

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
December 19, 2011
6:00 P.M.

- Time & Place** A regular City Commission meeting was held on Monday, December 19, 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 December 5, 2011 were approved as submitted.
- Board Appointments** BOARD APPOINTMENTS:
A. Business Improvement District/Helena Parking Commission, Non-Motorized Travel Advisory Council and Public Art Committee
- Mayor Smith asked for Commission concurrence on the following appointments:
- BID/HPC - Appointment of Judy Merickel to the Business Improvement District/Helena Parking Commission. First term would begin upon appointment and expire October 31, 2015.
- Non-Motorized Travel Advisory Council - Appointment of Ryan Morton to the Non-Motorized Travel Advisory Council. The unexpired term would begin upon appointment and expired March 31, 2012.
- Public Art Committee - Reappointment of Vivian Hayes and Karen Sturm to second terms on the HPC. Terms will begin upon appointment and expire December 31, 2014.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Ellison moved approval of the above appointments to the BID/HPC, Non-Motorized Travel Advisory Council and Public Art Committee.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.
- Consent Agenda** CONSENT AGENDA:
A. Claims
B. Acceptance of the 2011 Comprehensive Annual Financial Report (CAFR)
C. Acceptance of a grant from the Federal Emergency Management Agency (FEMA) to reduce forest fuel loads within approximately 145 acres of Helena's Open Lands (HOL) ownership primarily located in the Beattie Street Trailhead area

- D. Acceptance of a grant from the Montana Fish and Wildlife Conservation Trust to purchase a 20.5-acre tract from Prickly Pear Land Trust (PPLT)
- E. Enlargement of water service area for the southwest 115' of Lots 9 and all of Lots 10 thru 16, in Block 158 of the Ming Addition
- F. Acceptance of a \$32,000 Project Incentive Agreement from NorthWestern Energy
- G. Acceptance of a \$1,400 Project Incentive Agreement from NorthWestern Energy
- H. A resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property [Two (2) Flexgen Generators at the Wastewater Treatment Facility] **Res #19892**
- I. Final passage of Ordinance No. 3148 amending Section 11-2-4 of the Helena City Code to revise the terms Single-, Two-, and Multiple-Dwelling Unit Residence **Ord #3148**
- J. Final passage of Ordinance No. 3149 amending Section 11-40-5 of City Code to allow licensed premises to be located within 600 feet of school property with a Conditional Use Permit **Ord #3149**

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

Commissioner Elsaesser requested Item D be removed from the consent agenda for further discussion.

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

Comment Mayor Smith referred to Item B and thanked Administrative Services staff for another excellent audit.
Commissioner Elsaesser spoke in support of items B, C, F, G and H.

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

Item D D. Acceptance of a grant from the Montana Fish and Wildlife Conservation Trust to purchase a 20.5-acre tract from Prickly Pear Land Trust (PPLT)

Public Comment Mayor Smith asked for public comment.
Andy Bauer, Executive Director of Prickly Pear Land Trust; urged the Commission to approve the grant from the Montana Fish and Wildlife Conservation Trust to purchase a 20.5-acre tract from PPLT.

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

Bid Award BID AWARD:
A. One (1) new 2012, four wheel or all wheel drive backhoe/loader for the Utility Maintenance Division

Staff Report Fleet Superintendent Ben Sautter reported three bids were received and opened for one (1) new 2012, four wheel or all wheel drive

excavator type, extendible stick, rubber tire backhoe/loader for the City of Helena Utility Maintenance Division. This piece of equipment will replace Unit #447, a 1999 Cat Backhoe, and is a scheduled replacement. After reviewing the bids it was determined that the lowest two bids did not meet bid specifications. The bid from RDO Equipment Company for a John Deere 710J backhoe meets specification and is considered a reasonable bid. This unit would cost less in maintenance and provide long term durability with better service and reliability. The bid price of \$122,250.00 includes a 5-year extended warranty and is \$12,820 under the budgeted amount of \$135,070.00.

Superintendent Sautter recommended the purchase of the new unit at the bid price of \$122,250.00. This amount includes a trade-in credit of \$26,500 for Unit #447. This purchase will allow the Utility Maintenance Division to continue regular maintenance functions and provide for long term planning and completion of various special improvements to the city's water mains and storm water operations. It also allows the city to continue to upgrade its Utility Maintenance Fleet providing reliable equipment and reducing maintenance costs.

Discussion Commissioner Elsaesser asked how the equipment would be used. Mr. Sautter explained during the winter the backhoe/loader would mainly be used to dig in instances of water main breaks. He noted it is rubber-tired, as it does not ride on a trailer.

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

Motion **Commissioner Elsaesser moved approval of items a bid award to RDO Equipment Company for one (1) new 2012 four-wheel or all-wheel drive excavator type, extendible stick, rubber tire backhoe/loader for the City of Helena Utility Maintenance Division for the bid price of \$122,250.00.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Mayor Smith and Commissioners Ellison, Thweatt, and Elsaesser thanked Commissioner Cartwright for his service on the Commission.
Commissioner Cartwright thanked past and present City Commissioners, City Managers, city staff and citizens and volunteers for their work for the city and for allowing him to serve them on the Commission. He identified issues he believes the Commission will need to deal with in the near future: city personnel costs, turmoil caused by the financial sector, the end of cheap oil and the impacts of climate change.

Commissioner Elsaesser recognized the passing of Colonel Joe Goldes and gave his history of civic duty. The Commission observed a moment of silence for Col. Goldes.

Report of the City Attorney REPORT OF THE CITY ATTORNEY

City Attorney Nielsen noted tonight is his last meeting as City Attorney for the City of Helena due to his retirement on December 31, 2011. He thanked all of the Commissioners, Mayors, City Managers, and city staff and citizens he has worked with over his career for dedicating their time to make Helena a better community.

Mayor Smith and Commissioners Cartwright, Ellison, Thweatt, and Elsaesser thanked Attorney Nielsen for his service and noted his guidance would be missed.

**Report of the City
Manager**

REPORT OF THE CITY MANAGER

City Manager Alles and Mayor Smith asked Fire Chief Larson to come to the podium and noted tonight is Chief Larson's last Commission Meeting as Fire Chief. Chief Larson spoke of his 31 years of employment with the Fire Department and thanked past and current City Managers, Commissions and city staff for their service to the City of Helena. He spoke of his new position as HATS Superintendent and stated he is excited to start this new position and new chapter in his life.

Mayor Smith and Commissioners Cartwright, Ellison, Thweatt and Elsaesser thanked Chief Larson for his service.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING TITLE 11 OF THE HELENA CITY CODE, REPEALING CHAPTER 22, OFF-STREET LOADING AND PARKING AND ESTABLISHING A NEW PARKING CHAPTER

Staff Report

City Planner Kathy Macefield reported on November 8, 2011 the Zoning Commission unanimously recommended APPROVAL (4:0 vote) for an ordinance amending Helena City Code by repealing Chapter 22, Off-street Loading and Parking, and establishing a new Off-street Parking chapter after holding a public hearing on September 13, 2011 and subsequent discussion. The process to develop the proposed off-street parking requirements included reviewing and evaluating more current ITE standards, other Montana communities' requirements, and Helena's experience and correspond to the land use table of Chapter 2 of the Zoning Ordinance. Consideration was made to reducing requirements for certain types of residential uses. The existing requirements for bicycle parking would continue with the current proposal. As proposed, off-street loading requirements (which no longer appear to be pertinent) would be deleted as was the limit on maximum parking spaces. Parking space reductions and ADA accessible parking requirements would be clarified and allowed now for multifamily residential dwelling units. The landscaping and screening requirements are deleted from the parking chapter and incorporated into the landscaping chapter. The proposed landscaping ordinance provides a mechanism to address some of those earlier concerns that were in the landscaping portion of the parking chapter.

Ms. Macefield recommended approval of the ordinance and noted it would be easier for staff to interpret and administer. The proposed off-street parking requirements correspond better to the land use table of Chapter 2 of the Zoning Ordinance. It also puts those requirements in an easier-to-read table format. The off-street parking numbers have been revised to better reflect the current trends in the community.

Discussion

Commissioner Cartwright stated the proposed ordinance does not seem in conjunction with the city's Growth Policy.

He referred to parking requirements for schools and noted he had contacted University of Montana-College of Technology Dean Daniel Bingham who is also troubled by the requirements.

Commissioner Cartwright expressed concern for requirements for restaurants, assisted living facilities, daycares, mobile home parks and pre-release centers.

He referred to existing non-conforming parking and asked if he were to build a tool shed, would that trigger the new parking requirements. Ms. Macefield stated yes. Commissioner Cartwright noted he does not have space for what would be required.

Commissioner Thweatt referred to the minutes of the Zoning Commission Meeting and asked if only parking requirements in Montana communities were considered when preparing the proposed ordinance. Ms. Macefield stated staff did a survey specifically on other Montana community parking regulations to glean information. There was more focus on Montana communities as it's hard to relate Helena to large cities like Denver or Portland.

Public Testimony

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

Mark Simonich, Montana Association of Realtors, 1 S. Montana; urged the Commission to table the ordinance to allow for further review of the requirements.

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

Comment

Commissioner Ellison recommended the Commission approve the amendments discussed at the December 8th Work Session and December 14th Administrative Meeting.

Motion

Commissioner Ellison moved approval of first passage of an ordinance amending Title 11 of the Helena City Code, repealing Chapter 22, Off-Street Loading and Parking and establishing a new Parking Chapter. Commissioner Elsaesser seconded the motion.

Amendment

Commissioner Cartwright moved to amend the ordinance as outlined in the memo from Planner Kathy Macefield dated December 16, 2011 and listed below. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

The ordinance was amended as follows:

11-22-4, ADA Accessible Parking –

This amendment changes the language of second line of subsection B to “accommodate changes” instead of just “increases.” Former section 11-22-10 (C) was moved to this section.

11-22-4: ADA ACCESSIBLE PARKING:

B. The required number of off-street parking spaces may be reduced to accommodate ~~increases~~ changes in the number of accessible parking spaces to comply with the federal Americans with Disabilities Act, Americans with Disabilities Act Amendment Act and the regulations and ADA accessibility guidelines promulgated by the United States Department of Justice.

C. If changes are required to the number of accessible parking spaces, the existing off-street parking spaces may be used to accommodate the required change. No variance is required if this change reduces the number of onsite parking spaces below the minimum off-street requirement. (Moved from 11-22-10)

11-22-7, Off-site and Shared Parking -

This amendment allows uses located in the commercial zoning districts to have off-site parking located within 700 feet as originally permitted in the B-3 District so the B-1, B-2, CLM, M-I and PLI districts were added to this section.

11-22-7: OFF-SITE AND SHARED PARKING:

A. Required off-street parking must be located on the same lot, parcel, tract, or combination of ~~continuous~~ lots, parcels, or tracts under a common ownership and used for a common purpose, except as otherwise provided in this chapter.

B. Required off-street parking for buildings and uses located in the B-1, B-2, B-3 CLM, M-I and PLI zoning districts may be located within seven hundred feet (700') of the buildings and uses, as measured along a straight line between the two (2) nearest points of the building containing the main use and the off-site parking use.

C. The director of community development may authorize the ~~joint~~ shared use of off-street parking areas by different buildings and uses, if the following conditions are met:

11-22-8, Pedestrian Access and Bicycle Space Requirements -

This amendment adds the shortest feasible connection from the parking area... (new language is underlined) and moved 5-foot width requirement so it would be a subsection under A. Also removed is duplicative language from this section; pedestrian paths became pathways in B; removed unneeded word "for" in C.

11-22-8: PEDESTRIAN ACCESS AND BICYCLE SPACE REQUIREMENTS:

A. Pedestrian pathways must be located through parking areas to provide the shortest feasible connection from the parking area to building entryways, public sidewalks, ~~or~~ and transit stops. ~~Pedestrian pathways must be a minimum of five feet (5') wide.~~ Pedestrian pathways in and through parking areas must be designed and constructed to meet the following criteria:

1. limit conflict between pedestrians and vehicular traffic;
2. be clearly delineated using techniques such as contrasting textured or colored material, striping, segregation of pathway from vehicle travel lanes, and raised pathway surfaces; and
3. ~~must be a minimum of five feet (5') wide. be located a walking distance not to exceed 700 feet (700') in a straight line measurement from the closest edge of parking spaces to minimize conflict with moving vehicles; and~~
4. ~~connect the parking area, the building served by the parking area, and adjacent sidewalks on rights of way.~~

B. Vehicle stops or curbing must be installed in parking lots where necessary to prevent vehicles from encroaching over sidewalks, pedestrian pathways, entryway areas, driveways, streets, alleys, or more than two feet (2') into landscaped areas.

C. Parking lots that have ten (10) or more parking spaces must provide ~~for~~ three (3) bicycle spaces within fifty feet (50') of a main building entryway. Parking lots that have fifty (50) or more parking spaces must provide additional secure bicycle parking equal to five percent (5%) of the total number of parking spaces in excess of ten (10). Bicycle spaces must hold a bike upright, allow for securing the bicycle to an immovable object, and not conflict with pedestrian and vehicle traffic.

11-22-9: Parking Deficiencies within Parking Commission District -

This amendment removed the requirement for tax levies and indebtedness.

11-22-9: PARKING DEFICIENCIES WITHIN PARKING COMMISSION DISTRICT:

A. The minimum parking requirements under this title are satisfied for buildings or uses located within the jurisdictional area of the Helena parking commission and the building or use is located within an improvement district that was formed for the procurement, construction, development, or expansion of public parking lots and off-street parking facilities for the benefit of buildings and uses within that improvement district and for the express purpose of satisfying minimum parking requirements under this title, ~~and the building is assessed tax levies for the improvement district and the indebtedness incurred for the improvements for public parking lots and off-street parking facilities has not been satisfied.~~

11-22-10, Parking Space Reductions -

This amendment allows an on-street parking reduction for residences to include single-dwelling and two-dwelling residences instead of just multiple-dwelling units as originally written. Adding that reduction caused the subsection "headings" to be restructured. That revision also required the "minimum one off-street parking for multiple-dwelling residence, except elderly housing" language that was in the intro paragraph to be moved to the "residences" reduction subsection because it seemed more appropriate there.

It was also suggested that there be a "standard" for counting how many on-street parking spaces there are next to a property. Staff is suggesting a length of 20 feet for the on street parking space. This would accommodate not only the parked vehicle but adequate space to maneuver in and out of the space. Finally, this amendment clarifies the bicycle space reduction for non-residences since it wasn't entirely clear that there was a reduction without a verb in the original language.

11-22-10: PARKING SPACE REDUCTIONS: A reduction in the minimum required number of off-street parking spaces is permitted for nonresidential and multiple-dwelling unit residential uses. Parking space reductions ~~cannot~~ under this section may not exceed fifty percent (50%) of the minimum off-street requirement, except as provided in subsections A-4 and C below. At least one off-street parking space per dwelling unit is required for multiple-dwelling unit residential uses that are not housing for older persons. Required off-street parking spaces may be reduced as follows:

A. Nonresidential Uses:

1. On street parking spaces may satisfy the off-street parking requirements, on a one-for-one basis, for each legal on-street parking space that lies adjacent to the property line of the development on a public street right-of-way that is immediately adjacent to the property containing the use. Each uninterrupted twenty lineal feet in the portion of the public street designated for public parking of vehicles located within imaginary extensions of the property boundaries onto the street is one parking space. If the boundary extensions intersect any continuous twenty foot length used to determine a parking space, that intersected portion is considered one parking space regardless of size.

2. A twenty percent (20%) reduction in the total number of parking spaces is permitted if a city-approved transit stop is located within three hundred feet (300') of the property.

3. ~~One parking space for every two (2) bicycle spaces on the property that exceeds the minimum requirement.~~ For every two (2) bicycle spaces on the

~~property above the number required for the minimum bicycle space requirements, one required off-street parking space requirement is satisfied. The maximum reduction allowed under this subsection is twenty percent (20%) of the minimum off-street parking spaces required. A maximum reduction of twenty percent (20%) reduction in the total number of parking spaces is permitted.~~ This reduction cannot reduce the number of required accessible parking spaces. Bicycle spaces must hold a bike upright, allow for securing the bicycle to an immovable object, be clearly visible, and not conflict with pedestrian and vehicle traffic.

Amendment

Commissioner Thweatt moved to amend Section 11-22-8, Section A, to insert the language “pedestrian crosswalks” following the words *public sidewalks*. Commissioner Cartwright seconded the motion.

Discussion

Commissioner Elsaesser expressed concern the proposed amendment could have unintended consequences with the city's existing design standards and ADA requirements. Commissioner Ellison concurred with Commissioner Elsaesser's concerns and noted he would not be voting in support of the amendment.

Mayor Smith stated he thought the amendment was benign but is now growing concerned and recommended the Commission only adopt the amendments provided by staff tonight.

Commissioner Cartwright stated he appreciates the intent of the amendment but recommended further review by city staff before it be included in the ordinance.

Commissioner Thweatt spoke in support of the amendment and explained it simply provides a connection for pedestrians from a location where there is a pedestrian crosswalk, across a street directly to a parking lot so the pedestrian can walk to the entry-way of the building. He noted he does not see any unintended consequences of the amendment.

Vote

Motion failed 3-2, with Mayor Smith and Commissioners Elsaesser and Ellison voting no.

Discussion

Commissioner Cartwright stated the ITE numbers don't connect to the city's Growth Policy, or anything in particular, and the ordinance shouldn't be justified by those figures. He read disclaimers included in the ITE standards book and commented it is not a manual to be used to decide recommended practice or standard. He discussed ways people can get parking space reductions and recommended reducing the numbers in the proposed ordinance by 40%.

Commissioner Elsaesser thanked staff for their work on the amendments and concurred with Commissioner Cartwright's comments.

Motion

Commissioner Cartwright moved to table first passage of an ordinance amending Title 11 of the Helena City Code, repealing Chapter 22, as amended, to the call of the City Manager.

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

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING TITLE 11 OF THE HELENA CITY CODE, REPEALING CHAPTER 24, LANDSCAPING AND ESTABLISHING A NEW LANDSCAPING CHAPTER

Staff Report

City Planner Elroy Golemon reported on November 8, 2011 the Zoning Commission unanimously recommended APPROVAL (4:0 vote) for an ordinance amending Helena City Code by repealing Chapter 24 and establishing a new Landscaping chapter after holding a public hearing on September 13, 2011. The process to develop the proposed landscaping requirements included reviewing and evaluating other Montana communities' requirements and Helena's experience and the use of a focus group. The focus group had identified issues related to lack of maintenance and having workable requirements for both lot area and parking area landscaping. As a result, the proposed landscaping Ordinance was crafted with specific requirements to address those concerns.

The proposed landscaping requirements would apply to tracts in all zoning districts and to all uses except for tracts with only a single residential dwelling unit, two residential dwelling units, three residential dwelling units, or mobile home or recreational vehicle parks. New landscaping area standards are included, revising the formula used to determine the requirements.

Mr. Golemon recommended approval of the proposed ordinance as it incorporates environmental concepts of the 2011 Growth Policy and improves upon the current Ordinance. The ordinance is designed to increase the use of trees and organic material in landscaping design. Landscaping and screening requirements are addressed for parking lots all in the same chapter. Revisions have been made to when nonconforming landscaping must be brought to current standards to changes in the size of the building or parking lot instead of relative to building occupancy.

Discussion

Commissioner Cartwright thanked staff for their explanation of the ordinance but admitted he still wasn't entirely clear how it would work. Commissioner Cartwright also expressed concern for Section 11-24-6B. Attorney Nielsen explained that requirement was borrowed from current requirements for tree spacing for boulevard trees and is required for tree health. He indicated it does not make sense in the landscaping ordinance as you can plant many different species of tree that will grow without that requirement.

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.

Amendments

Commissioner Cartwright moved to amend the ordinance as listed below. Commissioner Thweatt seconded the motion. Motion carried 4-1, with Mayor Smith voting no.

The ordinance was amended as follows:

11-24-6: LANDSCAPING AND TREE PLOT STANDARDS:

A. A tree plot must, at a minimum, be the size and dimensions required by Section 7-10-25 of this code.

B. Each tree plot must contain at least one (1) tree, bush, or shrub. When space permits, additional trees, bushes, and shrubs must be spaced no more ~~than twenty five feet (25')~~ nor less than thirty feet (30') apart. Deciduous trees must be no less than 1.5" caliper and eight feet (8') tall at time of planting. Evergreen trees must be no less than six feet (6') tall at time of planting. If a bush or shrub is planted instead of a tree, the bush or shrub must be no less than three feet (3') in height when planted ~~and grow to four feet (4') within two years.~~

C. General landscaping, parking lot landscaping, and tree plots must contain no less than sixty percent (60%) organic or vegetative materials. The drip line of an average tree, bush, or shrub of that species at five (5) years of age may be used as minimum coverage in calculating coverage.

D. Trees within two feet (2') of any edge of a parking space must be protected from damage by vehicles by barriers such as curb stops, tree guards, rebar poles, or other types of vehicle obstructions.

Motion

Commissioner Ellison moved approval of first passage of an ordinance amending Title 11 of the Helena City Code, repealing Chapter 24, Landscaping and establishing a new Landscaping chapter and to repeal Section 11-22-9 as discussed by the City Manager, as amended. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3150**

Public Communications

PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST
The next Administrative Meeting is January 4, 2012 and the next Commission Meeting is January 9, 2012. The City/County Joint Work Session is January 5, 2012.
A Swearing-In Ceremony for Commissioner Elsaesser, incoming Commissioner Katherine Haque-Hasrath and Judge Bob Wood will be held January 3, 2012 at 2:00 p.m. in the Commission Chambers.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:53 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission