

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
October 30, 2006
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, October 30, 2006 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Smith indicated for the record that Commissioners Cartwright, Oitzinger, Peura, and Throssell were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Teresa Klotz representing the Helena Citizens Council.

Pledge of Allegiance

Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance.

Minutes

The minutes of the regular City Commission meeting of October 16, 2006 were approved as submitted.

Appointments

APPOINTMENTS:

- A. Civic Center Board

Mayor Smith asked for Commission concurrence on the following appointment:

Civic Center Board – Appointment of Sherron Massman

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Peura moved approval of the appointment to the Civic Center Board. Commissioner Throssell seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. First passage of an ordinance repealing Chapter 8 of Title 3 of the Helena City Code – Erection of Signs **Ordinance #3072**

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved approval of items A and B on the consent agenda. Commissioner Peura seconded the motion. All voted aye, motion carried.

Bid Award

BID AWARD:

- A. Four side loading residential garbage collection trucks

Staff Report

Fleet Manager Ed Robinson reported bids were received for four new solid waste side-load refuse trucks to replace four existing units. The two lowest bids were received from I-State Trucks. The lowest bid

of \$610, 952 did not meet bid specifications. This lower cost unit didn't meet specifications due to a packer body that has proved unsuccessful for our operation in the past. The second I-State Trucks bid was for a 2006 American LeFrance Condor with a Rapid Rail body at a unit cost before trade of \$192,523. The total cost of the acquisition is \$660,092 after trade. The FY2007 budget appropriation for these units is \$660,640.

Mr. Robinson recommended the purchase of the new units from I-State Trucks. The purchase of these units will allow the city to continue to upgrade its Solid Waste Division's fleet providing reliable equipment and reducing rising maintenance costs. He noted staff is not recommending purchase of the extended warranty.

Commission comment Commissioner Oitzinger asked why the lower cost trucks did not meet specifications? Mr. Robinson explained the difference was the compaction bodies that are mounted on the trucks. Staff has tested Curbtender demonstration models in the past and found that they are not fast enough to allow staff to finish their routes in the appropriate amount of time. Commissioner Throssell asked why staff did not recommend the extended warranty? Mr. Robinson explained a standard three-year warranty is included and staff has not had any serious problems with the Rapid Rail bodies in the past. If a good price had come in for the extended warranty it would've been included in the bid award. Since it didn't, staff feels comfortable with the three-year cab and chassis warranty. Commissioner Throssell asked for the current age of the trucks that will be traded in? Mr. Robinson stated the trucks are years 2000 and 2001 and are listed on the regular replacement schedule.

Public Comment Mayor Smith asked for public comment, none was received.

Motion Commissioner Oitzinger moved to award the bid to I-State Trucks for four (4) new solid waste side-loading refuse trucks for the bid price of \$660,092.00. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

A. Urban Wildlife Task Force (UWTF) Update

Commissioner Oitzinger reported the task force is currently reviewing a draft survey to gauge Helena's public opinion on deer, and planning a deer census. A more detailed report will be provided in December.

Commissioner Peura reported the women's masters team was successful at the Montana Cup race in Butte on October 28, 2006. He congratulated them on winning their race and bringing the cup back to Helena.

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

Report of the City Manager REPORT OF THE CITY MANAGER
A. Introduction – Street/Solid Waste Superintendent Ben Sautter

Public Works Director John Rundquist introduced Mr. Sautter and gave his work history. Mayor Smith welcomed Mr. Sautter to the City of Helena.

B. Helena Housing Authority (HHA) resident survey

HHA Executive Director Colleen McCarthy gave a detailed power point presentation on the results of the Resident Assessment Satisfaction Survey, which is sent out each year to randomly selected residents by the US Department of Housing and Urban Development.

Mayor Smith congratulated Ms. McCarthy on HHA's positive survey results.

City Manager Burton announced he and Community Development Director Sharon Haugen would be attending the Growth and Planning Public Heritage Meeting to speak about growth on the Rocky Mountain front in Choteau, Montana on Thursday, November 2, 2006.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Teresa Klotz reported there are five vacancies on the HCC. The HCC Quality of Life Survey has been compiled into a preliminary report, which will be distributed to the Commission in the near future. Ms. Klotz also gave an overview of the October HCC meeting.

Ms. Klotz added due to the Thanksgiving and Christmas holidays, the HCC will meet on November 15, 2006 and December 20, 2006 at 7:00p.m.

MT Youth Homes

CONSIDER A RESOLUTION OF INTENTION TO DONATE SURPLUS REAL PROPERTY OWNED BY THE CITY OF HELENA TO MONTANA YOUTH HOMES FOR THE PURPOSE OF BUILDING A NEW FACILITY TO REPLACE THE JAN SHAW YOUTH HOME.

Staff Report

Community Development Director Sharon Haugen reported the City of Helena has received a request for a land donation located near the current Salvation Army facility; legally described as Lots 6, 7, and 8 Block 50 of the Broadwater Second Addition to the City of Helena. This request has been made by Montana Youth Homes, Inc. because they need to secure a building site for a replacement for the Jan Shaw Youth Home that is currently located on Carroll College property at 198 W. Lyndale Avenue.

Montana Youth Homes is a private non-profit 501© (3) organization that provides care and assistance for abused, neglected and abandoned children. The current structure has served the program fairly well for many years. However, with the need to vacate the premises, the program cannot simply be moved into another structure. The design of a new facility or the renovation of any existing structure according to newer specific state licensing requirements will be necessary.

The city has a formal process for the disposal of city property. This includes both a resolution of intent to donate and, a public hearing and the passing of a resolution to donate the land. A similar process was followed in 2004 when the city donated some lots to Helena Area Habitat for Humanity.

Preliminary examination indicates that there currently may be some trails systems located on the property, and if the city were to dispose of the property, easements would be needed to preserve these trails. Any other easements for utilities would be retained.

The location of this land makes an ideal site for a facility such as this. It is located near public schools, the city's trail system, and it is a use similar to others in the neighborhood. Any building would be built specific to state licensing requirements for youth group homes. Montana Youth Homes is in the process of partnering with the local High School House program to involve local youth in the project.

Director Haugen recommended approval of the land donation and stated Montana Youth Homes serve a vital need in the community and the acquisition of this property for a new facility would allow them to better serve their clients and the City of Helena.

Commission comment Commissioner Cartwright asked if the trail easement is broad enough to accommodate any change that might need to be made due to placement of the facility? Ms. Haugen stated staff has discussed the easement with Parks & Recreation Director Lilje and he indicated the trail should remain as is. However, if changes become necessary there will still be sufficient land on both sides of the easement to accommodate any modifications.

Public comment Mayor Smith called for public comment, none was received.

Motion **Commissioner Throssell moved approval of a resolution of intention to donate surplus real property owned by the City of Helena to Montana Youth Homes for the purpose of building a new facility to replace the current Jan Shaw Youth Home for property legally described in the resolution and set a public hearing date for November 20, 2006.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19422**

Public Hearings PUBLIC HEARINGS:

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359, AND AMENDING THE OFFICIAL ZONING MAP THEREOF, FOR A ZONE CHANGE FROM R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT TO R-O (RESIDENTIAL-OFFICE) DISTRICT FOR PROPERTY GENERALLY LOCATED SOUTH OF SONOMA DRIVE AND EAST OF MENDOCINO DRIVE.

Staff Report City Planner Kathy Macefield reported on October 10, 2006, the Helena Zoning Commission recommended approval for first passage of an ordinance, amending City of Helena Ordinance No. 2359 and amending the Official Zoning Map thereof, for a zone change from R-2 (Single Family Residential) District to R-O (Residential – Office) District for Lots 1, 2 and 3, Block 9 of the Nob Hill Major Subdivision, Phase III; generally located south of Sonoma Drive, west of Mendicino Drive and east of the alley. The applicant wishes to construct four residential condominium units on each lot.

Ms. Macefield recommended approval of the zone change and noted the proposal represents the initial mixed use development of this subdivision, and efficient use of energy, infrastructure and resources. The proposal is consistent with the 2001 Helena Growth Policy, appears

to be consistent with the requirements of the Montana zone change criteria, and is compatible with the surrounding zoning.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Travis Clark, Yukon Construction, 8585 North Montana, applicant; urged the Commission to approve the zone change.

There being no further persons wishing to address the Commission, Mayor Smith closed the public hearing.

Motion

Commissioner Cartwright moved approval for first passage of an ordinance, amending City of Helena Ordinance No. 2359 and amending the Official Zoning Map thereof, for a zone change from R-2 to R-O for three lots legally described in the ordinance.

Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance #3073**

B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A MEMBERSHIP "ANYTIME FITNESS CENTER" IN A R-O (RESIDENTIAL-OFFICE) DISTRICT; GENERALLY LOCATED EAST OF SONOMA DRIVE AND WEST OF I-15 WITH A PROPERTY ADDRESS OF 760 SONOMA DRIVE.

Staff Report

Ms. Macefield reported on October 11, 2006 the Helena Zoning Commission recommended approval (2:1 vote) for a resolution granting a Conditional Use Permit (CUP) to allow a membership "anytime fitness center," as a "personal service not listed," to be located in a R-O (Residential-Office) District. Said property is legally described as Lot 25 A Block 13, Nob Hill Subdivision, Helena, Montana; generally located east of Sonoma Drive and west of I-15 with a property address of 760 Sonoma Drive. The proposed center would have one full-time employee, one part-time employee working weekends; a masseuse and a physical trainer would be available by appointment. This recommended approval is subject to 3 conditions related to parking, site plan revisions and building permit. No public comment has been received about the proposal.

The two combined uses would require 27 onsite paved parking spaces plus two spaces for persons with disabilities, and 3 bicycle parking spaces. A revised site plan was submitted October 19, 2006 that removed all of the onsite parking spaces from the front yard; provided 24 onsite parking spaces plus 2 spaces for persons with disabilities; and 3 on street parking spaces. Additionally, 1,838 square feet of onsite landscaping would be provided which exceeds the 1,134-square foot minimum. Screening is noted on the revised site plan along the south and west sides of the front parking area.

The revised site plan addressed the requirements of condition #2 that had been recommended by the Zoning Commission. The building permit application must comply with the revised site plan. Therefore, the first 2 conditions that were recommended by the Zoning Commission would no longer be required.

Ms. Macefield recommended approval of the CUP as the proposal represents the initial mixed use development in this subdivision, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding zoning.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

There being no persons wishing to address the Commission, Mayor Smith closed the public hearing.

Commission comment

Commissioner Cartwright expressed concern that the majority of the parking will be located next to a residential district.

Motion

Commissioner Peura moved approval for a resolution granting a Conditional Use Permit (CUP) to allow a membership "anytime fitness center," as a "personal service not listed," to be located in a R-O (Residential-Office) District. Said property is legally described as Lot 25 A Block 13, Nob Hill Subdivision, Helena, Montana; generally located east of Sonoma Drive and west of I-15 with a property address of 760 Sonoma Drive. Said approval is subject to the following conditions:

Building Permit

A. A building permit must be obtained within one year.

B. The development must comply with the revised site plan of October 19, 2006.

Commissioner Throssell seconded the motion. All voted aye, motion carried. **Resolution #19423**

C. CONSIDER A RESOLUTION AUTHORIZING THE DISPOSAL OF SURPLUS REAL PROPERTY OWNED BY THE CITY OF HELENA, LOT 24 IN BLOCK 1 OF THE ORIGINAL HELENA TOWNSITE.

Staff Report

City Engineer Ryan Leland reported in 1970, Lot 24 in Block 1 of the Original Helena Townsite was conveyed to the city. Since at least the mid-1950's, the property has been used as part of the parking lot of the Tatem House, a use that continues to this day. The Tatem House is located on Lots 22 and 23 just to the south of Lot 24. In 1989, Joe Hrella and David Brown, purchased the Tatem House and applied to the city for a conditional use permit (CUP) for a hair salon on the property. One of the conditions of the CUP required the paving and landscaping of the parking lot located on Lot 24, which Hrella and Brown did. They have maintained the parking lot and landscaping since that time. The parking lot improvements on Lot 24 are included in the tax assessment to Hrella and Brown. Part of the old foundry building that connected to the north side of the Tatem house extended into Lot 24. Lot 24 can only be accessed by vehicles through the drive approach located on Lot 23. Lot 24 is a fairly small lot - 2684 square feet - and with the steep slope to the west that is retained by a wall, only about 50% of the lot is usable. The parking lot's dimensions are 33' by 42', or 1386 square feet. Hrella and Brown are interested in purchasing the property. They believed in good faith that it was part of the property they purchased in 1989 and neither the city nor Hrella and Brown realized until recently that the property was owned by the city. Because of the small amount of usable space in the lot and its lack of physical access for vehicles, its use as a stand-alone lot is very limited.

Mr. Leland recommended approval of the resolution to dispose surplus real property and stated the property is currently used as a private parking lot. Currently, the city is responsible for maintaining the

condition of the retaining wall on the west end of the property. Transferring the lot to private ownership would relieve the city of this maintenance obligation and liability. Selling the lot by a privately negotiated sale would allow Hrella and Brown to purchase the property that they have invested in and not lose the value of their improvements to the property.

Commission comment Commissioner Cartwright asked for clarification of who has paid the property taxes for the lot. Mr. Leland explained the applicants have been paying the taxes on the improvements required by CUP in 1989. They have not paid the property taxes, approval of the disposal and sale of this property would put it on the tax rolls. Commissioner Peura asked for the value of the improvements to the property. Mr. Leland estimated \$2,000-\$5,000 at today's cost. Mayor Smith asked why the recommended motion states the City Manager would be authorized to sell it by public bid or private negotiation? City Attorney Nielsen explained staff's preference is a private negotiated sale because of equity issues with the property. The lot does not have a market value to anyone but the adjacent owners. Attorney Nielsen noted a private negotiated sale would require Commission approval.

Public Testimony Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Cherche Prezeau, 40 West Lawrence, attorney for the applicants; urged the Commission to declare the parking lot surplus property.

Joe Hrella, 615 Stuart, applicant; spoke in support of disposal of the property.

There being no further persons wishing to address the Commission, Mayor Smith closed the public hearing.

Motion **Commissioner Cartwright moved approval of a resolution to dispose of Lot 24 in Block 1 of the Original Helena Townsite and authorize the City Manager to offer it for sale by private negotiation or public bid.** Commissioner Oitzinger seconded the motion.

Commissioner Peura offered a friendly amendment to strike the public bid option from the motion. Commissioner Cartwright accepted the amendment.

Vote All voted aye, motion carried. **Resolution #19424**

D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3066 AMENDING SECTION 2-6-3 OF THE HELENA CITY CODE, BOARDS AND COMMISSIONS, ESTABLISHING A CITY PLANNING BOARD TO EXERCISE PLANNING JURISDICTION FOR CITY EXPANSION INTO JEFFERSON COUNTY.

Staff Report City Manager Burton reviewed the history of the proposed ordinance. He gave a power point presentation regarding the City of Helena's investment in infrastructure in the area, the amount growth in Northern Jefferson County, and how the growth relates to water quality in the Helena area.

City Attorney David Nielsen reported Helena has been asked to annex property located in Jefferson County that is contiguous to the city.

Section 11-2-8D, Helena City Code, requires property to be pre-zoned before it may be annexed into the city. Zoning regulations must be consistent with the city's Growth Policy. The city's Growth Policy does not include consideration of property located in Jefferson County. Growth policies are adopted by the City Commission after a planning board has held public hearings and made recommendations to the Commission. The current Helena/Lewis & Clark County Consolidated Planning Board does not have jurisdiction for the amendment of Helena's Growth Policy to include Jefferson County. The city sent a letter to the Jefferson County Commissioners on June 6, 2006, advising them of the city's intent to form a planning board for areas into Jefferson County. The Jefferson County Commissioners did not timely request formation of a city/county planning board within 30 days form the receipt of the letter; therefore, the city is free to form a city planning board without participation from Jefferson County.

Attorney Nielsen recommended approval of the creation of a city planning board as it would provide essential city services and establish appropriate zoning for developments in Jefferson County that are adjacent to the city.

Commission comment

Commissioner Peura asked for the process of forming an interlocal agreement to form a joint City/Jefferson County Planning Board? City Attorney Nielsen explained the next step would involve dialogue between the City Commission and Jefferson County Commission to decide the structure of the Planning Board. Following those discussions, a draft interlocal agreement would be written. Commissioner Peura noted an interlocal agreement governs the consolidated planning board of the City of Helena and Lewis & Clark County.

Commissioner Cartwright referred to a letter from Jefferson County Attorney Johnson stating the City of Helena could appoint residents to the Jefferson County Planning Board, and asked for more information on that option. Attorney Nielsen explained that option invites the City of Helena to be represented on the Jefferson County board to provide input but would not allow the necessary jurisdiction. Commissioner Cartwright stated Jefferson County's suggestion would not work because it does not meet the requirements of state law. City Attorney Nielsen concurred.

Mayor Smith referred to open space the city obtained in Jefferson County and asked if it has been annexed? Manager Burton stated no. Annexation has been discussed but would require action by the proposed planning board.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Wally Hustad, 90 Sunnyside Lane, Clancy; urged the City of Helena and Jefferson County to work together and spoke in support of ensuring water quality south of Helena.

Mary Bryson, Chair of the Montana City School Board; urged the Commission to slow down and work with Jefferson County on annexation issues.

Kris Manard, Fiddlers Green, Jefferson County; spoke in opposition to the proposed ordinance.

Kelly Weber, 1790 Highway 69, Boulder; spoke in opposition to the ordinance.

Matt Johnson, Jefferson County Attorney; urged the Commission to deny the ordinance.

County Commissioner Ken Weber, 1790 Highway 69, Boulder; read a statement into the record and urged the Commission to deny the ordinance.

Ed Hall, Hall Lane, MT City; spoke in opposition to the proposed ordinance.

Jim Paulsen, 4 Lava Mountain Court, Clancy; spoke in support of the ordinance.

Marshall Gingery, 2522 Primrose Lane; asked if there is a timeline for a final decision on the ordinance.

Wally Hustad, 90 Sunnyside Lane, Clancy; spoke in support of the ordinance.

There being no further persons wishing to address the Commission, Mayor Smith closed the public hearing.

Discussion

Commissioner Cartwright noted the proposed ordinance relates to the formation of a planning board and not annexation. Commissioner Peura concurred with Commissioner Cartwright and spoke in opposition to extension of city services without annexation or a waiver of right to protest for fiscal reasons. He indicated he would support the ordinance and urged further communication between Jefferson County and the city. Commissioner Throssell indicated he would vote for approval of the ordinance and encouraged Jefferson County officials to work with the city to plan smart development in the Montana City area. He commented the Consolidated Helena/Lewis & Clark County Planning Board has worked very well. By allowing individual septic systems or other onsite wastewater treatment systems adjacent to the City of Helena would be an abdication of the Commission's responsibilities to guard the health and safety of the citizens of Helena. Commissioner Oitzinger concurred with Commissioner Throssell's comments. She also discussed legal reasons for not allowing people to hook into city services without annexation or a waiver of right to protest.

Mayor Smith asked if there was a timeframe for the annexation request? City Manager Burton explained Mr. Paulsen has not officially applied for annexation; he began this process with discussion with city staff in order to comply with city policy and turn in a correct application, should he choose to do so in the future. Manager Burton noted there is no timeframe on annexations; there is a statutory timeframe on subdivision. Mayor Smith asked if the proposed planning board were formed, would Jefferson County be precluded from continuing its investigation toward the formation of sewer districts? City Manager Burton stated no and explained the city has been involved in sewer districts with Lewis & Clark County for some time. Mayor Smith concurred with Commissioner Throssell's comments and stated the Environmental Protection Agency's and the Montana Department of Environmental Quality's regulations drive tonight's discussion. The Commission must protect city's investment in the wastewater treatment plant. He indicated he would support the proposed ordinance.

Commissioner Cartwright reiterated the item under consideration is the formation of a planning board and not annexation. The Commission can't stop people from moving here and wanting city services. He stated it would be irresponsible to let people obtain specific services and not require them to pay for all city services; the ordinance

requirement of annexation or a waiver of right to protest should not be changed.

Motion

Commissioner Peura moved approval for final passage of Ordinance No. 3066 establishing a city planning board to exercise planning jurisdiction for city expansion into Jefferson County.
Commissioner Throssell seconded the motion. All voted aye, motion carried. **Ordinance #3066**

**Public
Communications**

PUBLIC COMMUNICATIONS

Jefferson County Commissioner Ken Weber; stated Jefferson County staff is looking into water quality issues in their county and he is offended that City of Helena believes they are not.

George McCauley; 926 5th Avenue; invited the Commission to the dedication of Chip Clawson's artwork at Pioneer Park on Wednesday, November 1, 2006.

Wally Hustad, 90 Sunnyside Lane, Clancy; urged both the Helena and Jefferson County Commissions to provide better communication to the Jefferson County residents.

Kelly Weber, 1790 Highway 69, Boulder; expressed concern for water quality in the City of Helena and Lewis & Clark County.

Kris Manard, Fiddlers Green, Jefferson County; voiced questions about the area of jurisdiction for a Joint Jefferson County/City of Helena Planning Board.

Commissioner Cartwright referred to Ms. Manard's comments and stated the joint planning board could provide recommendations for the City of Helena, Montana City, or Jefferson County, **as appropriate**. He would ~~prefer the~~ **have no problems if the** board provided recommendations just for the Montana City or Jefferson County area. Manager Burton clarified the joint planning board approved tonight would work on growth policies and review land use change requests, the same as the joint City of Helena/Lewis & Clark County Planning Board. Their recommendations would be provided to the City Commission.

**Meetings of
Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, November 1, 2006 and the next Commission Meeting is Monday, November 6, 2006. The City/County Joint Work Session will be held Thursday, November 2, 2006.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:00p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission

