security, \$22,500 for IT upgrades, \$50,000 for the Downtown Initiative Project, \$30,000 for a Housing Access RFP, \$42,500 for 0.5 FTE Police officer, \$30,000 Transit Improvements, \$22,500 IT upgrades, \$15,000 IT personnel training, \$170,000 for two Police Officer positions, \$28,500 Development Services Engineer, \$33,000 for

Reclassified Employees. A Procurement Officer Consultant position, Code Enforcement Division were also included in the priorities line item funding, however no specific dollar amount was given.

Commissioner Wicks asked for clarification on the 5 additional Positions called "Street Operators". Manager Cortez stated the City's reorganization of the Public Works department into a separate division of a Streets and Transportation Department. This allows for greater accountability; and better service to the needs and priorities of the City.

Commissioner Haladay asked for Director Jorgenson to clarify the deficit illustrated in the summary of the General Fund revenue versus the General Fund Expenditures. Director Jorgenson stated there was a small deficit in the amount of approximately \$25,000. Commissioner Haladay noted this was a large margin of difference in years past when the deficit reached nearly \$750,000. Manager Cortez further stated the deficit would be covered by a transfer of funds by the Enterprise funds.

Commissioner Haladay asked as to the possibility of an increase in salaries in the City budget. Manager Cortez stated there would be amendment of the budget due to the negotiations in process with a local union, as it pertains to salaries.

Public Testimony

Mayor Collins declared the public portion of the hearing open and called for any public testimony.

Sumner Sharpe, HCC Chairperson, reported to the Commission the concerns of the HCC on the processes involved in community outreach as it pertains to the City's Budget, including but not limited to staff training. The HCC expressed concerns in the decline in the overall fund balances, and whether or not there would be a minimum amount in the fund available. The engagement of the public generally was addressed, and of the suggestion of a semi-annual report to the Citizenry to show whether the current budget plan is working. The possibility of staggering the list of priorities which were listed in the budget Commission and Manager priorities, in order to reduce stress on the staff to meet the needs of the city while still offering quality when dealing with these priorities. The HCC further recommends exploring other considerations of new revenue sources in the form of business retention and maintenance, instead of increasing rates on the citizens as an ad hoc source of revenue. The HCC further suggested the development of a Joint Growth Policy between the City and County, in order to more efficiently address joint growth issues. Finally, the implementation of a small gas tax was proposed, to further address revenue sources. The HCC recommended looking more broadly at possible revenue sources for the City.

Motion

Commissioner Noonan moved to approve a resolution adopting final budgets, budget authorities, and appropriations for the fiscal year beginning July 1, 2019 and ending June 30 2020, and the fiscal year beginning July 1, 2020 and ending June 30, 2021, and setting the salary for the municipal court judge, as amended.

Commissioner O'Loughlin seconded the motion.

Discussion

Commissioner Noonan offered his thanks to the City Staff for their efforts in the budget process.

Commissioner Haladay asked for clarification on the motions given forth by Commissioner Noonan and did it include the amendment. Deputy City Attorney O'Connor confirmed the amendment was included in the motion.

Commissioner Haladay spoke to the concerns over the Commission & Manager Priorities, and stated the title of the line item may be misleading in the sense these were in his opinion necessities of the City. Commissioner Haladay thanked the staff for their efforts on the budget, and for the process being an inclusive, comprehensive, and transparent one.

Commissioner O’Loughlin moved to amend Commissioner Noonan’s motion, and moved to amend final budgets for any staff requested amendments and Commission amendments the Commission wishes to approve. Commissioner Wicks seconded. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O’Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

Commissioner O’Loughlin moved to approve a second amendment to the original motion to reflect the updated Appendix A. Commissioner Haladay seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O’Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

Commissioner Haladay moved to approve a resolution adopting the final budgets, as amended by the prior amendments. Commissioner Noonan seconded the motion. City Clerk Havens called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O’Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0.**

***Public
Communications***

PUBLIC COMMUNICATIONS

Brian Coplin spoke on behalf two individuals in order to solicit help from the community and the commission.

Commissioner Noonan thanked the individuals for coming forward to the Commission.

Manager Cortez stated immediately following the meeting tonight City Staff would speak with the family about possible resources available to them.

Richard Schuette spoke to the commission about his concerns over the lack of an end date on Water Service Line Program, and presented the Commission with a petition on behalf of 242 residents, requesting the Commission address this concern. He referenced figures on a table on which he provided dollar amounts he had calculated based upon City Staff figures given at previous public meetings.

City Manager Cortez stated this item was in consideration currently as an agenda item at a public meeting, and it was never the City’s position to collect revenues from the public without utilizing the funds. The Manager stated the City would be keep Mr. Schuette apprised of any further discussion in this matter.

Commissioner O’Loughlin thanked the City Manager and Mr. Schuette for their attention in this matter.

Adjournment

There being no further business to come before the City Commission, the meeting adjourned at 9:34 p.m.

Meetings of Interest MEETINGS OF INTEREST

Administrative Meeting – July 10, 2019 - 4:00 p.m. - Room 326, City-County Building

Regular City Commission Meeting – July 15, 2019 - 6:00 p.m. - Commission Chambers,
City-County Building

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE CITY COMMISSION