

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
July 23, 2012
6:00 P.M.

- Time & Place*** A regular City Commission meeting was held on Monday, July 23, 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. Acting City Manager Police Chief Troy McGee, City Attorney Jeff Hindoien 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 July 9, 2012 were approved as submitted.
- Board Appointments*** BOARD APPOINTMENTS:
A. Civic Center Board
- Mayor Smith asked for Commission concurrence on the following appointment:
- Civic Center Board – Appointment of Tammy Fetty to the Civic Center Board; term will begin upon appointment and expire March 1, 2015.
- Motion*** **Commissioner Haque-Hausrath moved approval of the appointment to the Civic Center Board as outlined above.** Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Consent Agenda*** CONSENT AGENDA:
A. Claims
B. Resolution granting a one-year extension to complete the conditions of Resolution of Intention No. 19854 which conditionally approved annexation of tracts A1 and B2 as shown on COS #3203658, located in Lewis and Clark County, into the City of Helena, Montana. **Res #19940**
C. Right-of-Way (ROW) Use Agreement with Blue Cross Blue Shield for the installation of a fiber optic data line between the two Blue Cross Blue Shield offices at 560 N. Park Avenue and 420 Fuller Avenue.
D. Utility Construction Agreement with the Montana Department of Transportation for the repair of the Benton and Lyndale Intersection.
- Acting Manager Troy McGee 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 through D on the consent agenda.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

Bid Award BID AWARD:
A. 2012 Chip & Seal Project, City Project #12-8

Staff Report City Engineer Ryan Leland reported city staff opened two bids for the 2012 Chip & Seal project on July 12, 2012. Helena Sand & Gravel, Inc. was the lowest responsible bidder for the following schedules: A – Southwest City Streets (North/South), B – South Central City Streets (North/South), C – Central City Streets (North/South), D – North Central City Streets (North/South) and E – Parks, Drives and Parking; for a total of \$261,760.64. This year's unit price \$1.48 per square yard compared to last year's unit price of \$1.56 per square yard. The project will add a new wear surface and pavement sealer by applying a single application of asphalt material followed by spreading a 3/8-inch gravel chip over approximately 8.56 miles of city street.

Staff recommends awarding schedules A, B, C, D and E to the lowest responsible bidder, Helena Sand & Gravel and noted the new wear surface will extend the life of the streets.

Discussion Commissioner Elsaesser asked if the dirt street in the schedule will be chip-sealed. Mr. Leland explained there is an agreement with Lewis & Clark County that they will mill the road and the city will chip it; it will look similar to Grizzly Gulch. Commissioner Elsaesser commended the partnership with the county to improve the street.

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

Motion **Commissioner Elsaesser moved to award schedules A, B, C, D and E of the 2012 Chip & Seal Project, City Project #12-8 to the lowest responsible bidder, Helena Sand & Gravel, Inc. in the amount of \$261,760.64.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Elsaesser congratulated the Symphony Under the Stars on their successful concert. He also spoke of attending the Change of Command Ceremony in Norfolk, Virginia, for the USS Helena. Mayor Smith expressed regret that he couldn't attend the ceremony and thanked Commissioner Elsaesser for attending while on a personal vacation.

Commissioner Ellison referred to the Administrative Meeting on July 18th, during which there was thorough discussion of the proposed non-discrimination ordinance. He then referred to an article by the Independent Record (IR) on July 20th, titled "City Starts Work on Ordinance Prohibiting Favoritism", which struck him as one of the oddest headlines he's ever read as he doesn't remember anyone mentioning favoritism during the meeting. He stated he is most concerned with the article reporting the Commission voted 3-0 to move forward with drafting the ordinance with Commissioner Ellison abstaining. Those are two major errors; there is never any formal vote at Administrative Meetings and there was no reporter present nor was he contacted to provide his opinion on the ordinance so obviously 2nd, 3rd, or 4th hand sources were

used to craft the article. Commissioner Ellison stated he sent an email to the IR expressing his concern that he has been characterized as not participating in discussion of the ordinance. He commented he asked as many questions as everyone else during the meeting and offered concerns, suggestions and input. Now he must explain to the community that he was engaged in the issue. The IR has responded to his concerns and they will be meeting to discuss the erroneous story. He noted he received an email from Commissioner Haque-Hausrath who apologized because she thought perhaps some of the characterizations in the story could have been due to conversations she had about the ordinance. Commissioner Ellison clarified that he was fully engaged in the discussion and wants the community to know he will continue to be fully engaged as it moves forward.

Mayor Smith concurred with Commissioner Ellison's concerns that articles were written about the meeting when there was not a reporter present.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

Acting Manager Police Chief Troy McGee invited Carla Tevis to be recognized for her employment with the City of Helena; she is retiring after 25 years as a dispatcher. He gave her work history and discussed her work ethic and professionalism and thanked her for her service and noted she will be missed.

Ms. Tevis spoke about working as a dispatcher and thanked her co-workers for their support. She noted she will miss working with everyone and Chief McGee.

Mayor Smith, on behalf of the Commission, thanked Ms. Tevis for her service and wished her well on her retirement.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

Regular Items

REGULAR ITEMS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 14 OF TITLE 3 OF HELENA CITY CODE REGULATING DEVELOPMENT IN THE FLOODPLAIN.

Staff Report

Chief Building Official Brandt Salo reported FEMA periodically notifies local jurisdictions of required revisions to aspects of the floodplain ordinance adopted as a prerequisite to participate in the National Flood Insurance Program. The City of Helena has received such notification and in order for the city to continue to participate in the program, must make revisions to the city's existing ordinance (c.1991) as necessary. The areas most affected by this ordinance generally include Last Chance Gulch south of the Claimstake Apartments out to the city limits on Grizzly and Oro Fino Gulches. With the revisions the city will have new 'digital' mapping of the local floodplain(s) hazards. The proposed revised ordinance must be reviewed by both FEMA and the state of Montana DNRC Floodplain Management Division to assure the city's compliance with the minimal requirements of federal and state floodplain management provisions.

Mr. Salo recommended approval of first passage of the ordinance as it would recognize the ongoing efforts of both FEMA and the state of Montana DNRC Floodplain Management Division to revise floodplain mapping in the interest of improved public safety. The digital format has enhanced accuracy that better assures that property owners within the recognized floodplain(s) within the City of Helena retain eligibility for flood insurance because of the city's participation in the National Flood Insurance Program.

Discussion

Commissioner Ellison noted if the city were to choose not to adopt the ordinance, it could affect the ability of citizens located within the floodplain to obtain flood insurance. He stated the city needs to move forward with approval of the ordinance.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Thweatt moved approval of first passage of an ordinance amending Chapter 14 of Title 3 of Helena City Code regulating development in the floodplain and set a public hearing date for August 20, 2012. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3159**

- B. CONSIDER A RESOLUTION OF INTENTION TO VACATE THE FULL WIDTH OF A PORTION OF THE CABOOSE WAY RIGHT-OF-WAY BETWEEN LOT 1 IN BLOCK D AND COMMON AREA #6 ADJACENT TO LOT 2 IN BLOCK A, AND AN ADDITIONAL PORTION ADJACENT TO THE EASTERN PROPERTY BOUNDARY OF LOT 1 IN BLOCK D, ALL AS SHOWN ON THE GREAT NORTHERN TOWN CENTER P.U.D.

Staff Report

City Engineer Ryan Leland reported Artisan LLP, the primary applicant, is requesting a portion of Caboose Way be vacated to allow expansion of the existing Cinemark Theaters. The right-of-way (ROW) is currently used for fire truck access, solid waste collection and has an 8" city water main located in the street.

The applicant is requesting the vacation of a portion of Caboose Way between common area #6 in Block A, Lot #1 in Block D within the Great Northern Town Center P.U.D. The second area is a small section on the southeast corner adjacent to Lot #1 in Block D. The square footage (sf) of Caboose Way to be vacated is 614 sf and 154 sf, respectively. The applicant is working with city staff to relocate the water main, provide an adequate fire truck turn around and an acceptable solid waste collection access. The adjacent land values averaged from \$6.75 to \$19.50 per sf. The first section, 614 sf, was averaged at \$13.12/sf for a total of \$8,058.75. The second section of 154 sf to be vacated was calculated at \$19.50/sf for a total of \$3,003.00. The total calculated value for the two sections is \$11,061.75.

Mr. Leland recommended approval of the proposed vacation as it would allow for expansion of Cinemark Theaters for more screens and additional technology.

Discussion

Commissioner Thweatt asked if it would be appropriate to table the resolution of intention until the applicant can design an adequate fire-truck turnaround. Mr. Leland stated the applicant would like to see the

city move forward with the proposal before he commits funding to the proposed project.

Commissioner Haque-Hausrath asked if discussions with the applicant about the turnaround are going well and if they seem like they will be effective. Mr. Leland stated city staff is working with the applicant's engineering firm to resolve the issue.

Commissioner Ellison noted the water main will be relocated and the fire truck turnaround and solid waste collection access will be created. He asked if there would be costs associated with those changes and who would bear those costs. Mr. Leland stated the applicant would be responsible for those costs.

Public comment

Mayor Smith called for public comment.

Alan Nicholson, applicant; discussed the proposed project in detail and urged the Commission to approve the resolution of intention.

Motion

Commissioner Haque-Hausrath moved approval of a resolution of intention to vacate a portion of Caboose Way between common area #6 in Block A, Lot #1 in Block D and a small section on the southeast corner adjacent to Lot #1 in Block D all within the Great Northern Town Center P.U.D. as shown on the site plan and set a public hearing date for August 6, 2012. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19941**

C. CONSIDER A SIDEWALK AND CURB CUT VARIANCE FOR 3216 GREEN MEADOW DRIVE.

Staff Report

Engineer Leland reported the property at 3216 Green Meadow Drive is currently undeveloped. The owner has submitted a building permit to build two 4-plexes. The property is located on the corner of Silsbee Avenue and Green Meadow Drive. Green Meadow Drive is built to City Standards and has sidewalk; Silsbee Avenue is a dirt road not built to City Standards.

The property owner, Gabe Nistler, is requesting a sidewalk variance to defer the installation of sidewalk, drive approach, curb and gutter until Silsbee Avenue is constructed to City Standards. The Woodland Dunbar Neighborhood has signed a waiver to protest an SID as part of the annexation district. Mr. Leland noted deferring installation of the sidewalk would force pedestrians into the street.

Discussion

Mayor Smith asked if the applicant would be installing sidewalks once the street is improved. Mr. Leland explained at some point in the future the area will be required to bring the roads up to City Standards and at that time sidewalks will be installed as a condition of the SID agreement.

Commissioner Elsaesser asked if the deferment would apply to both Green Meadow Drive and Silsbee Avenue. Mr. Leland stated there are already sidewalks on Green Meadow but not on Silsbee.

Commissioner Ellison asked if the Commission denied the sidewalk installation deferment and the sidewalk was installed at this time, would it possibly need to be removed and re-installed when the street is developed to City Standards. Mr. Leland stated yes, that is a possibility.

Commissioner Haque-Hausrath asked who would be responsible for paying to remove and re-install the sidewalk. Mr. Leland stated the

property owner. Commissioner Haque-Hausrath asked for confirmation that the Commission will not need to order in the sidewalks at a future date; they will be installed per the SID agreement. Mr. Leland concurred.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Ellison moved to approve deferring installation of sidewalks, drive approaches, curbs and gutters for the property at 3216 Green Meadow Drive until such time the streets are constructed to City Standards. Commissioner Thweatt seconded the motion. All voted aye, motion carried.

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is August 1, 2012 and the next Commission Meeting is August 6, 2012. The next City/County Joint Work Session will be held August 2, 2012.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 6:49 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission