

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
September 13, 2010
6:00 P.M.

- Time & Place** A regular City Commission meeting was held on Monday, September 13, 2010 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 Ellison, Thweatt and Elsaesser were present. Commissioner Cartwright was excused. City Manager Ron Alles, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were 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 August 23, 2010 were approved as submitted.
- Consent Agenda** CONSENT AGENDA:
A. Claims
B. Utility Bill Insert – Lewis & Clark County Health Department
C. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the sale of that property
D. Helena Area Transit Service, complementary curb-to-curb/paratransit service policies and procedures
E. Curb cut variance for 34 North Benton Avenue
F. Resolution authorizing participation by eligible city employees in the Montana Voluntary Employees' Beneficiary Association (VEBA) HRA
- City Manager Ron Alles recommended approval of the claims and the consent agenda.
- Commissioner Ellison asked item D be removed for further discussion.
- Public Comment** Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Elsaesser moved approval of items A through C, E and F on the consent agenda.** Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Item D** D. HELENA AREA TRANSIT SERVICE, COMPLEMENTARY CURB-TO-CURB/PARATRANSIT SERVICE POLICIES AND PROCEDURES
- Discussion** Commissioner Ellison asked if an ADA accessible van could be used for the reservation service instead of busses and if the use of a van would result in cost-savings. HATS Superintendent Ed Robinson explained a van could be used but at times the service will have multiple passengers in wheelchairs and the vans can not accommodate those

passengers all at one time. He noted fuel cost savings would be nominal.

Commissioner Ellison asked what happens if more reservations are made than are available. Superintendent Robinson explained the city currently has three buses available to provide the service and at times a fourth bus is used, if needed. Commissioner Ellison asked how many uses the curb-to-curb service had in 2009. Superintendent Robinson stated 33,000 trips.

Public Comment

Mayor Smith asked for public comment.

George McCauley, 926 5th Avenue; thanked city staff for their work on the paratransit service policy.

Motion

Commissioner Ellison moved approval of item D on the consent agenda. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser spoke of construction happening at Centennial Park and chip/seal projects on Helena's Westside. He announced there would be an electronics drive on Saturday, September 18, 2010 in the Kmart parking lot and Trash for Trees will be held on Saturday, September 25, 2010 in the Northgate Plaza parking lot.

Mayor Smith wished Commissioner Elsaesser a belated happy birthday.

He recognized Commissioner Ellison's receipt of the Erebus Medal from the government of New Zealand for his service in a recovery mission for the victims of a DC-10 aircraft crash in Antarctica. Commissioner Ellison spoke of receiving the award and the lives lost in the tragedy.

He referred to the Green Blocks Program and reported KEMA had visited his house to perform an inspection; a report on the inspection will be provided to him in the next few weeks.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen reported the city had finally received its permit for the well drilled in 2007 at Kindrick Legion Field; the city can now use well water to water the field.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Alles asked Parks & Recreation Director Amy Teegarden and Firefighters Benefit Association Representative/Fire Department Captain Sean Logan to report on recent rehabilitation efforts to the historic Helena firetower. Director Teegarden explained how the project started and Cpt. Logan gave the history of the firetower, an overview of improvements made to the structure, and improvements made to safely light the firetower for the holiday season. The Commission thanked parks and fire department staff for their work on the project.

City Manager Alles asked Human Resource Director Rae Lynn Nielsen to provide an update on recent negotiations between the City and Local 448 Firefighters Union. Director Nielsen gave an overview of the negotiations that resulted in a one-year contract.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Lorabelle Behlmer reported the HCC's unscientific Quiet Zone Survey has been completed and is available for viewing on the HCC's website.

PPLT Land

CONSIDER PRELIMINARY ACCEPTANCE OF AN APPROXIMATE 127-ACRE MOUNT ASCENSION AREA PROPERTY DONATION FROM PRICKLY PEAR LAND TRUST, IF ACQUIRED.

Staff Report

Natural Resource Coordinator Brad Langsather reported at the Helena City Commission meeting held on January, 25, 2010, the City Commission approved the acceptance of 127 acres of property from PPLT. The bulk of the land donated by PPLT was located on Mount Ascension and had been acquired as part of their "Backdrop Initiative", an effort focused on the preservation of open spaces located to the south of Helena. In response to the fact that several key pieces located within PPLT's Mount Ascension focus area currently remain available for residential development, PPLT has been working diligently to ensure that they acquire the remaining parcels to aid in the accomplishment of their land stewardship goals.

As part of the acquisition process, warranty deeds used to transfer ownership contain restrictive language requiring PPLT to obtain approval from the Helena City Commission to accept ownership of the premises and maintain said premises as open space. PPLT is requesting preliminary acceptance of the property in order to be successful in their efforts to acquire the property. Final acceptance of the property will be brought forward to the Commission again if PPLT is successful in purchasing the land and at that time city representatives will have an opportunity to review the final deeds.

Director Teegarden recommended preliminary approval of the land donation as the city would obtain 127 acres of open lands having an appraised value of \$1,005,000. Acquisition of these parcels would help accomplish several previously established Parks Department open lands management goals including: helping preserve Helena's scenic backdrop, maintaining important wildlife habitat and recreational trail values, and providing for future diversification and dispersion of recreational activities available within the city's open space system.

Discussion

Commissioner Thweatt asked for confirmation that trail maintenance is estimated to cost \$182.50/year. Coordinator Langsather concurred. Commissioner Thweatt asked for the likelihood the fire fuels on the property would be addressed in the next decade if the city does not acquire the parcels. Coordinator Langsather reported the property is mostly owned by absentee landlords who are not likely to address forest needs. He noted the property is a lightning strike area.

Commissioner Ellison asked Director Teegarden where the necessary \$25,000 would be found. Director Teegarden reported Open Space Maintenance District funding would be used and staff will need to review existing priorities in the fund in order to acquire the property. Commissioner Ellison expressed concern over the city's budget and maintenance liability in taking over ownership of these parcels. Director Teegarden reviewed possible grant funding options and commented she

doesn't believe the property will require a lot of long term funding. She recommended acceptance of the property.

Mayor Smith commented portions of the property are located in Jefferson County and encouraged discussion on beetle mitigation with county staff and officials.

Commissioner Thweatt referred to vehicle access to the property and asked if the city would be able to close illegal accesses. Coordinator Langsather stated yes and explained the city would control motorized use in the area and staff hopes to create a trailhead on the property.

Commissioner Elsaesser asked if the city would have the authority to close trails if needed, even if the property is not annexed into the city. Coordinator Langsather stated yes, the property would be incorporated into the Open Lands Travel Management Plan and its regulations.

Public Comment

Mayor Smith asked for public comment.

Andy Bauer, Prickly Pear Land Trust; urged the Commission to support acceptance of the land donation.

Discussion

Commissioner Ellison referred to parcels accepted in January and asked if there are additional/other parcels in the area that will be donated to the city. Mr. Bauer explained PPLT is looking to protect larger properties in the area through conservation easements with the property owners. Commissioner Ellison noted he would support the proposal.

Commissioner Thweatt asked for the consequences of the city denying this donation at final acceptance. Mr. Bauer explained PPLT would attempt to hold the properties and manage them properly; it would be the first time PPLT would hold any land long-term.

Commissioner Elsaesser spoke in support of the proposal.

Motion

Commissioner Elsaesser moved to accept the donation of the following listed properties, if acquired by PPLT: Alpine Meadows Lots 12, 13, 15, 16, 17 and the Arrowroot Parcel.

Commissioner Thweatt seconded the motion. All voted aye, motion carried.

Building Codes

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 3 OF THE HELENA CITY CODE AND ADOPTING THE 2009 EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE INTERNATIONAL EXISTING BUILDING CODE (IEBC) AND SET A PUBLIC HEARING DATE OF OCTOBER 18, 2010.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 3 AND ADOPTING THE 2008 EDITION OF THE NATIONAL ELECTRICAL CODE (NEC) AND SET A PUBLIC HEARING DATE OF OCTOBER 18, 2010.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 3 AND ADOPTING THE 2009 EDITION OF THE INTERNATIONAL FUEL GAS CODE (IFGC) AND SET A PUBLIC HEARING DATE OF OCTOBER 18, 2010.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 7 OF TITLE 3 AND ADOPTING THE 2009 EDITION OF THE UNIFORM PLUMBING CODE (UPC) AND SET A PUBLIC HEARING DATE OF OCTOBER 18, 2010.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 3 AND ADOPTING THE 2009 EDITION OF THE INTERNATIONAL MECHANICAL CODE (IMC) AND SET A PUBLIC HEARING DATE OF OCTOBER 18, 2010.

Staff Report

Chief Building Official Brandt Salo reported the Building Division of the City of Helena is enforcing the 2006 editions of the building and plumbing codes, along with the 2005 edition of the NEC. Effective July 29, 2010, the State of Montana Building Codes Bureau adopted new administrative rules implementing the use of the above codes and mandating their adoption by all certified local jurisdictions within 90 days thereafter.

First passage of the proposed ordinances will set the course for the Building Division to comply with the state's directive to adopt the new editions of the above listed codes. In addition to keeping the city's certified enforcement program in good standing, our updating to the new editions of the codes provides builders and the public with the opportunity to make use of the newest technologies and materials that are authorized in the codes. Mr. Salo noted there is incorporation, throughout the broad spectrum of the building code family grouping, of provisions that more effectively use and conserve our energy resources and recommended approval of first passage of the ordinances.

Discussion

Discussion was held on the city's designation as a certified local jurisdiction and the requirement by the state to adopt the proposed codes.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Thweatt moved approval for first passage of an ordinance amending Chapter 2 of Title 3 of the Helena City Code and adopting the 2009 editions of the International Building Code (IBC) and the International Existing Building Code (IEBC) and set a public hearing date of October 18, 2010. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord # 3134**

Motion

Commissioner Thweatt moved approval for first passage of an ordinance amending Chapter 4 of Title 3 and adopting the 2009 edition of the International Mechanical Code (IMC) and set a public hearing date of October 18, 2010. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord # 3135**

Motion

Commissioner Thweatt moved approval for first passage of an ordinance amending Chapter 5 of Title 3 and adopting the 2009 edition of the International Fuel Gas Code (IFGC) and set a public hearing date of October 18, 2010. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord # 3136**

Motion Commissioner Thweatt moved approval for first passage of an ordinance amending Chapter 7 of Title 3 and adopting the 2009 edition of the Uniform Plumbing Code (UPC) and set a public hearing date of October 18, 2010. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord # 3137**

Motion Commissioner Thweatt moved approval for first passage of an ordinance amending Chapter 3 of Title 3 and adopting the 2008 edition of the National Electrical Code (NEC) and set a public hearing date of October 18, 2010. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord # 3138**

Public Hearings PUBLIC HEARINGS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP FOR THE CITY OF HELENA FOR A ZONE CHANGE FROM R-3 (RESIDENTIAL) DISTRICT TO R-O (RESIDENTIAL-OFFICE) DISTRICT FOR PROPERTY GENERALLY LOCATED SOUTH OF COLONIAL DRIVE, NORTH OF DEERFIELD LANE AND WEST OF INTERSTATE 15.

Staff Report City Planner Elroy Golemon reported on Tuesday, August 10, 2010, the Helena Zoning Commission held a public hearing on the proposed zone change and unanimously recommended approval (4:0 vote), for the adoption of an ordinance for a zone change from R-3 (Residential) District to an R-O (Residential/Office) District for property legally described in the staff report.

Mr. Golemon recommended approval of the zone change as it is consistent with the Montana Zone Change Criteria, Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses.

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

Jim Ward, Rocky Mountain Church of Christ, applicant; explained they own 4.5 acres of the 10-acre parcel proposed for re-zoning. The proposed church will house 300 people and provide a gathering place for the community.

Lora Behlmer, Helena; expressed concern for the allowable building height on the property.

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

Discussion Mr. Golemon gave the height restrictions and lighting standards in the RO and R3 zoning districts.

Motion Commissioner Ellison moved approval for first passage of an ordinance amending City of Helena Ordinance No. 2359 and amending the official zoning map, for a zone change from R-3 (Residential) District to an R-O (Residential-Office) District for property legally described in the ordinance. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3139**

***Public
Communications***

PUBLIC COMMUNICATIONS

No public communications were given.

***Meetings of
Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is September 22, 2010 and the next Commission Meeting is September 27, 2010. A Growth Policy Work Session is scheduled for September 15, 2010.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:33 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission