

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
July 11, 2011
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, July 11, 2011 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 those persons present to please stand and join him in the pledge of allegiance.

Minutes

The minutes of the regular City Commission meeting of June 27, 2011 were approved as submitted.

Appointments

APPOINTMENTS:

A. CITY-COUNTY HISTORIC PRESERVATION COMMISSION, HELENA OPEN LANDS MANAGEMENT ADVISORY COMMITTEE AND HELENA REGIONAL AIRPORT AUTHORITY

Mayor Smith asked for Commission concurrence on the following appointments:

City-County Historic Preservation Commission (HPC) – Appointment of Christopher R. Taylor as a joint member on the HPC. The first term will begin upon appointment and expire June 30, 2014. Reappointment of Peter Rudd to a first full term on the HPC; term will begin upon appointment and expire June 30, 2014.

Helena Open Lands Management Advisory Committee (HOLMAC) – Reappointment of Lois Olsen to a second term on HOLMAC. Second term will begin upon appointment and expire June 30, 2014.

Helena Regional Airport Authority (HRAA) – Reappointment of James J. White to a second term on the HRAA. Second term will begin on September 2, 2011 and expire September 1, 2014.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved approval of the appointments to the Historic Preservation Commission, HOLMAC and Helena Regional Airport Authority as outlined above. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution granting a one-year extension of Resolution No. 19726 which conditionally approved the vacation of alley right-of-way associated with the new First Interstate Bank at Lyndale and Last Chance Gulch **Res #19850**

- C. Amended plat showing the alley vacation adjacent to Lots 7-12, Lots 19-27 and Lot 29, all in Block 37 of the Central Addition No. 2
- D. Short term lease of water from Ten Mile Creek for dust suppression
- E. A 20-foot wide non-exclusive stormwater easement across city-owned Lot 4A, shown in COS No. 3155028, for Pioneer Block, LLC to install underground stormwater pipe
- F. Resolution of intention to expand the Tourism Business Improvement District (TBID) and set a public hearing date **Res #19851**

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

Commissioner Cartwright asked that item B be removed for further discussion.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Elsaesser moved approval of items A and C through F on the consent agenda. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Item B

- B. Resolution granting a one-year extension of Resolution No. 19726 which conditionally approved the vacation of alley right-of-way associated with the new First Interstate Bank at Lyndale and Last Chance Gulch

Commissioner Cartwright commented if there is a delay in the bank's design the applicant should consider locating the building closer to the front of the lot to keep in design with the rest of the downtown.

Motion

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser expressed pleasure for the start of construction on Centennial Park.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

Attorney Nielsen reported a recent lawsuit related to street maintenance assessments that was won by the city has been appealed to the Montana Supreme Court.

He added a different lawsuit filed against the city that had named the Commission members and other city staff as defendants has been dismissed.

Report of the City Manager

REPORT OF THE CITY MANAGER

Manager Alles announced Intermountain Children's Home was recently awarded a Community Development Block Grant (CDBG) in the amount of \$450,000; this grant will provide much needed upgrades to the facility by constructing two new cottages.

Manager Alles also introduced Americorps/VISTAS in attendance; they have been performing work on forest fuel management and various other open space-related projects for the City of Helena.

Natural Resources Coordinator Brad Langsather gave an overview of the projects completed by the volunteers and thanked them for their work.

The following Americorps volunteers introduced themselves: Michelle Conklin, Colin Nichols, Ashley Bancor, Corey Forbes, Julie Swain, Sarah McCracken, Jackie Peterson, Kelsey Jensen and Kaitlin Duran.

Manager Alles and the Commission members thanked the Americorps/VISTA's for their work.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER APPROVAL OF BUREAU OF JUSTICE ASSISTANCE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDING.

Staff Report

Police Chief Troy McGee reported the HPD has received funding from the Federal Bureau of Justice Assistance (BJA) for the past 11 years.

The HPD is proposing that our grant award be used to supplement our portion of the Missouri River Drug Task Force (MRDTF). The MRDTF has been in existence for 11+ years and has had a positive impact on drug possession and trafficking in Montana. The program is definitely worth supporting as city officials have indicated many times.

The grant award for the City of Helena is \$23,525 and the Lewis and Clark County Sheriff's Office (LCSO) award is \$11,650 which is a combined total of \$35,175. In previous years, we have split this combined total for a 50/50 split with LCSO, however, this year they would like to only receive \$11,650.

JAG guidelines dictate that only one entity of local government can apply for funds and it was agreed that the HPD would be the designated agency.

Additional responsibilities as the lead agency include the draw down and distribution of funds, monitoring the award and submitting quarterly and annual reports.

The Helena Police Department will use their grant money for the Missouri River Drug Task Force Officer's salaries and overtime. They will also use approximately \$5,000 for a speed sign in front of the schools.

Chief McGee recommended approval of the grant funding as it helps to offset MRDTF salaries.

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.

Discussion

Commissioner Ellison gave the history of the namesake of the grant, Edward Byrne.

Motion

Commissioner Ellison moved approval of the acceptance of Justice Assistance Grant (JAG) funding in the amount of \$35,175 and authorized the transfer of \$11,650 to the Lewis & Clark County

Sheriff's Office. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

B. CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP, DESCRIBED IN SECTION 11-2-1 OF THE HELENA CITY CODE AND ADOPTED BY REFERENCE FOR A ZONE CHANGE FROM R-3 TO B-2 DISTRICT FOR LOTS 1-12, BLOCK 33 (2210 DODGE AVENUE) AND LOTS 7-12, BLOCK 41, GRAND AVENUE ADDITION (2315 DODGE AVENUE).

Staff Report

City Planner Kathy Macefield reported on Tuesday, June 14, 2011 the Helena Zoning Commission held a public hearing for a zone change from R-3 (Residential) and B-2 (General Commercial) District for 1½ blocks generally located west of Montana Avenue and north of North Last Chance Gulch.

The Zoning Commission unanimously recommended DENIAL (5:0 vote) for the adoption of an ordinance amending the Official Zoning Map described in Section 11-2-1 of the Helena Zoning Ordinance for a zone change from a R-3 (Residential) to a B-2 (General Commercial) District. Legally described as Lots 1-12, Block 33, Grand Avenue Addition; with a property address of 2210 Dodge Avenue.

The Zoning Commission also recommended APPROVAL (3:2 vote) for the adoption of an ordinance amending the Official Zoning Map described in Section 11-2-1 of the Helena Zoning Ordinance for a zone change from a R-3 (Residential) to a B-2 (General Commercial) District. Legally described as Lots 7-12, Block 41, Grand Avenue Addition; with a property address of 2315 Dodge Avenue.

More than 25% of the adjacent property owners have submitted written protests in accordance with 76-2-305 MCA. Seven of the 24 property owners of the 42 platted lots located within 150 feet of the proposed zone change have submitted a written protest, either by letter or by signing a petition. Therefore, approving the zone change will require an affirmative vote by 2/3 of the City Commission attending the public hearing.

Ms. Macefield noted the proposed zone change for the west half of Block 41 is in accordance with the 2011 Helena Growth Policy and the Montana zone change criteria, while Block 33 is not. She recommended denial of the zone change for Block 33 and approval of the change for Block 41.

Discussion

Commissioner Thweatt asked if the church is currently proposing any changes to their building related to the zone change request. Ms. Macefield stated the applicant has indicated they would like to make their facility consistent with the zoning. She noted the applicant is available to answer questions from the Commission.

Mayor Smith asked for more information on which documents and laws guide zone changes. Ms. Macefield explained state law identifies the criteria for a zone change; it also requires the city's growth policy be taken into account. The zone change application cannot be limited to only the growth policy, but it is an important consideration.

Public Testimony

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

Brian Schlauch, First Assembly of God Church, applicant; read a prepared statement for the record. This statement is included in the Commission packet.

Gloria George, 2200 Columbia Avenue; urged the Commission to deny the zone change.

Larry Lopach, 905 Cole; expressed concern with increased traffic in the area if the proposed zone change were approved.

Darryl Alm, 1029 Cole; urged the Commission to deny the zone change based on traffic concerns.

Rosemary Shively, 815 Cole; spoke in opposition to the zone change.

Ruth George, neighborhood resident; expressed concern that if the zoning were changed brighter lights would be installed and used.

Jenny Sheehey, 2131 Villard Avenue; urged the Commission to deny the proposal as it is a walking thoroughfare and the zone change could increase traffic in the area.

Susan Peters, 1012 Elm Street; expressed concern for possible changes to the atmosphere of the neighborhood should the zone change be approved.

Lou Kalberg, neighborhood resident; expressed concern over the proposed zone change.

Kim Clouse, 2303 National Avenue; urged the Commission to deny the zone change.

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

Discussion

Commissioner Cartwright commented on the Zoning Commission's recommendation for denial and noted it would weigh heavily on his decision. He stated he does not feel that if the zone change were denied the church would be left with property that cannot be sold. For instance, Rocky Mountain Development Council is always looking for places to build and this would be better and more acceptable to the neighborhood than a place like the Caird property.

Commissioner Ellison asked Mr. Schlauch for an explanation of how First Assembly of God Church desires to enact this zone change without upsetting the neighborhood. Mr. Schlauch stated the church is unsure of whether or not they will sell the property if the zone change is granted. However, if approved, they plan to install additional sidewalks around the property and pursue a controlled intersection around the church to alleviate traffic and pedestrian concerns. He stated if the church were to sell the property, they would use very careful consideration regarding who they would sell the property to and if it would be a good fit to the neighborhood. He summarized they either need to expand or sell the current facility because they have outgrown the current location.

Commissioner Thweatt asked Ms. Macefield what procedure the applicant would have to go through to expand their building with the existing zoning designation. Ms. Macefield explained they would have to apply for a Conditional Use Permit (CUP) which requires public hearings before the Zoning Commission and City Commission. According to CUP criteria, conditions could be applied to the application to mitigate any adverse impacts. The process would take approximately three months. Commissioner Thweatt asked if the neighborhood would be able to provide input into how any expansion of the facility was done with a CUP. Ms. Macefield agreed a CUP application would provide another opportunity for public comment.

Commissioner Elsaesser commented the majority of the adjacent residential dwellings opposed this proposal. Because of their

opposition and traffic concerns, he indicated he would oppose the zone change.

Commissioner Cartwright indicated he would also vote to deny the zone change but thanked church for being a good neighbor.

Mayor Smith commended the church and congregation for their work in the community. He noted the R-3 zoning adjacent to the church is doing what it was enacted to do and he does not want to put any stress on the neighborhood. He indicated he would vote to deny the zone change.

Motion

Commissioner Elsaesser moved denial of an ordinance amending the Official Zoning Map described in Section 11-2-1 of the Helena Zoning Ordinance for a zone change from a R-3 (Residential) to a B-2 (General Commercial) District. The property is legally described as Lots 1-12, Block 33, Grand Avenue Addition; with a property address of 2210 Dodge Avenue. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Motion

Commissioner Elsaesser moved denial of an ordinance amending the Official Zoning Map described in Section 11-2-1 of the Helena Zoning Ordinance for a zone change from a R-3 (Residential) to B-2 (General Commercial) District. The property is legally described as Lots 7-12, Block 41, Grand Avenue Addition; with a property address of 2315 Dodge Avenue. Commissioner Ellison seconded the motion. All voted aye, motion carried.

C. CONSIDER A RESOLUTION TO BUDGET ADDITIONAL PROPERTY TAX REVENUE FOR FY2012.

Staff Report

Administrative Services Director Tim Magee reported state statute allows the city to budget additional property tax revenues over the prior year level as specified in 15-10-420, MCA. In accordance with 15-10-203, MCA, the city is required to hold a public hearing before budgeting any increase in total property tax revenues. The city intends to budget tax revenue increases as allowed by state law.

Director Magee recommended approval of the resolution budgeting additional property tax revenue as the increases are necessary to preserve the present level of services to the community.

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 Ellison moved approval of a resolution to budget additional property tax revenue of 1.83% for fiscal year 2012. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res #19852**

D. CONSIDER A RESOLUTION TO ADOPT FINAL BUDGETS, BUDGET AUTHORITIES AND ANNUAL APPROPRIATIONS FOR FY2012 (PUBLIC HEARING WAS HELD AND CLOSED ON JUNE 27, 2011).

Staff Report

Director Magee reported the Local Government Budget Act, MCA, Title 7, Chapter 6, Part 4, requires the city to develop and adopt an

annual budget. The annual budget development process has encouraged public participation and included: the City Manager's presentation of the Preliminary Budget on May 9, 2011; a series of City Commission Work Sessions in which the entire Preliminary Budget was reviewed and open to public participation and comment; public hearing notices published in accordance with MCA 7-1-4127; a list of amendments to the Preliminary Budget; and a public hearing on June 27, 2011.

Director Magee noted the Commission may conclude the budget development process by: reviewing and approving the updated list of amendments to the City Manager's preliminary budget; determining of there are any additional changes to be added to the list of amendments; and adopt the annual budget resolution for the final budget as amended.

State law requires the Commission's approval of the annual budget. Approval of the budget resolution enhances the city's ability to conduct business in a timely and efficient manner, while maintaining effective budgetary controls.

Motion Commissioner Ellison moved approval of a resolution relating to final budgets, budget authorities and annual appropriations for the fiscal year beginning July 1, 2011 and ending June 30, 2012, including the preliminary list of amendments to the FY2012 Preliminary Budget. Commissioner Elsaesser seconded the motion.

Motion Commissioner Ellison moved to add \$25,000 to the recycling major capital line item with a funding source of the Transfer Station enterprise fund reserves. Commissioner Cartwright seconded the motion.

Discussion Commissioners Ellison and Elsaesser spoke in support of the amendment. Mayor Smith indicated he would not support the amendment.

Vote Motion carried 4-1, with Mayor Smith voting no.

Motion Commissioner Elsaesser moved to transfer \$20,000 from general fund reserves to the City Manager's contingency fund for Centennial Trail right-of-way. Commissioner Thweatt seconded the motion.

Discussion Commissioners Elsaesser and Cartwright spoke in support of the amendment. Mayor Smith stated he would not support the amendment.

Vote Motion carried 4-1, with Mayor Smith voting no.

Discussion Commissioner Cartwright gave the rationale behind and spoke in support of the following motion.

Motion Commissioner Cartwright moved to insert the following language on page 85 of the spiral bound budget and page 134 of the three-ring binder:
Significant Changes:
The Neighborhood Transportation Coordinator position previously located in Helena Area Transit Service is being converted to an engineer position in Engineering. To integrate planning and

engineering for motorized and non-motorized transportation, non-motorized duties will be shared across the engineering staff; however, the person to be hired will have significant training or experience in non-motorized transportation engineering so the city can better implement the Complete Streets Policy, especially when improving existing streets. If a suitable candidate cannot be found, the money budgeted for that position (\$70,000) would be used this year for consultant services on engineering for non-motorized projects. The City Manager will continue to direct city staff to participate with the Non-Motorized Travel Advisory Council to support Council activities, but the emphasis will shift to technical planning and project-specific activities. Commissioner Elsaesser seconded the motion.

Commissioner Elsaesser spoke in support of Commissioner Cartwright's motion and indicated he would vote in favor of the amendment. Commissioner Ellison commended Commissioner Cartwright's motion but expressed concern that it crosses the line between the Commission setting policy and the City Manager's responsibility to manage day-to-day operations. Commissioner Thweatt stated he would vote in support of the motion.

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

Motion **Commissioner Ellison moved approval of a resolution relating to final budgets, budget authorities and annual appropriations for the fiscal year beginning July 1, 2011 and ending June 30, 2012, including the preliminary list of amendments to the FY2012 Preliminary Budget, as amended.** Commissioner Thweatt seconded the motion. All voted aye, motion carried. **Res #19853**

Public Communications

PUBLIC COMMUNICATIONS

Dan Casey, Helena; urged the city to repair the boulevard and fence adjacent to Reeder's Alley.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is July 20, 2011 and the next Commission Meeting is July 25, 2011.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:20 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission

