

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
October 18, 2010
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, October 18, 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 Cartwright, Ellison, Thweatt and Elsaesser were present. City Manager Ron Alles, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present.

Pledge of Allegiance

Mayor Smith asked the members of Boy Scout Troop #206 to lead those persons present in the pledge of allegiance.

Minutes

The minutes of the regular City Commission meeting of October 4, 2010 were approved as submitted.

Appointments

APPOINTMENTS:

- A. Business Improvement District/Helena Parking Commission
- B. Board of Adjustment
- C. ADA Compliance Committee
- D. Building Board of Appeals
- E. Zoning Commission

Mayor Smith asked for Commission concurrence on the following appointments:

Board of Adjustment - Reappointment of Jason Davis to a second term on the Board of Adjustment; term will begin upon appointment and expire October 1, 2013. Appointment of Matt Dalton to an unexpired term on the Board of Adjustment. Term will begin upon appointment and expire October 1, 2011.

ADA Compliance Committee - Reappointment of Kathy Collins, Disabled Community Representative and Blair Williams, Business Owner to second terms on the ADA Compliance Committee. Terms will begin upon appointment and expire September 1, 2013. Appointment of J. Bailey Molineux, Disabled Community Representative and Rachel Peura, Medical Field Representative to first terms on the ADA Compliance Committee. Terms will begin upon appointment and expire September 1, 2013.

Building Board of Appeals - Appointment of Marty Schuma, Contractor Alternate, to an unexpired term on the Building Board of Appeals. The unexpired term will begin upon appointment and expired December 31, 2013.

Business Improvement District/Helena Parking Commission - Reappointment of Mike Dowling to the BID/HPC. Second term will begin November 1, 2010 and expire October 31, 2014.

City Zoning Commission - Appointment of Tim Warner to a first term on the City Zoning Commission. The term will begin upon appointment and expired September 30, 2013.

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

Motion Commissioner Thweatt moved approval of the appointments to the Board of Adjustment, ADA Compliance Committee, Building Board of Appeals, Business Improvement District/Helena Parking Commission and City Zoning Commission as outlined above. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Trolley System Memorandum of Understanding
C. City of Helena ADA Policy for sidewalks within city rights-of-way (tabled on October 4, 2010)
D. Professional Services Contract with Anderson Montgomery Consulting Engineers for the design of the first phase of Centennial Trail

City Manager Ron Alles recommended approval of the claims and the consent agenda.

Commissioner Thweatt asked that Item C be removed for further discussion.

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

Motion Commissioner Ellison moved approval of items A, B and D on the consent agenda. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Item C C. City of Helena ADA Policy for sidewalks within city rights-of-way (tabled on October 4, 2010)

Discussion Commissioner Thweatt distributed a substitute policy for Commission review and explained his proposed amendments. A copy of this policy is included in the Commission packet as part of the official record.

Motion Commissioner Thweatt moved approval of item C, City of Helena ADA Policy for sidewalks within city rights-of-way, on the consent agenda. Commissioner Elsaesser seconded the motion.

Discussion Commissioner Ellison recommended tabling the policy to allow for further review of Commissioner Thweatt's proposed amendments. Commissioner Thweatt noted he would not object to postponement of adoption of the policy.

Motion Commissioner Thweatt moved to adopt the policy, as amended, as an interim policy including the plan to develop a permanent ADA policy. Commissioner Ellison seconded the motion.

- Discussion Commissioner Cartwright thanked Commissioner Thweatt for his work on the amendments. He stated he would prefer to discuss lines 14, 31, 32 on page 1 and lines 10-19 on page 2, during budget discussions. Commissioner Elsaesser indicated he would like to approve the policy tonight and continue discussion on the issue during the budget process.
- Motion withdrawn** Commissioner Thweatt withdrew his motions.
- Motion** **Commissioner Thweatt moved to table Item C on the consent agenda to the call of the City Manager.** Commissioner Ellison seconded the motion. Motion failed 2-3 with Mayor Smith and Commissioners Elsaesser and Cartwright voting no.
- Motion** **Commissioner Elsaesser moved approval of consent agenda Item C, a City of Helena ADA Policy for Sidewalks Within City Rights-of-Way.** Commissioner Cartwright seconded the motion. Motion carried 4-1, with Commissioner Thweatt voting no.
- Bid Award** BID AWARD:
A. Tenmile Water Treatment Plant HVAC Renovation Project
- Staff Report Water/Wastewater Superintendent Don Clark reported three bids were opened October 12, 2010 to install a water source heat pump and recovery system at the Tenmile Water Treatment Plant. The current heating and cooling of the plant is powered by an inefficient electric system. The total project budget is \$463,000. The city has received grant commitments from the American Reinvestment and Recovery Act (ARRA) for \$61,400, Montana Department of Environmental Quality (DEQ) for \$24,999 and Northwestern Energy for \$220,000. These three grants total \$306,399 which represents a minimum contribution of 66% of the total project cost. Superintendent Clark recommended award of the bid for the project to Tri-County Mechanical and Electrical in the amount of \$395,175. He noted the estimated annual electrical savings to the water fund is \$40,765/year. With the incentive grants totaling \$306,399 and the maximum city share at \$156,601, the simple pay back on this project should be less than 3.8 years.
- Discussion Commissioner Cartwright spoke in support of the bid award and commended Superintended Clark for his work on the project. Commissioner Elsaesser concurred with Commissioner Cartwright's comments. Mayor Smith noted the Global Climate Change Task Force had submitted a letter of support for the project. This letter is included in the Commission packet as part of the official record.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Ellison moved to award the bid to Tri-County Mechanical and Electrical to install the water source heat pump and heat recovery system at the Tenmile Water Treatment Plant in the amount of \$395,175.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison gave the background of the proposed Lamb/Beausoleil park SID and announced he would offer a motion to reconsider the Commission's July decision to deny the proposal. Prior to the Commission meeting Commissioner Ellison provided written correspondence on the issue; this correspondence is included in the Commission packet as part of the official record.

Motion

Commissioner Ellison moved to reconsider the Commission's July 26, 2010 decision denying a proposal from two landowners to create a SID for a neighborhood park at the corner of Bull Run and California Streets. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Motion

Commissioner Ellison moved to consider the creation of an SID for purchasing two lots at the corner of Bull Run and California Streets for a neighborhood park subject to the following conditions:

- 1. The landowners making the proposal need to circulate a petition among those property owners who would be affected by the creation of the SID; and**
- 2. City staff must work with the proposing landowners to craft the petition which will clearly outline the benefits, the costs to those affected by the SID, the financing provisions, and all other requirements for the city to make such a purchase; and**
- 3. A clear majority of the affected property owners within the proposed SID is required for the proposal to be reconsidered by the City Commission.**

Commissioner Cartwright seconded the motion.

Discussion

City Attorney Nielsen confirmed the motion and conditions are consistent with city policy.

Vote

All voted aye, motion carried.

Commissioner Elsaesser expressed concern for vandalism at the site of the new transit facility.

Commissioner Cartwright commented on the construction of Centennial Trail and Centennial Park and approval of the Trolley to Trails program.

Mayor Smith spoke of attending the Humane Society facility fundraising-kickoff event.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen announced a lawsuit has been filed against the city in relation to enforcement of business licenses related to the sale of medical marijuana. Once the city is officially served, defense of the suit will begin. Mayor Smith encouraged the use of additional legal counsel if warranted.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Alles asked Parks & Recreation Director Amy Teegarden to introduce Bill Roberts Golf Pro Scott Longnecker. Director

Teegarden listed the many tournaments Mr. Longnecker placed in over the 2010 golf season and gave his teaching history and career achievements.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

Intent to Annex

CONSIDER A RESOLUTION OF INTENTION TO ANNEX PROPERTY GENERALLY LOCATED NORTH OF FLOWERREE STREET, SOUTH OF STUART AVENUE BETWEEN SILVERETTE STREET AND GRANITE AVENUE WITH A PROPERTY ADDRESS OF 2450 FLOWERREE STREET.

Staff Report

City Planner Dustin Ramoie reported the Assembly of God Church has petitioned for annexation. The applicant is proposing an expansion of their building which will require city water to meet fire flows. The building expansion will include hooking in to the City of Helena wastewater system as well.

Mr. Ramoie recommended approval of the resolution of intention as the annexation would remove a property from a private well and eventually remove them from their private septic field and bring them online with City of Helena water and wastewater services, which helps with water quality issues. Annexation will also require the waiver of any future SID's as well as require future improvements in the area such as roads, sidewalks, and meeting all zoning requirements as outlined with a Development Agreement as well as the current zoning ordinance.

Discussion

Discussion was held on the existing well, septic tank and drainfield on the property and the timeline for the applicant to hook into city services. Mr. Ramoie noted the applicant may continue to use the existing well for irrigation purposes but at the time of their expansion the well can no longer be used for drinking or domestic use.

Public Works Director Rundquist explained the existing tank and drainfield would need to be made unusable and meet public safety and hazard requirements, and noted the Public Works Department refers all septic issues to the health department for evaluation. Once the applicant applies for their building expansion they will need to hook into city services.

Public Comment

Mayor Smith asked for public comment.

Jeff Larson, representing the applicant; explained the status of the existing septic tanks and drainfield on the property and noted they would comply with any requirements related to using city services. He urged the Commission to approve the resolution of intent to annex.

Motion

Commissioner Ellison moved approval for a resolution of intention to annex Block 1 of the Highland Park Addition, Helena, Montana; and the full width of the adjacent Granite Avenue, Stuart Street and Flowerree Street rights-of-way (ROW). Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19787**

Intent to Vacate

CONSIDER A RESOLUTION OF INTENTION TO VACATE A PORTION OF ALEXANDER AVENUE AND A PORTION OF THE ALLEY RIGHT-

OF-WAY (ROW), BOTH IN THE WOODLAWN PARK ADDITION IN THE CITY OF HELENA, MONTANA AND SETTING A PUBLIC HEARING DATE OF NOVEMBER 1, 2010.

Staff Report

Public Works Director Rundquist reported Alexander Avenue is located in the Woodlawn Subdivision and was recently annexed into the City of Helena. Alexander Avenue and the above referenced alley are undeveloped and the owner of Lot 1, Colleen Hansen, has a barn and a mobile home on the right-of-way (ROW). Mrs. Hansen and her brother, the previous owner, have tried for years to get the ROW vacated when it was out in the county. At one time the County Commission approved the vacation but the correct documents were not filed in time, so the Commission approval expired.

The owner is requesting to vacate the ROW in order to get ownership of the property where the buildings are located. The Lewis & Clark County Fairgrounds is also adjacent to Alexander Avenue and has requested that if the city approves the vacation to only vacate 15-feet of Alexander Avenue to allow for a buffer. In addition, the property is located on Silsbee at the entrance to the fairgrounds and the 15-feet, which the County is requesting, will give them more options when the Silsbee Street entrance is improved.

The Department of Revenue values the adjacent property at \$11.56 per square foot. However there are some discrepancies with the value of other properties in the area. The property values range from \$14.78 to \$1.37 with an average of \$4.57 per square foot. If the entire ROW is vacated the City fee would range from \$37,267.93 (\$11.56/ft²) to \$4,416 (\$1.37/ft²) with the average at \$14,733.09.

Director Rundquist recommended approval of the resolution of intention to vacate the property.

Discussion

Discussion was held on the fee for the vacation. Director Rundquist indicated Ms. Hansen may request the fee be waived.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved approval for a resolution of intention to vacate 15-feet of Alexander Avenue adjacent to Lot 1 in Block 7 and the portion of the alley between Lot 1 and Lot 48 in Block 7 of the Woodlawn Park Addition and set a public hearing date of November 1, 2010. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19788**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3134 AMENDING CHAPTER 2 OF TITLE 3 OF THE HELENA CITY CODE ADOPTING THE 2009 EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC), AND THE INTERNATIONAL EXISTING BUILDING CODE (IEBC).
- B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3135 AMENDING CHAPTER 4 OF TITLE 3 ADOPTING THE 2009 EDITION OF THE INTERNATIONAL MECHANICAL CODE (IMC).

- C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3136 AMENDING CHAPTER 5 OF TITLE 3 ADOPTING THE 2009 EDITION OF THE INTERNATIONAL FUEL GAS CODE (IFGC).
- D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3137 AMENDING CHAPTER 7 OF TITLE 3 ADOPTING THE 2009 EDITION OF THE UNIFORM PLUMBING CODE (UPC).
- E. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3138 AMENDING CHAPTER 3 OF TITLE 3 ADOPTING THE 2008 EDITION OF THE NATIONAL ELECTRICAL CODE (NEC).

Staff Report

Chief Building Official Brandt Salo reported first passage of the listed editions of the building, plumbing and electrical codes was approved on September 13, 2010. Public hearing was scheduled for October 18, 2010, to consider final passage of the package that became effective with the State of Montana Building Codes Bureau's adoption of new Administrative Rules on July 29, 2010, mandating the adoption of the codes by all certified local jurisdictions within 90 days thereafter. The City Clerk's Office has had the codes in question on display as required for 30 days and has not received any inquiries as of yet.

Final passage of the proposed ordinances enables 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 final passage of the ordinances.

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.

Motion

Commissioner Thweatt moved approval for final 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).

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord # 3134**

Motion

Commissioner Ellison moved approval for final passage of an ordinance amending Chapter 4 of Title 3 and adopting the 2009 edition of the International Mechanical Code (IMC).

Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord # 3135**

Motion

Commissioner Cartwright moved approval for final passage of an ordinance amending Chapter 5 of Title 3 and adopting the 2009 edition of the International Fuel Gas Code (IFGC).

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord # 3136**

Motion Commissioner Ellison moved approval for final passage of an ordinance amending Chapter 7 of Title 3 and adopting the 2009 edition of the Uniform Plumbing Code (UPC). Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord # 3137**

Motion Commissioner Thweatt moved approval for final passage of an ordinance amending Chapter 3 of Title 3 and adopting the 2008 edition of the National Electrical Code (NEC). Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord # 3138**

Public Communications

PUBLIC COMMUNICATIONS

Eric Reisberger, 6th Ward Neighborhood Association; requested City Manager Alles agenda discussion on implementation of a quiet zone for a future Commission meeting.

Mark Annas, Helena; urged the Commission consider implementing a quiet zone in Helena.

Commissioners Thweatt, Cartwright, Ellison, Elsaesser and Mayor Smith indicated they would support a formal presentation on the issue at a future Administrative Meeting.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is October 27, 2010 and the next Commission Meeting is November 1, 2010. A Growth Policy Work Session will be held on October 25, 2010.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:32 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission