

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
November 20, 2006
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, November 20, 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 Ken Saunders 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 meetings of October 30, 2006 and November 6, 2006 were approved as amended.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Buy/Sell Agreement between the City of Helena and David Brown and Joseph Hrella for the purchase of Lot 24 in Block 1 of the Original Helena Townsite
- C. Final passage of Ordinance No. 3072 repealing Chapter 8 of Title 3 of the Helena City Code – Erection of Signs **Ordinance #3072**
- D. Final passage of Ordinance No. 3073 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 **Ordinance #3073**

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Cartwright congratulated the football teams of Carroll College, Capital High and the University of Montana on their wins. He expressed concern about parking conditions around Carroll College during football games.

Commissioner Peura referred to the November 7, 2006 election and commended Helena citizens on high voter turnout, congratulated all of the successful candidates, and thanked everyone who ran for public office.

Commissioner Oitzinger thanked everyone that worked the election.

Mayor Smith also congratulated all of the winning Montana football teams.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen gave an overview of a hearing held in Boulder, MT on Thursday, November 16, 2006 regarding the city's jurisdiction to create a planning board to review land use applications for property located in Jefferson County. Jefferson County is going to draft a consent order that says the City of Helena does not have any jurisdiction until the property is annexed. An injunction is not going to be issued and the case is going to be decided through this stipulated order.

Commissioner Cartwright commended Attorney Nielsen for working to resolve this issue amicably.

Attorney Nielsen also reported in 2003 the Commission approved a preliminary plat for Crestview II Subdivision. At that time, the commission denied a requested variance to the subdivision regulations. The applicant filed a lawsuit against the city in March of 2006; the city then filed a motion to dismiss. There were three counts in the lawsuit; the first related to the platting of the subdivision, the second alleged the city acted arbitrary and illegally failed to grant the requested variance, and the third requested damages for the city's alleged failure to collect reimbursement from other property owners in the area that hooked into certain city services. Mr. Nielsen reported the court dismissed the second count and he would keep the Commission briefed on remaining counts one and three.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Burton referred to the Jefferson County annexation issue and reported he called Jefferson County Commission Chair Tom Lythgoe and requested a meeting be set up between the city and county to work through annexation issues. The meeting has been scheduled for Monday, November 27, 2006 at 1:30p.m.

Commissioner Cartwright commented the city's interest is in sustainable development and does not want to take over Jefferson County. City Manager Burton noted there could be future requests that require a further definition of what may or may not occur in the subject area.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Ken Saunders gave an overview of the November 15, 2006 HCC meeting. He noted HCC member Rebecca Ridenour has distributed a preliminary report on the Quality of Life Survey.

Commissioner Peura asked Mr. Saunders to invite the HCC to attend the above referenced meeting with the Jefferson County Commissioners.

ROW Use Agreement – HCT

CONSIDER A RIGHT-OF-WAY USE AGREEMENT FOR THE HELENA COLLEGE OF TECHNOLOGY.

Staff Report

City Engineer Ryan Leland reported the University of Montana – Helena College of Technology (HCT) is expanding their campus at the corner of Livingston Avenue and North Roberts Street. As part of this expansion, the University has constructed a parking lot at the southeast

corner of North Harris Street and Townsend Avenue. However, that parking lot does not provide all the parking required by the expansion.

HCT would like to obtain approval for a ROW use agreement to allow a portion of the college's parking on the Livingston Avenue ROW. This parking would be angle parking. Mr. Leland recommended approval of the agreement, as it would allow HCT to expand in accordance with the proposed site plan and comply with mandated parking requirements.

Commission comment Commissioner Peura noted the midtown group has been working on traffic concerns in the area and commended the residents for working with HCT. Mayor Smith complemented Dean Bingham on the new campus and thanked city staff for working with HCT and the neighborhood.

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

Motion **Commissioner Peura moved approval for a ROW Use Agreement with the University of Montana – Helena College of Technology for parking on a portion of the Livingston Avenue ROW.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

Sidewalk Variance CONSIDER A SIDEWALK VARIANCE FOR CURBSIDE SIDEWALKS AT 1450 PROSPECT AVENUE.

Staff Report Director Rundquist announced the developer, Gray Companies, Inc., is requesting a variance for curbside sidewalks along Sanders Street. The variance would allow the developer to install a berm for screening instead of a fence. At its November 6, 2006 meeting the Commission expressed concern for pedestrian safety in the area and asked staff to determine if a traffic calming bulb-out should be installed at the corner of Butte Avenue and Sanders Street.

Director Rundquist gave an overview of staff's analysis of the area. Two options have been identified to alleviate traffic concerns; installation of valley gutters, which would also help minor stormwater drainage issues in the area, or a traffic-calming circle. Director Rundquist recommended installation of the proposed traffic circle and noted it would provide an experiment in that type of calming for the city. He noted the developers were agreeable to the installation of either option.

Commission comment Commissioner Peura asked what aesthetic options are available for the middle of the circle? Director Rundquist explained landscaping could be installed in the middle and signage would need to be installed around the circle. He added in Missoula, the neighborhoods have adopted some of the traffic circles and had irrigation ran to them for landscaping. Commissioner Peura thanked the applicant for being so flexible with the proposal. Commissioner Cartwright observed it would be difficult to run water to the center of the circle after it is constructed; any irrigation needs should be determined before installation. He asked Director Rundquist to contact the City of Missoula for information on the number, and what kind of signs would be needed for the area.

Mayor Smith asked what it would cost to install the circle? Director Rundquist explained there is not a huge amount of work associated with installation, it should not cost more than constructing

valley gutters. Mayor Smith recommended including the installation of irrigation features in the motion in order to correctly reflect all costs associated with the project. Commissioner Oitzinger asked how staff would deal with the referenced stormwater issues in the area. Director Rundquist explained stormwater runs into catch basins on Butte Avenue; these catch basins need to be moved slightly for better performance. He noted either traffic calming option would include work on the catch basins. Commissioner Oitzinger commented she hopes the neighborhood is happy with the proposed traffic calming options.

Public comment

Mayor Smith called for public comment.

John Gillespe, representing the applicant, 5525 Georgia Drive; confirmed Grey Companies is agreeable to the installation of either traffic calming measure. He noted he was uneasy about the landscaping that could be required with the traffic circle.

Discussion

Commissioner Cartwright commented the city should not be asking the applicant to take on the maintenance and decoration of the interior of the traffic circle. He suggested asking city staff to ensure the circle is roughed out for any finishing, such as requiring accessibility to water should the circle be landscaped. Mayor Smith recommended approval of the variance for curbside sidewalks and direction of city staff to work with the applicant and bring forward a more complete proposal, including landscaping and cost sharing, about this particular traffic calming site. Commissioner Cartwright indicated he would support the variance contingent upon adequate traffic calming measures being installed. Commissioner Peura concurred with Commissioner Cartwright's perspective and indicated he would support the motion recommended by staff. He asked the applicant to be cognizant that they will be located in a mixed commercial and residential area and invite the neighborhood to be involved in the project. He indicated he would support irrigation be included in the design.

City Manager Burton explained projects in the right-of-way require a landscaping plan and must comply with city ordinances. He confirmed staff would work with the applicant to work out the final design and cost, and report back to the Commission.

Motion

Commissioner Peura moved approval for a variance for curbside sidewalks at 1450 Prospect Avenue conditioned upon construction of a traffic-calming circle at the intersection of Butte Avenue and Sanders Street. Commissioner Oitzinger seconded the motion.

Discussion

Commissioner Oitzinger recommended including the public art program in the traffic calming project. Mayor Smith indicated he would support the motion and asked staff to be cost conscious and keep cost sharing in mind when working on the design.

Commissioner Cartwright offered a friendly amendment to require boulevard style planting along the berm. Director Rundquist noted according to city ordinance, there are not requirements for landscaping curbside sidewalks so it would be difficult to require. Commissioner Peura referred to Director Rundquist's comment and stated he would not accept the amendment. He asked the applicant to be mindful of Commissioner Cartwright's request when landscaping the berm.

Vote All voted aye, motion carried.

Motion **Commissioner Cartwright moved to amend the variance to require boulevard style landscaping on the berm along the curbside sidewalk.** Commissioner Throssell seconded the motion.

Discussion Commissioner Cartwright spoke in support of boulevard style landscaping because the trees would provide a sense of boundedness and are an amenity to pedestrians. City Manager Burton stated the city's landscaping ordinance requires a landscaping plan be submitted when applying for a building permit. He confirmed staff has heard the Commission's concerns and will work with the applicant. Mayor Smith asked if the Commission could review and approve the landscaping plan? City Manager Burton explained the Commission does not approve landscaping plans, they are submitted to city staff for review and compliance with the ordinance before a building permit is issued. Commissioner Cartwright urged support for the proposed motion. Commissioner Oitzinger indicated she would support the amendment to the variance and spoke of using CTEP funds for development of the area. Commissioner Throssell stated he is confident the developer will develop the property as the Commission has indicated they would like to see.

Commissioner Cartwright asked if landscaping to the right-of-way would count as part of the total landscaping requirement? City Attorney Nielsen stated under the current ordinance it would not count. He recommended against amending the ordinance to provide a landscaping credit to the applicant.

Vote Motion carried 3-2, with Mayor Smith and Commissioner Peura voting no.

HATS Facility CONSIDER A RECOMMENDATION FOR THE SELECTION OF AN ARCHITECTURAL AND ENGINEERING SERVICES CONSULTANT FOR DESIGN AND CONSTRUCTION OF THE HELENA AREA TRANSIT FACILITY.

Staff Report Community Facilities Director Gery Carpenter reported the City of Helena advertised in the Independent Record on Wednesday, October 11, 2006, Sunday, October 15, 2006, and Sunday October 22, 2006 for a Request of Proposals from interested firms for the Helena Area Transit Project. Proposals were received from Crossman-Whitney-Griffin, P.C. and Mosaic Architecture, P.C. A committee comprised of Public Works Director John Rundquist, Fleet Manager Ed Robinson, Allen Tompkins and Mr. Carpenter reviewed the proposals on November 6, 2006. The committee ranked Crossman-Whitney-Griffin, P.C. number one, and Mosaic Architecture, P.C. number two.

Director Carpenter recommended the City of Helena negotiate a contract with Crossman-Whitney-Griffin, P.C. to design and construct a new Helena Area Transit Facility at 1414 North Montana Avenue.

Public comment Mayor Smith called for public comment, Michael O'Niell, 621 Hillside; spoke in support of the new facility and thanked the Commission for their support of the project.

Motion

Commissioner Throssell moved approval for the City of Helena to negotiate a contract with Crossman-Whitney-Griffin, P.C. for the design and construction of the Helena Area Transit Facility and authorized the City Manager to sign the contract. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION AUTHORIZING THE DONATION OF SURPLUS REAL PROPERTY OWNED BY THE CITY OF HELENA; GENERALLY LOCATED ON HENDERSON STREET, NEXT TO THE CURRENT SALVATION ARMY BUILDING, LEGALLY DESCRIBED AS LOTS 6, 7 AND 8, BLOCK 50 OF THE BROADWATER SECOND ADDITION.

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.

In 1911, the City of Helena was given this property by Samuel Hauser and the Conrad Stanford Company for the purposes of a road, boulevard and parks. The intent is that if the property was not used for those purposes, it was to revert back to the original owners. A similar clause was on the deed when the city previously gave land to what is now known as the Salvation Army. For this reason staff is recommending a reversion clause that if Montana Youth Homes ceases its use on the property, it will revert back to the City as well as the easement for the trail easement. An easement for the trail system located on the northern end of this property, known as the Centennial Park/Spring Meadow Trail, needs to be retained along with any other easements for utilities.

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, which includes 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. On October 30, 2006, the city passed a resolution of intent to dispose of this property.

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 resolution and stated Montana Youth Home serves 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. She noted City Manager Burton is on the MT Youth Homes Board of Directors and has recused himself from this matter; She will be acting as City Manager for the proposal.

Commission comment Commissioner Throssell asked if MT Youth Homes Incorporated is legally able to hold property and do business in Montana? He also asked for more information on Jan Shaw.

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

Beau Snell, MT Youth Homes Executive Director, 200 Miller Street; explained Montana Youth Homes is a private non-profit 501© (3) organization and is legally able to hold property and do business in Montana. He added Jan Shaw was the original Director of MT Youth Homes. Mr. Snell urged the Commission to approve the property donation.

Mike O’Niell, 621 Hillsdale; spoke in support of the resolution.

Monty Jones, 1905 Henderson; spoke in support of the new youth home.

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

Motion **Commissioner Cartwright moved approval of a resolution authorizing the donation of surplus real property owned by the City of Helena to Montana Youth Homes for the purpose of building a new home to replace the current Jan Shaw Youth Home with the conditions listed in the resolution, for property legally described in the resolution.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19427**

B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3067 AMENDING CHAPTER 2 OF TITLE 3 OF THE HELENA CITY CODE INCLUDING THE INTERNATIONAL BUILDING CODE; THE INTERNATIONAL ENERGY CONSERVATION CODE; THE INTERNATIONAL RESIDENTIAL CODE; AND THE INTERNATIONAL EXISTING BUILDING CODE.

C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3068 AMENDING CHAPTER 3 OF TITLE 3 OF THE HELENA CITY CODE AND ADOPTING THE 2005 EDITION OF THE NATIONAL ELECTRICAL CODE.

D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3069 AMENDING CHAPTER 4 OF TITLE 3 OF THE HELENA CITY CODE, THE MECHANICAL CODE.

E. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3070 AMENDING CHAPTER 5 OF TITLE 3 OF THE HELENA CITY CODE, THE GAS CODE.

F. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3071 AMENDING CHAPTER 7 OF TITLE 3 OF THE HELENA CITY CODE, THE PLUMBING CODE.

Staff Report

Chief Building Official Brandt Salo reported periodically, revisions and amendments to the family of building codes are mandated by the state Department of Labor and Industry Building Codes Division in an effort to keep the codes current with available building technology or to address recurrent enforcement issues. Staff recommends the city adopt the proposed ordinances in order to make the most recent set of miscellaneous revisions and amendments to the codes and thereby assure the availability to builder, developer, and homeowner, of the most current building related regulations and information dealing with technological advances within the regulatory field.

Adoption of the proposed ordinances will fulfill the city's responsibility as a certified jurisdiction to adopt building codes in like manner as, and to be current with those adopted by the State of Montana. Also, approval will continue the use of a nationally recognized and "uniform" family of building codes authored by the International Code Council, Inc.

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.

Motions

Commissioner Throssell moved approval for final passage of Ordinance No. 3067 amending Chapter 2 of Title 3 of the Helena City Code: including the International Building Code; the International Energy Conservation Code; the International Residential Code; and the International Existing Building Code. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3067**

Commissioner Cartwright moved approval for final passage of Ordinance No. 3068 amending Chapter 3 of Title 3 of the Helena City Code and adopting the 2005 Edition of the National Electrical Code. Commissioner Throssell seconded the motion. All voted aye, motion carried. **Ordinance #3068**

Commissioner Peura moved approval for final passage of Ordinance No. 3069 amending Chapter 4 of Title 3 of the Helena City Code, the Mechanical Code. Commissioner Throssell seconded the motion. All voted aye, motion carried. **Ordinance #3069**

Commissioner Throssell moved approval for final passage of Ordinance No. 3070 amending Chapter 5 of Title 3 of the Helena City Code, the Gas Code. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3070**

Commissioner Oitzinger moved approval for final passage of Ordinance No. 3071 amending Chapter 7 of Title 3 of the Helena City Code, the Plumbing Code. Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance #3071**

**Public
Communications**

PUBLIC COMMUNICATIONS

Michael O'Niell, 621 Hillsdale; expressed concern for the Helena Housing Authority's (HHA) Stewart Homes remodel and urged the Commission to get involved with the project. He invited the Commission to attend the Helena Housing Authority Board Meeting on Tuesday, November 28, 2006 at 4:00p.m.

Mr. O'Niell gave an overview of the remodel and discussion was held on the project. Mayor Smith asked that a city staff member attend the board meeting on November 28, 2006. Manager Burton asked City Attorney Nielsen to review the city's relationship with the HHA as the Commission should know its' role in the project. Commissioner Oitzinger noted she would be interested in the effect on Bryant School. Commissioner Peura asked for a detailed report on the net impact of the remodel to residents. Manager Burton stated he would pass the requests along to HHA Executive Director Colleen McCarthy.

**Meetings of
Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, November 29, 2006 and the next Commission Meeting is Monday, December 4, 2006. The City/County Joint Work Session will be held on December 7, 2006.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:09 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission