

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 11, 2021 – 6:00 P.M.
Zoom Online Meeting <https://zoom.us/j/95083925235>

- Time & Place** A regular City Commission meeting was held on Monday, January 11, 2021 at 6:00 p.m. via Zoom Online Meeting ID:
<https://zoom.us/j/95083925235>
- Members Present** (11:57) Mayor Collins requested City Clerk Clayborn call roll call: City Attorney Jodoin, City Manager Harlow-Schalk, Commissioner Haladay, Commissioner Dean, Commissioner Logan, Commissioner O’Loughlin, and Mayor Collins all responded present. All participated remotely via Zoom.
- Pledge of Allegiance** (12:21) Mayor Collins asked those persons present to please stand and join him in the pledge of allegiance.
- Minutes** (12:54) MINUTES
- A. Regular Commission meeting – July 27, 2020
- Minutes were approved as submitted.
- Consent Agenda** CONSENT AGENDA (13:08)
- A. Claims
B. Authorization for staff to void stale dated unclaimed checks
C. Consider a one-year lease with the Rocky Mountain Development Council for the Neighborhood Center.
D. Consider acceptance of a grant from the Montana Department of Natural Resources and Conservation (DNRC) to treat approximately 25 forested acres located within Mt Ascension Natural Park to minimize impacts from bark beetles and to improve overall resilience to forest insects and diseases.
- City Manager Harlow-Schalk gave a report to item A, Claims.
- Motion** (13:51) Commissioner Haladay moved to approve Consent Agenda item A Claims, and items A. Claims, item B, item C, and item D. Commissioner Dean seconded the motion.
- Discussion (14:36) Commissioner O’Loughlin asked a follow-up question to the consent agenda items and the motion.
- (15:21) City Manager Harlow-Schalk gave a report on item B, item C, and item D.
- (17:07) There was no other discussion or questions from the Commission.
- Public Comment (17:12) The Mayor asked for public comments. There were no public comments given.
- Motion** (17:39) City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O’Loughlin voted aye and Mayor Collins voted aye. The motion carried, 5-0. (17:55)

**Communications from
City Commissioners**

**COMMUNICATIONS/PROPOSALS FROM CITY COMMISSIONERS
(18:00)**

No comments or proposals were received from the Commission.

Report of the City Attorney (18:13)

City Attorney Jodoin reported on two Human Rights Bureau Complaints where there were no cause findings. City Attorney Jodoin also reported on the negotiations over possible violations of our pre-treatment framework and program brought by the EPA.

Discussion

(21:58) Commissioner Haladay had follow-up question for City Attorney Jodoin.

Report of the City Manager (23:30)

City Manager Rachel Harlow-Schalk provided a report.

Report from HCC

COMMUNICATIONS FROM THE HELENA CITIZENS COUNCIL (26:55)
HCC Chairperson Dylan Klapmeier gave a report.

Public Hearings

PUBLIC HEARINGS (28:48)

A. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3286
AMENDING CHAPTER 1 OF TITLE 5 OF THE HELENA CITY CODE
BY REPEALING PART 3, POSSESSION OF FIREARMS
PROHIBITED; EXCEPTIONS, IN ITS ENTIRETY AND ADOPTING 5-
1-3 FIREARMS AND OTHER WEAPONS; DISCHARGE; IN ITS
PLACE. **(29:17)**

Staff Report

City Attorney Thomas Jodoin reported This item was presented for initial discussion at December 2, 2020 administrative meeting. First passage was December 7, 2020 and set a public hearing for December 21, 2020. After holding a public hearing, the Commission tabled the ordinance to January 11, 2021.

As a summary, § 5-1-3, Helena City Code, presently:

1. Forbids the carrying of a loaded firearm at a public assembly or in city park, school, or publicly owned building unless person is doing so for purposes of gun shows or hunter or gun safety courses. (§ 5-1-3(A)(1), HCC);
2. Requires concealed carry permit holders in possession of a concealed weapon are required to immediately advise any law enforcement officer who has stopped the permit holder of the location and type of weapon and show his or her permit. (§ 5-1-3(C), HCC).
3. Concealed carry permit holders can carry weapons, open or concealed, loaded or unloaded, wherever they desire, unless the activity is otherwise prohibited under the MCA. (§5-1-3(B), HCC)

Legislative Referendum 130 ("LR-130") was approved by Montana voters in November 2020. As of January 1, 2021, local government regulation of firearms is far more limited as a result of the passage of LR-130.

First, by way of amendments to §§ 7-1-111(9) and 45-8-351(2)(a), MCA, LR-130 wholly removes a local government's right to regulate the carrying of concealed weapons by persons who possess a valid concealed carry permit. Local governments will retain the right to forbid the carrying of a concealed firearm by a person who does not have a permit. Second, the changes to § 45-8-351(2)(a), MCA, will limit local government regulation of open carry to publicly owned and occupied buildings under the local government's jurisdiction.

The first change is not of great concern because § 5-1-3 currently excludes from its directives those people who possess a valid concealed carry permit. However, the second change creates a conflict between § 5-1-3 and the amended version of § 45-8-351, MCA. Specifically, § 5-1-3 regulates the open carrying of loaded firearms in the following places: (1) public assemblies; (2) City of Helena parks; (3) schools; and (4) all publicly owned buildings.

As noted above, § 5-1-3(B) excepts concealed weapons permit holders from any of the regulations in § 5-1-3, including the open carry of loaded or unloaded pistols and revolvers ("B. Exceptions: Nothing in this chapter shall apply to a person [...] where a concealed weapons permit has been granted to bear, concealed or otherwise, a pistol or revolver during the time of such permission." [emphasis added])

The following is legal if § 5-1-3 remains in its current form:

1. to open carry firearms, loaded or unloaded, in publicly owned buildings, including restricted local government offices because § 5-1-3 does not include the and occupied qualifier to "publicly owned buildings;" and
2. to open carry a pistol or revolver, loaded or unloaded, in publicly owned buildings by those who have a concealed weapons permit.

Carrying a concealed weapon in portions of a building used for state or local government offices and related areas in the building that have been restricted is still a misdemeanor under § 45-8-328, MCA, but an argument could be made that because § 5-1-3(B) is more permissive it excludes concealed weapons permit holders from that state law prohibition.

A chart is included showing the current City regulations, how those will conflict with LR-130, how the ordinance will resolve the conflict, and what will happen if the ordinance is not adopted.

Section 5-1-3 is generally similar to the firearms regulations in Missoula, Great Falls, and Bozeman. Billings appears to only regulate the carrying or possession of firearms at city council meetings. However, none of those cities have the blanket exception for concealed weapons permit holders like Helena City Code does.

The following is a summary of how the following cities are responding to LR-130:

- Missoula -- The Council postponed consideration of any potential amendments until next year, 2021. Currently the proposal is

referred to a city council committee for initial committee discussion in January 2021.

- Great Falls – No action being considered at this time.
- Bozeman – Will present an amendment to commission sometime in 2021. In the meantime, they are telling officers not to enforce conflicting parts of their local ordinance.

Revising § 5-1-3 would (1) effectively implement the City's authority under LR-130 and specifically and clearly prohibit the open carry of loaded or unloaded firearms in publicly owned and occupied buildings and (2) eliminate the concealed weapons permit exception from § 5-1-3. If the ordinance is not passed, and existing § 5-1-3, Helena City Code, is not amended the City will continue to allow (1) the open carry of firearms in publicly owned buildings, including restricted local government offices because § 5-1-3 does not include the and occupied qualifier to "publicly owned buildings;" and (2) the open carry a pistol or revolver in publicly owned buildings by those who have a concealed weapons permit.

Staff Recommends approval of final passage of Ordinance No. 3286 amending Chapter 1 Of Title 5 Of the Helena City Code by Repealing Part 3, Possession of Firearms Prohibited; Exceptions, In Its Entirety and Adopting §5-1-3 Firearms and Other Weapons; Discharge; In Its Place.

Discussion (37:00) Commissioner O'Loughlin had follow-up questions to City Attorney Jodoin.

Public Comment (48:31) The Mayor asked for public comments. There were no public comments given.

Motion (48:50) Commissioner Logan moved to approve final passage of Ordinance No. 3286 amending Chapter 1 Of Title 5 Of The Helena City Code By Repealing Part 3, Possession Of Firearms Prohibited; Exceptions, In Its Entirety And Adopting §5-1-3 Firearms And Other Weapons; Discharge; In Its Place. Commissioner Dean seconded the motion.

Discussion (49:40) Commissioner O'Loughlin had further discussion. Commissioner Dean had further discussion.

Motion City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted nay, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted nay and Mayor Collins voted aye. The motion carried, 3-2. (52:37)

B. CONSIDER A RESOLUTION ESTABLISHING FEES TO BE CHARGED FOR THE BILL ROBERTS MUNICIPAL GOLF COURSE FOR THE 2021 SEASON. (52:52)

Staff Report (52:57) Parks, Recreation & Open Lands Director Kristi Ponozzo reported Golf Course Fees have to be updated every year per resolution. As directed, and as is consistent with Resident Discount Fees adopted broadly for all Parks and Recreation programs last year, these fees include the Tower Club resident discount program and two other new

resident discount programs; a Family Pass (pool access included); and Half Season passes with resident discounts. Tower Club as proposed would include a 10% discount on all Pro Shop soft goods.

All other rates across the board are in a position to remain constant for 2021. We saw an increase in rounds this summer. That paired with the long-term impacts of COVID, we've determined there is not a need, nor is there market tolerance, for across the board rate increases. We do propose minimal increase to season passes. Passholders continue to be the largest users of the facility and are paying an effective rate that is far less than national averages.

In the future, all fees will be updated annually on a percentage basis in line with basic cost of living increases. This yearly increase will be much more palatable to the vast majority of our customers than a large increase every 3-4 years. Adoption of this resolution will result in golf fee increases that have the potential to increase revenue and offer residential discounts to City of Helena residents. If passed, the resolution would implement fee increases, that although modest, could discourage some use of the golf course.

Staff recommended approval of a resolution establishing fees to be charged for the Bill Roberts Municipal Golf Course for the 2021 season.

Discussion

(54:17) Commissioner Dean had follow-up questions for Director Ponzoso.

Public Comment

(55:50) The Mayor asked for public comments. There were no public comments given.

Motion

(56:24) Commissioner Dean moved to approve resolution establishing fees to be charged for the Bill Roberts Municipal Golf Course for the 2021 season. Commissioner O'Loughlin seconded the motion. City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5-0. (56:58)**

C CONSIDER A RESOLUTION REDUCING THE MONTHLY WASTEWATER SERVICE LINE REPLACEMENT LOAN PROGRAM CHARGE AND ELIMINATING THE MONTHLY WATER AND WASTEWATER SERVICE LINE PROGRAM CHARGES ON JUNE 30, 2030; AND AMENDING RESOLUTION NO. 20488. **(57:23)**

Staff Report

(57:26) Finance Director Sheila Danielson reported The City of Helena City Commissioners established residential Water and Wastewater Service Line Loan Programs for residents by adopting Resolution No. 20494. Resolution 20495, which amended Resolution No. 20488, established a \$2.50 monthly charge to residential water accounts, and a \$6.47 monthly charge to residential wastewater accounts. There was no sunset date specified for these charges. Reduce the Wastewater Service Line Loan charge from \$6.47 per month to \$2.50 per month; Establish a sunset date for both the water and wastewater service line loan program charges as June 30, 2030. Additionally, staff will continue to further assess program usage and

accumulation of fund balance to support the loan programs in 2 years to bring further analysis of proposed sunset date for the loan programs.

Staff recommends a motion to approve a Resolution reducing the monthly Wastewater Service Line Replacement Loan Program charge and eliminating the monthly Water and Wastewater Service Line Program charges on June 30, 2030; and amending Resolution No. 20488.

Discussion (59:41) Commissioner O'Loughlin provided comment to Director Danielson and Director Leland.

Public Comment (1:02:07) Ed Kerins provided public comment.

Motion (1:04:16) Commissioner Dean moved to approve a Resolution reducing the monthly Wastewater Service Line Replacement Loan Program charge and eliminating the monthly Water and Wastewater Service Line Program charges on June 30, 2030; and amending Resolution No. 20488. Commissioner O'Loughlin seconded the motion. City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0. (1:05:12)**

Public Communications PUBLIC COMMUNICATIONS (1:05:20)

Mayor Collins asked if there was anyone wishing to address the Commission on any matter. There was no public comment.

Adjournment There being no further business to come before the City Commission, the meeting adjourned at 7:06 p.m.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE CITY COMMISSION