

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**April 9, 2012**  
**6:00 P.M.**

***Time & Place*** A regular City Commission meeting was held on Monday, April 9, 2012 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 Elsaesser, Ellison, Thweatt and Haque-Hausrath were present. City Manager Ron Alles, Acting City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were Lieutenant Governor John Bollinger, County Commissioner Mike Murray and Matthieu Opendahl representing the Helena Citizens Council.

Mayor Smith asked everyone to observe a moment of silence for the passing of First Special Service Force veterans Mark Radcliffe and Joe Glass.

***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 March 26, 2012 were approved as submitted.

***Presentations*** PRESENTATIONS:  
A. The Shining Thistle Pipe Band

Mayor Smith introduced the Shining Thistle Pipe Band, who gave a brief performance. Police Chief Troy McGee introduced the organizer of the band, Beth Foster, and gave the history of the creation of Helena's pipe band. Chief McGee listed the numerous events and ceremonies the band volunteers to play at.

Sheriff Leo Dutton read a letter he had written to the Shining Thistle Pipe Band commending them for their service and willingness to volunteer their time.

Beth Foster, leader of the Shining Thistle Pipe Band, introduced the members of the band. She announced the band would be traveling to Washington D.C. in September 2012 for the First Special Service Forces Reunion.

***Board Appointments*** BOARD APPOINTMENTS:  
A. Helena Regional Airport Authority and Non-Motorized Travel Advisory Council

Mayor Smith asked for Commission concurrence on the following appointments:

Helena Regional Airport Authority (HRAA) – Appointment of Jane Fournier to an unexpired term on the HRAA. Unexpired term will begin upon appointment and expire September 1, 2012.

Non-Motorized Travel Advisory Council (NMTAC) – Reappointment of Sarah Sadowski to NMTAC. Term will begin upon appointment and expire March 31, 2015.

Commissioner Ellison stated HRAA applicant Jane Fournier is his wife therefore he would recuse himself from voting on the board appointments.

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

**Motion** Commissioner Elsaesser moved approval of the above appointments to the HRAA and Non-Motorized Travel Advisory Council. Commissioner Haque-Hausrath seconded the motion. All voted aye (with one abstention), motion carried.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Resolution designating the Community Development Director as the environmental preparer for NeighborhoodWorks, Montana's HOME grant for homebuyer assistance **Res #19905**

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

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

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

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Elsaesser spoke of recently watching Animal Control Officer Jennifer Robinson catch a stray dog and commended her on a job well done. He announced the city's next electronics drive will be held April 18, 2012 and the next plastics drive will be held May 11-14, 2012.

Commissioner Ellison stated at the March 26<sup>th</sup> Commission Meeting, the Commission voted to deny a resolution of intention to vacate the full width of an alley located in the Courthouse Addition. He indicated he would like the Commission to reconsider that decision after having visited the site and made the following motion.

**Motion** Commissioner Ellison moved that consideration of the resolution of intent to vacate the full width of an alley located between lots 1-36 of Block 1 of the Courthouse Addition of the City of Helena, which was denied at the March 26, 2012 Commission Meeting, be placed on the April 23, 2012 Commission Meeting agenda. Commissioner Elsaesser seconded the motion.

Commissioner Haque-Hausrath asked if further discussion has been held with the applicant regarding trading ROW with the city. Manager Alles explained the applicant would like to keep the subject strip of ROW and additional discussion can be held on the proposal at the April 23<sup>rd</sup> Commission Meeting.

**Vote** All voted aye, motion carried.

**Report of the City Attorney**

REPORT OF THE CITY ATTORNEY  
No report was given.

**Report of the City Manager**

REPORT OF THE CITY MANAGER  
No report was given.

**Report from the Helena Citizens Council**

REPORT FROM THE HELENA CITIZENS COUNCIL  
HCC member Matthieu Oppendahl gave an overview of the HCC's March Meeting.

**Regular Items**

REGULAR ITEMS:  
A. CONSIDER A CURB CUT VARIANCE FOR 3161 NORTH SANDERS STREET.

Staff Report

City Engineer Ryan Leland reported the property at 3161 North Sanders Street is currently undeveloped. The current property owners, Montana Opportunities LLC, have submitted building plans for a Town Pump and Magic Diamond Casino. They are requesting a variance to install a 50' curb cut. City Code only allows a maximum 40' curb cut.

Mr. Leland recommended denial of the curb cut variance as the increased width will increase the potential for vehicle conflicts because it will allow for several vehicles to try to either exit or enter at the same time. In addition, the increased width will increase the conflicts between pedestrians and vehicles with a longer crossing distance. The proposed access for the Town Pump is directly east across the street from the private drive just south of Buffalo Wild Wings restaurant. Other curb cuts in the area have been held to the 40' maximum.

Discussion

Commissioner Ellison reported he had visited the site and feels the 40' maximum will be appropriate.

Commissioner Elsaesser asked if boulevard sidewalks have been installed in the area. Mr. Leland stated yes.

Mayor Smith asked if fuel trucks will be able to enter the facility using the 40' curb cut. Mr. Leland stated yes.

Commissioner Elsaesser indicated he would support denial of the variance.

Public comment

Mayor Smith called for public comment; none was received.

**Motion**

**Commissioner Haque-Hausrath moved to deny a curb cut variance to install a 50' curb cut for 3161 North Sanders Street.**  
Commissioner Thweatt seconded the motion. All voted aye, motion carried.

B. CONSIDER A SIDEWALK VARIANCE AND ENCROACHMENT FOR LOT 10 OF THE ANDERSON BUSINESS PARK SUBDIVISION IN THE CITY OF HELENA.

Staff Report

Mr. Leland reported the property, Lot 10 of the Anderson Business Park Subdivision, is currently undeveloped. The current owners, Rocky Mountain Development Council (RMDC), have plans to build a series of multi-family buildings in the future. The current site design has 7-foot 6-inch high roof eaves for the proposed buildings along River Rock Drive encroaching 2-foot 3-inches into city right-of-way (ROW).

The property owner is requesting an encroachment permit to allow for the 7-feet 6-inch high roof eaves for the proposed buildings along River Rock Drive to encroach 2-feet 3-inches into city ROW. As a result of the over hangs, they are also requesting a sidewalk variance. The sidewalk variance request is to move the sidewalk 2-feet 3-inches closer to the street leaving a 4-foot 9-inch boulevard instead of the standard 7-feet. The proposed encroachment would allow for denser development and the sidewalk variance would allow the building's roof eaves to not be over public sidewalk.

Mr. Leland noted staff had no recommendation on the proposal. He clarified if the Commission supports the encroachment then the sidewalk variance would be necessary. If the encroachment is not supported, then the sidewalk variance is not necessary.

Discussion

Commissioner Haque-Hausrath asked if there would be any other impacts to the city by granting this besides the installation of smaller trees into the smaller boulevards. Mr. Leland explained all utilities in the area have already been installed and should not be affected.

Commissioner Elsaesser asked if the eave would have gutters to prevent runoff onto the sidewalk. Mr. Leland stated no official plans have been submitted yet but the applicant has stated their intention is to have all of the runoff head into the regional detention pond to the north.

Public comment

Mayor Smith called for public comment.

Jason Egieline, CWG Architects, representing the applicant; gave an overview of the proposal and explained how the encroachment and sidewalk variance became tied together.

Motions

**Commissioner Ellison moved approval of an encroachment permit for Lot 10 of the Anderson Business Park Subdivision in the City of Helena.** Commissioner Haque-Hausrath seconded the motion. Motion carried 4-1 with Commission Thweatt voting no.

**Commissioner Ellison moved approval of a sidewalk variance to allow the sidewalk to be 2 feet 3 inches closer to the curb leaving a boulevard dimension of 4 feet 9 inches for Lot 10 of the Anderson Business Park Subdivision in the City of Helena.** Commissioner Haque-Hausrath seconded the motion.

Commissioner Haque-Hausrath spoke in support of the proposal as it will provide affordable housing and is infill development.

Commissioner Thweatt recommended the applicant apply before the Board of Adjustment to locate their buildings closer together rather than encroaching on public sidewalk.

Vote

Motion carried 4-1 with Commission Thweatt voting no.

**Public Hearings**

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION GRANTING A CONDITION USE PERMIT (CUP) TO ALLOW A LICENSED PREMISES WITH A SPECIAL BEER AND WINE LICENSE FOR NONPROFIT ARTS ORGANIZATIONS TO BE LOCATED WITHIN 600 FEET OF A SCHOOL PROPERTY.

**Staff Report**

City Planner Elroy Golemon reported the applicant is seeking to obtain a special beer and wine license for nonprofit arts organizations to be used by the Holter Museum. However, the museum is located approximately 160 feet from the Central Elementary School property. Current City Code requires a licensed premise to be established by Conditional Use Permit in areas located within 600 feet of a school property.

The applicant states the CUP is needed so that the Holter Museum can accommodate the sale of alcoholic beverages for on-site consumption without hiring a catering service for special functions, and to keep the profits generated.

On Tuesday, March 13, 2012, the Helena Zoning Commission unanimously recommended approval (4:0 vote) of a resolution granting a Conditional Use Permit (CUP) to allow a licensed premise with a special beer and wine license for nonprofit arts organizations to be located within 600 feet of a school property.

Mr. Golemon recommended approval of the proposal as the CUP limits the special license type the Holter Museum can obtain to a special beer and wine license for nonprofit arts organizations that could not be used to establish a bar or lounge in this location. Therefore, the proposed conditional use will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity or in the zoning district in which the subject property is located.

**Public Testimony**

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

Karen Bollinger, Holter Museum of Art Interim Executive Director; urged the Commission to approve the CUP.

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

**Motion**

**Commissioner Elsaesser moved approval for a resolution granting a CUP to allow licensed premises with a special beer and wine license for nonprofit arts organizations to be located within 600 feet of a school property; for property legally described in the resolution.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19906**

**Public Communications**

**PUBLIC COMMUNICATIONS**

No public communications were given.

**Meetings of Interest**

**MEETINGS OF INTEREST**

The next Administrative Meeting is April 18, 2012 and the next Commission Meeting is April 23, 2012.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:15 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission