

CITY OF HELENA
City Commission Meeting
June 21, 2021 - 6:00 PM
City-County Building, Room 330
Zoom Online Meeting: <https://zoom.us/j/97775105638>

(00:13) Call to Order and Roll Call

(00:53) 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 in-person.

Pledge of Allegiance

(01:18) Mayor Collins asked those persons present to please stand and join him in the pledge of allegiance.

Minutes

(01:44) Minutes for the following were approved as submitted:

- A. Regular Commission Meeting - June 7, 2021

Proclamations

- A. Juneteenth Observance 2021

(02:01) Mayor Collins read the Proclamation and declared June 23, 2021 as Juneteenth Observance day for the City of Helena.

Consent Agenda

- A. Claims

(05:16) Commissioner Dean moved to approve Consent Item A. Commissioner Haladay seconded the motion. The motion passed 5:0.

Communication/Proposals from Commissioners

Report of the City Attorney

Report of the City Manager

(06:08) City Manager Harlow-Schalk updated the City Commission on the following items:

- A. The pavement painting program received an application.
- B. Introduced Montana DOC representative, Mary Craige for her presentation on the census data and statistics for the City of Helena, Montana.

(28:48) Discussion was had between Commissioner O'Loughlin and Ms. Craige regarding what the data is confirming as well as what it potentially is not reflecting with trends in the Helena Community.

Communications from the Helena Citizens Council

(35:06) HCC representative, Colleen Murphy gave a report.

There were no public comments.

Regular Items

- A. Consider a Resolution distributing Downtown Urban Renewal District Tax Increment Financing funds to Placer Commercial, LLC for the construction restoration of 38 pairs of French door windows at 21 North Last Chance Gulch.

(36:50) City Manager Harlow-Schalk gave a brief introduction for Regular Item A.

(37:51) City Planner II, Ellie Ray presented on Regular Item A.

(40:38) Discussion was had between the commission, Ms. Ray, Community Development Director Sharon Haugen, City-Manager Harlow-Schalk, and the project's applicant Lee Shubert.

(01:08:09) Commissioner O'Loughlin was in agreement with the individual who was in opposition to this project as reflected in the Downtown TIF Advisory Board minutes, citing it fell short of the goals of the TIF district in that it did not build the increment over time. The Commissioner also noted the Downtown TIF Advisory Board seemed to encourage a 50% match in funds which was not being met through this application. She expressed her support to table the item until more information could be obtained from the Preservation Office and to allow city staff enough time to provide a report on what other potential projects exist in the district as well as how this particular application may not align with the goals of the Downtown TIF Advisory Board.

(01:09:57) Commissioner Haladay reminded the Commission they approved approximately \$150,000 the previous month for three (3) other Downtown TIF projects as Consent Agenda items that did not receive the same scrutiny as the subject application which was being presented as a Regular Item. As such, Commissioner Haladay suggested approval of the application similarly to the others. The Commissioner added that he thought they needed a better overall system and comprehensive plan for the next year.

(01:12:52) Mayor Collins asked city staff why the application was left out and not included with the other three (3) applications as a Consent Agenda Item. Community Development Director, Sharon Haugen explained that the question of whether this application was an eligible project arose within the Downtown TIF Advisory Board itself. As a result, they requested the application be reviewed by the City Attorney who later deemed the project to be an eligible activity. In addition, the City Fire Department confirmed any improvement to the Placer Building would increase its safety.

There were no public comments.

(01:14:16) Commissioner Logan made a motion to approve a Resolution distributing Downtown Urban Renewal District Tax Increment Financing funds to Placer Commercial, LLC for the construction restoration of 38 pairs of French door windows at 21 North Last Chance Gulch. Commissioner Haladay seconded the motion.

(01:14:38) Commissioner O'Loughlin moved to amend the motion to reduce the proposed award amount of \$77,800 by half for a new total award of \$38,900. Commissioner Dean seconded the amendment to the motion. The motion failed 2:3.

(01:17:01) Commissioner Dean moved to amend the motion to be tabled pending review by the Historic Preservation Officer confirming the scope of project. There was no second.

(01:18:22) The original motion made by Commissioner Logan and seconded by Commissioner Haladay carried 5:0.

(01:18:48) Commissioner Dean requested the Commission be provided a report from the Historic Preservation Officer in cases where historic properties are being deliberated in the future. Both Mayor Collins

and Commissioner Logan were in agreement. Commissioner Haladay suggested requiring this step to be completed by city staff and not the applicant.

Public Hearings

- A. Consider a Resolution suspending the prohibition of consumption of alcoholic beverages and possession of open containers of intoxicating beverages on city property within the Downtown Urban Renewal District for events taking place on July 16 and 17, 2021.

(01:21:06) City Manager Harlow-Schalk presented a summary of the Resolution suspending the prohibition of consumption of alcoholic beverages and possession of open containers of intoxicating beverages on city property within the Downtown Urban Renewal District for events taking place on July 16 and 17, 2021.

(01:23:42) Discussion was had between the City Commission, City Attorney Thomas Jodoin, City Manager Harlow-Schalk, and the applicant representing Big Sky Pride Kev Hamm regarding the status of the event insurance and whether or not the applicant had heard of or received "host insurance."

(01:32:59) Clerk of the City Commission, Dannai Clayborn read into the record a written public comment from Tyler Warne who questioned whether a conditional resolution could be approved pending insurance be obtained by the next City Commission date.

(01:33:27) Shawn Morrison addressed the City Commission and provided public comment in support of the resolution.

(01:35:16) Kev Hamm representing Big Sky Pride addressed the City Commission and provided public comment in support of the resolution.

No further public comments.

(01:38:42) Further discussion was had between the City Commission, City Attorney Thomas Jodoin, City Manager Harlow-Schalk, and the applicant representing Big Sky Pride Kev Hamm. City Attorney Jodoin discussed the possibility of passing a conditional resolution.

(01:41:02) Commissioner O'Loughlin expressed her support for passing the resolution citing out of state examples of other municipalities that have suspended their open container ordinances, given the time constraints, and that it would provide an opportunity for the significant event to happen in the community.

(01:42:01) City Manager Harlow-Schalk described the manner of how correspondence was routed between the City Manager's Office, the applicant, and the insurance provider.

(01:43:02) Commissioner Logan expressed his opposition to the resolution citing he was not comfortable suspending portions of the Helena City Code and if the City Commission wanted to repeal, amend or otherwise change the ordinance, there was a process outlined in the Helena City Code.

(01:45:44) Commissioner Dean expressed her support for continuing the conversation about a permanent change to the ordinance that would allow them to facilitate future events. The Commissioner also proposed making the Big Sky Pride event a city sponsored event similar to that of Symphony Under the Stars. City Manager Harlow-Schalk confirmed the event could be added to the city's insurance as a sponsored event.

(01:47:28) Commissioner O'Loughlin made a motion to approve a Resolution suspending the prohibition of consumption of alcoholic beverages and possession of open containers of intoxicating beverages on city property within the Downtown Urban Renewal District for events taking place on July 16 and 17, 2021. Commissioner Dean seconded the motion. The motion carried 4:1.

- B. Consider a Resolution amending Joint Resolution No. 10677 and County Resolution No. 1993-166 by extending the Helena Regional Airport Authority for an additional ten (10) years.

(01:48:36) City Manager Harlow-Schalk presented a summary of the Resolution amending Joint Resolution No. 10677 and County Resolution No. 1993-166 by extending the Helena Regional Airport Authority for an additional ten (10) years.

(01:49:32) Helena Regional Airport Authority Board member, Michael Murray offered public comment to the City Commission in favor of the resolution.

There were no further public.

(01:51:58) Discussion was had between the City Commission and City Manager Harlow-Schalk regarding how the city intended to resolve the outstanding assessments owed by the Helena Regional Airport Authority.

(01:59:06) Commissioner Logan made a motion to approve a Resolution amending Joint Resolution No. 10677 and County Resolution No. 1993-166 by extending the Helena Regional Airport Authority for an additional ten (10) years. Commissioner Dean seconded the motion. The motion carried 4:1.

- C. Consider final passage of an ordinance adopting by reference the State adopted 2018 editions of the International Energy Conservation Code (IECC) by amending and adopting a revised Chapter 2 of Title 3, Helena City Code.

(02:00:10) City Manager Harlow-Schalk presented a summary of the final passage of an ordinance adopting by reference the State adopted 2018 editions of the International Energy Conservation Code (IECC) by amending and adopting a revised Chapter 2 of Title 3, Helena City Code.

(02:01:29) Susan Bjerke residing at 545 S. Harris Street gave public comment in favor of the ordinance.

No further public comments.

(02:02:17) Commissioner Dean made a motion to approve final passage of an ordinance adopting by reference the State adopted 2018 editions of the International Energy Conservation Code (IECC) by amending and adopting a revised Chapter 2 of Title 3, Helena City Code. Commissioner O'Loughlin seconded the motion.

City Attorney Jodoin clarified the City Commission was not adopting the State Adopted Appendix Chapter RA – Solar Ready provisions.

The motion passed 5:0.

- D. Consider first passage of an Ordinance amending City of Helena Ordinance No. 3097 and amending the official zoning map for the City of Helena for a zone change from DT (Downtown) District to TR (Transitional Residential) District for Lot A being a portion of Lot H of the Placer Mining Claim of Getchell and Child as shown on Certificate of Survey No. 3114987 with a street address of 739 Getchell Street in the City of Helena, Montana.

- E. **(02:15:45)** City Manager Harlow-Schalk presented a summary of the final passage of an ordinance amending City of Helena Ordinance No. 3097 and amending the official zoning map for the City of Helena for a zone change from DT (Downtown) District to TR (Transitional Residential) District for Lot A being a portion of Lot H of the Placer Mining Claim of Getchell and Child as shown on Certificate of Survey No. 3114987 with a street address of 739 Getchell Street in the City of Helena, Montana.

(02:16:42) City Planner II, Ellie Ray gave a presentation for the proposed ordinance.

(02:23:50) Discussion was had between the City Commission and Ellie Ray regarding “spot zoning” and what qualifications needed to be met for future potential zone changes.

(02:27:10) Commissioner O'Loughlin spoke in support of the subject zone change, however she also questioned how future Commission's would mitigate “spot zoning” as a potential pattern in the future. Ms. Ray expanded on the current process to constitute “spot zoning” and gave examples of steps that could be taken in exceptional cases such as getting the approval of neighboring properties prior to approval of a zone change.

(02:30:17) Commissioner Dean asked what the vision of the property was. The applicant, Bridget Butler confirmed the intention of the property was mixed use including both a commercial business and town-houses.

(02:32:49) Discussion was had between Commissioner Haladay, Ms. Ray, and the applicant Bridget Butler. They discussed whether a variance from the first-floor commercial requirement would've offered an alternative route to approving the project and Ms. Ray confirmed a zone change was the only option to meet this project. They also discussed set back requirements and the intent to have tuck under parking garages.

(02:37:44) Vice Chair to the Downtown TIF Advisory Board, Brian Obert offered public comment in favor of the proposed zone change.

(02:38:55) Commissioner Haladay asked Ms. Ray if projects were unable to meet the main floor commercial requirement as outlined in the Downtown zoning code, then a rezone of the property would be necessary to allow their concept. Ms. Ray confirmed that would likely be the case due to how the code was currently written.

(02:40:06) Commissioner Dean made a motion to approve first passage of an Ordinance amending City of Helena Ordinance No. 3097 and amending the official zoning map for the City of Helena for a zone change from DT (Downtown) District to TR (Transitional Residential) District for Lot A being a portion of Lot H of the Placer Mining Claim of Getchell and Child as shown on Certificate of Survey No. 3114987 with a street address of 739 Getchell Street in the City of Helena, Montana. Commissioner Haladay seconded the motion. The motion passed 5:0.

- F. Consider a resolution granting a Conditional Use Permit to allow a 2,500 square-foot Sexually Oriented Business use in the Commercial Light Manufacturing (CLM) zoning district at 3540 Centennial Drive in the City of Helena.

(02:41:41) City Manager Harlow-Schalk presented a summary of the resolution granting a Conditional Use Permit to allow a 2,500 square-foot Sexually Oriented Business use in the Commercial Light Manufacturing (CLM) zoning district at 3540 Centennial Drive in the City of Helena.

(02:42:38) City Planner II, Michael McConnell gave a presentation for the proposed ordinance.

(02:48:35) Discussion was had between the City Commission, Mr. McConnell, the applicant Tyler Warne, and City Attorney Jodoin regarding what could be allowed within the recommended 200 square feet for total signage, whether the applicant only intended to occupy the facility in accordance with the Conditional Use Permit (CUP), and whether the condition of limiting the signage was being imposed fairly and without moral prejudice.

(02:56:40) The applicant, Tyler Warne offered public comment in favor of the resolution.

No further public comments.

(02:59:54) City Attorney Jodoin addressed the Commission and proposed limiting the CUP to just retail in an effort to exclude the other possible uses listed within the definition of "Sexual Oriented Business" such as exotic dancing.

(03:01:27) Commissioner O'Loughlin made a motion to approve a resolution granting a Conditional Use Permit to allow a 5,000 square-foot Sexually Oriented Business use in the Commercial Light Manufacturing (CLM) zoning district at 3540 Centennial Drive in the City of Helena. with the following conditions:

- A) **Applicant shall stripe all parking spaces within the existing paved area including a van accessible space.**
- B) **No future expansion of the use or structure is permitted under this permit beyond the existing retail use;**
- C) **No pole mounted signage; and**
- D) **No more than 200 square feet of total signage on the property**

Commissioner Dean seconded the motion.

(03:02:26) Commissioner Haladay expressed the need to leave out "moral picking and choosing" to avoid specific content restrictions like this in the future.

The motion carried 5:0.

Public Communications

(03:04:08) Tyler Warne offered public comment.

No further public comments.

Meetings of Interest

Adjournment

There being no further business to come before the City Commission, the meeting adjourned at 9:06 PM.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE CITY COMMISSION