

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 14, 2013
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, January 14, 2013 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, City Attorney Jeff Hindoien and Deputy City Clerk Robyn Brown were present. Others present were David Scrimm representing the Helena Citizens Council.

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 17, 2012 were approved as submitted.

Proclamation

PROCLAMATION:

A. The Big Read Under the Big Sky VI

Mayor Smith read the proclamation announcing the Big Read Under the Big Sky VI would be held February 1 through February 28, 2013; this years' book is *The Joy Luck Club* by Amy Tan.

Board Appointments

BOARD APPOINTMENTS:

A. 2013 City Commission Appointments to Boards

Mayor Smith recommended the following Commission member appointments for 2013:

MAYOR PRO TEM

Matt Elsaesser

ADA COMPLIANCE COMMITTEE

Two-year term – expires September 1, 2014
James E. Smith

BOARD OF ADJUSTMENT

One year term - expires December 31, 2013
Dan Ellison

AUDIT COMMITTEE

One-year term - expires December 31, 2013
James E. Smith
Matt Elsaesser
Katherine Haque-Hausrath

BUSINESS IMPROVEMENT DISTRICT BOARD OF DIRECTORS/HELENA PARKING COMMISSION

No specific term
Dick Thweatt

CITY COUNTY ADMINISTRATION BUILDING BOARD OF DIRECTORS

One-year term - expires December 31, 2013
Katherine Haque-Hausrath
City Manager Ron Alles - standing member

CITY-COUNTY BOARD OF HEALTH

No specific term
James E. Smith

CITY-COUNTY PARKS BOARD

No specific term
Dick Thweatt

CITY-COUNTY WEED BOARD

No specific term
Matt Elsaesser

CIVIC CENTER BOARD

No specific term
James E. Smith

HELENA CHAMBER OF COMMERCE LIAISON

No specific term
Commissioner Matt Elsaesser

INFORMATION TECHNOLOGY COMMITTEE

No specific term
Dan Ellison

INFRASTRUCTURE COMMITTEE

No specific term
No appointment –

INTERGOVERNMENTAL TRANSIT COMMITTEE

One year term – expires December 31, 2013
Katherine Haque-Hausrath

LEWIS & CLARK COUNTY MENTAL HEALTH ADVISORY COMMITTEE

No Specific Term
Dick Thweatt

MONTANA BUSINESS ASSISTANCE CONNECTION

No specific term
Matt Elsaesser
City Manager Ron Alles – standing member

MONTANA LEAGUE OF CITIES AND TOWNS

No specific term
James E. Smith

NON-MOTORIZED TRAVEL ADVISORY BOARD

One year term – Expires December 31, 2013
Dan Ellison

PRE-RELEASE SCREENING COMMITTEE

No specific term
Dan Ellison

PUBLIC ART COMMITTEE

No specific term
Katherine Haque-Hausrath

TRANSPORTATION COORDINATING COMMITTEE

One year term - expires December 31, 2013
Dick Thweatt
Matt Elsaesser

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

Motion **Commissioner Ellison moved approval of the 2013 Commission appointments to Boards as outlined above.**
Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

B. Tourism Business Improvement District

Mayor Smith recommended the following appointment:

Tourism Business Improvement District – Appointment of Denise Trautman to an unexpired term on the Tourism Business Improvement District.

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

Motion **Commissioner Ellison moved approval of the appointment to the TBID as listed above.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Acceptance of the December pledged collateral report

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison referred to the city's Comprehensive Annual Financial Report (CAFR), read an excerpt from the transmittal letter and explained the term "unqualified opinion" is the highest rating the city could receive and means that citizens can rest assured that their money is very carefully looked after and controlled.

Commissioner Elsaesser expressed appreciation for discussion about the Tenmile watershed at the last Administrative Meeting.

He also commended participation in the recent plastics drive and amount of distracted driving tickets issued for 2012.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

Manager Alles reported 20 snow removal citations have been issued so far this winter.

He also reported consultants associated with the Greening America's Capitals Grant visited Helena today and took a tour of the Walking Mall. Manager Alles stated one of the consultants commented on how courteous Helena's motorists are.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member David Scrimm reported the HCC has been working to identify priorities for 2013 and getting ready to begin the annual budget process. He noted the council is anxious to review proposed updates to the Subdivision Regulations.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT (SILD) NO. 224 IN THE CITY OF HELENA, AND A PORTION OF LEWIS & CLARK COUNTY ADJACENT THERETO.

Staff Report

City Controller Glenn Jorgenson reported Northwestern Energy has installed lights in Commercial Phase I of Crossroads at Mountain View Meadows Subdivision at the request of the developer. The developer has submitted a petition to create the lighting district and owns 50% of the property to be included in the district according to the latest tax roles. The developer owned 72% of the property within the lighting district when it was originally developed but has since sold a portion to Blue Cross & Blue Shield of Montana. The other 28% is located in Lewis & Clark County and is owned by the International Church of the Foursquare Gospel. Notices will be sent to the current owners as listed on the resolution's Exhibit B – Parcel List.

Mr. Jorgenson recommended approval of the resolution of intention and requested the Commission set a public hearing date of February 11, 2013.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Haque-Hausrath moved approval of a resolution of intention to create special improvement lighting district No. 224 in the City of Helena, Montana, and a portion of Lewis & Clark County adjacent thereto, and set a public hearing date for February 11, 2013. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19981**

- B. CONSIDER A FRANCHISE AGREEMENT EXTENSION BETWEEN THE CITY OF HELENA AND BRESNAN COMMUNICATIONS, LLC.

Staff Report

Administrative Services Director Tim Magee reported the current franchise agreement with Optimum/Bresnan is for 15 years, expiring December 31, 2014. Optimum/Bresnan is reviewing all of its franchise agreements and have asked for a two year extension. That has created the opportunity for the City to address changes it is currently interested in, while giving more time to refine and update future full renewal considerations.

The second amendment to the Bresnan (Optimum) Cable Franchise Agreement would provide:

1. further amendment of the "Gross Revenues" and fee revenues definitions;
2. support for PEG (HCTV); and
3. extending the term of the agreement by two (2) years, to December 31, 2016.

Director Magee recommended approval of the extension as amendment of the revenue definitions will broaden the base that the 5% Franchise Fee applies to. There is a potential for more General Fund revenue now, instead of after a renewal in two years.

HCTV has a 3 to 5 year High Definition (Digital) Conversion Plan with a tentative budget of \$347,000 to \$482,000. By FY2014 the city expects to have a \$75,000 reserve for contribution to the HCTV capital needs for digital conversion. Instead of waiting for renegotiation of the franchise in two years, this amendment would currently provide for PEG support of \$0.35 per subscriber per month and a \$10,000 additional capital contribution for PEG. Mr. Magee stated that the \$5,000 Optimum agreed to pay for a channel change for HCTV is anticipated to be close to the total amount required and not expected to subject the city to significant financial liability. The city will have four years to get a better handle on the conversion, channels, operating and capital for PEG to go digital.

Public comment

Mayor Smith called for public comment.

Melissa Shannon, Government Affairs Director- Optimum Communications, LLC; urged the Commission to support the franchise agreement extension.

Motion

Commissioner Haque-Hausrath moved approval of the second amendment to the cable franchise renewal agreement between the City of Helena and Optimum/Bresnan Communications, LLC. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

- C. CONSIDER THE FINAL PLAT FOR A MINOR SUBDIVISION CREATING TWO LOTS FROM LOT 4-H OF THE SKYWAY REGIONAL SHOPPING CENTER PLAT PHASE 1 SUBDIVISION, GENERALLY LOCATED SOUTH OF CUSTER AVENUE AND WEST OF WASHINGTON STREET WITH A PROPERTY ADDRESS OF 2020 CROMWELL DIXON LANE.

Staff Report

City Planner Lucy Morell-Gengler reported On October 29, 2012, the Helena City Commission gave preliminary plat approval for a minor subdivision creating one additional lot from Lot 4-H of the Skyway Regional Shopping Center Plat Phase 1 Subdivision. The 1.474 acres will be divided into two lots: Lot 4-H-1 containing 1.061 acres and Lot 4-

H-2 containing .413 acres. The property is zoned B-2 (General Commercial) District.

The approval of the preliminary plat was subject to the conditions stated in the Findings of Fact; the conditions have been completed. For reference, a list of the original subdivision conditions and their status was attached to the transmittal memo. The applicant is now requesting final plat approval.

Ms. Morell-Gengler recommended approval of the final plat as the proposal would provide areas for development within the city utilizing municipal water and wastewater. The subdivision would promote urban development close to major transportation routes. Development of the property has the potential to lower some of the pressure to develop property in the county and, as a result, reduce sprawl and vehicle miles traveled.

Public comment

Mayor Smith called for public comment.

Greg Wirth, Northland Engineering & Surveying, representing the applicant; offered to answer questions from the Commission related to the final plat.

Motion

Commissioner Ellison moved approval of the final plat for the two lot minor subdivision of Lot 4-H of the Skyway Regional Shopping Center Plat Phase 1 Subdivision, and to accept the emergency access and utility easements to the City of Helena.

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

D. CONSIDER FIRST PASSAGE OF ORDINANCES AMENDING CHAPTERS 1, 2, 4, 5, 6 AND 7 OF TITLE 12 OF THE HELENA CITY CODE, SUBDIVISION REGULATIONS, AND SET A PUBLIC HEARING DATE.

Staff Report

City Planner Lucy Morell-Gengler reported a revision to the City Subdivision Regulations has been prompted by several factors, including:

- The recently updated Helena Growth Policy, a guiding document for City regulations, was adopted on May 9, 2011.
- Other City documents have been adopted such as the Complete Streets Resolution, and revisions to the City of Helena Parks, Recreation and Open Space Plan and the City Zoning Ordinance.
- Changes were made to the Montana Code Annotated (MCA) that amended the Subdivision and Platting Act which affects local subdivision regulations.
- Recent court rulings regarding interpretation of the Subdivision and Platting Act.

Furthermore, a focus group, two community meetings, and numerous staff and Consolidated Planning Board work sessions, including a tour of various subdivisions to examine specific design features, were held to identify issues related to the current regulations and to solicit comments on the proposed amendments to the subdivision

regulations. A public forum on the proposed revisions to the City Subdivision Regulations was held on January 19, 2012. The Consolidated Planning Board conducted several work sessions to review proposed changes. The Planning Board then conducted public hearings on

October 18 and November 1, 2011 and held an additional Planning Board meeting November 29, 2011. The transmittal memos of the Planning Board meetings, public comments to the Planning Board and staff report were submitted to the City Commission at an administrative meeting and are available in the City Community Development office. After reviewing public comments, staff's recommendations and the City Growth Policy, the Planning Board recommended the attached changes to the City Subdivision regulations.

The City Commission met in work sessions on September 12 and October 17, 2012 to discuss the Consolidated Planning Board's recommended amendments to the City Subdivision Regulations. Per discussions at those meetings, there was consensus among the City Commission to propose changes to those recommendations. The consensus amendments were included in the Commission packet.

Ms. Morell-Gengler stated approval of the amendments to the Subdivision Regulations will update the regulations to better reflect the City Growth Policy and other planning documents, changes made to state laws, recent court rulings, and community concerns. The proposed amendments would promote transportation connectivity and non-motorized access which could result in a reduction in vehicle miles traveled. The proposed changes also promote efficient use of land and infrastructure.

Motion Commissioner Ellison moved approval of first passage of an ordinance amending the Helena City Code, Title 12, Subdivision Regulations, Chapter 1, Title, Purpose, Definition; as described in the ordinance and set a public hearing date of February 11, 2013.
Commissioner Haque-Hausrath seconded the motion.

Amendment Commissioner Haque-Hausrath moved approval of the City Commission consensus amendments in Chapter 1 as listed in the Commission packet (page 62). Commissioner Thweatt seconded the motion. All voted aye, motion carried.

Vote All voted aye, motion carried. Ord #3164

Motion Commissioner Haque-Hausrath moved approval of first passage of an ordinance amending the Helena City Code, Title 12, Subdivision Regulations, Chapter 2, Procedures; as described in the ordinance and set a public hearing date of February 11, 2013.
Commissioner Ellison seconded the motion.

Public comment Mayor Smith called for public comment.
Bruce Newell, 101 Pine Street; requested the regulations require that utilities be installed beneath sidewalks or the street as boulevards should be reserved for trees.

Amendment

Commissioner Elsaesser moved approval of the staff and consensus amendments (Commission packet pages 103-152).

Commissioner Ellison seconded the motion.

Discussion

Commissioner Haque-Hausrath asked if any of the proposed amendments require that street trees be installed. Deputy City Attorney Thomas Jodoin stated generally the policy is to require street trees be installed with the issuance of the building permit. Staff does give the developer some time to complete installation of the trees but if it becomes an issue the city does have the authority to intervene and make the developer do so.

Commissioner Haque-Hausrath asked if the Subdivision Regulations can require where the developer locates their underground utilities. Public Works Director John Rundquist stated the city has the authority to require where the underground utilities are located either through the Subdivision Regulations or the Engineering Standards. While the policy requires standard utilities be located within the designated right-of-way, there are occasions where utilities need to cross property outside the right-of-way to make appropriate connections and in those cases a utility easement is granted on the property itself.

Vote

All voted aye, motion carried. **Ord #3166**

Amendment

Commissioner Haque-Hausrath moved to amend 12-2-15, subsection H to add the following language: "underneath the sidewalk or the street to the maximum extent practical" following the word "underground" at the end of the first sentence.

Commissioner Thweatt seconded the motion.

Discussion

Mayor Smith expressed concern that the proposed amendment would paint the city into a corner should a unique and unforeseen situation arise and indicated he would not support the amendment. Commissioner Ellison stated although he appreciates the intent of the amendment, he too believes there will be a circumstance where the requirement won't work and therefore cannot support the amendment. Commissioner Elsaesser stated he would oppose the amendment as he believes the language is sufficient as written.

Commissioner Haque-Hausrath spoke in support of her amendment and addressed Mayor Smith and Commissioner Ellison and Elsaesser's comments.

Vote

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

Amendment

Commissioner Thweatt moved approval of the following amendment:

Thweatt Amendment #1

12-2-11: CITY COMMISSION REVIEW: Amend 12.2.11 (H) as follows:

H. The city commission preliminary plat approval shall be in force for not less than one year, but no

more than three (3) calendar years unless an extension is granted by the city commission.

1. At least sixty (60) days prior to the expiration of the preliminary plat approval, the subdivider may submit in writing a request for an extension of that approval. The subdivider must include:

a. the reasons for requesting an extension;

b. a description of the extenuating circumstances beyond the control of the subdivider that delayed the completion of the preliminary plat requirements;

c. a description of what progress has been made towards meeting the conditions of approval;

d. an agreement that the infrastructure design will comply with the design standards in place at the time of plan submittal; and

e. an evaluation of the provision of services and public facilities in the area of the subdivision that may be disrupted by the extension of the preliminary plat approval.

2. ~~After determining that the subdivider has submitted bona fide grounds for the extension,~~ ~~†~~The city commission may grant an extension of the preliminary plat approval for a mutually agreed-upon period of time established in writing and signed by the members of the city commission.

3. The city commission may consider the following criteria, in deciding whether to grant an extension of the preliminary plat approval:

a. Changes in the subdivision regulations since preliminary plat approval and whether the subdivision is substantially compliant with new regulations;

b. Phasing of the subdivision and the ability for existing development to be served by city services independent of future improvements;

c. Dependence of other development on any public infrastructure to be installed with the subdivision; and

d. Whether mitigation for impacts of the subdivision identified during preliminary plat review and the findings of fact, remain relevant, adequate, and applicable to the present circumstances of the subdivision and community.

34. The city commission may issue more than one extension.

I. Infrastructure must be designed and installed according to city standards in effect at the time of plan submittal.

Commissioner Haque-Hausrath seconded the motion.

Discussion

Referring to H.1.b, Ms. Morell-Gengler stated sometimes when subdivisions have phasing, adjacent property owners will look at that preliminary plat approval and anticipate certain infrastructure will be installed and if it is not it may slow down an adjacent development or some other connectivity in the area.

Discussion was held on Thweatt Amendment #1. Commissioner Ellison stated he would support the amendment. However, should the development community express concern he would be inclined to ask Commissioner Thweatt to withdraw or revise the amendment at final passage on February 11th.

Attorney Hindoien recommended including the following language (in CAPS) under H.3.:

3. CRITERIA TO BE CONSIDERED BY THE CITY COMMISSION IN DECIDING whether to grant an extension of the preliminary plat approval, include BUT ARE NOT LIMITED TO THE FOLLOWING:

Commissioner Thweatt voiced support for Attorney Hindoien's suggested revisions.

Vote

Motion carried 4-1 with Mayor Smith voting no.

Vote on Chapter 2 as amended

All voted aye, motion carried. **Ord #3166**

Motion

Commissioner Ellison moved approval of first passage of an ordinance amending the Helena City Code, Title 12, Subdivision Regulations, Chapter 4, Design Standards, Improvements; as described in the ordinance and set a public hearing date of February 11, 2013. Commissioner Elsaesser seconded the motion.

Mayor Smith called for public comment.

Sarah Sadowski, Non-Motorized Transportation Advisory Council (NMTAC) Chair; outlined NMTAC concerns with Chapters 2 and 4. She noted NMTAC had provided written comments regarding the Subdivision Regulations update prior to tonight's hearing.

David Scrimm, Helena; recommended changes to Chapter 4 and commented he does not believe the public has had enough time to review and provide detailed comment on changes to the regulations.

Former City Commissioner Paul Cartwright, Helena; outlined his concerns with Section 12-4-2. He encouraged the Commission to keep right-of-way width requirements as currently written until the Engineering Standards are updated.

Amendment

Commissioner Ellison moved approval of the amendment DE01 as listed below. Commissioner Elsaesser seconded the motion.

DE01

Title 12, Chapter 4-2(B) – Design Standards

Revise language of chapter 4-2-B to read: “Consistent with the City of Helena resolution on complete streets, each public street right of way must accommodate and coordinate all modes of transportation, both motorized and non-motorized, and people of all ages and abilities.”

RATIONALE: To provide assurance that the commission remains committed to the provisions of the Complete Streets policy passed by resolution in 2010, while leaving specific aspects of that policy related to street design to be reflected in engineering standards.

REFERENCES:

DRAFT LANGUAGE from the Planning Board: Each public street right-of-way must meet complete street standards by including appropriate features that accommodate and coordinate all modes of transportation, both motorized and non-motorized, and people of all ages and abilities, with special consideration to optimize safety, interconnectivity, compatibility, and convenience.

CURRENT VERSION: Each public street right of way must accommodate and coordinate all modes of transportation, both motorized and non-motorized, and people of all ages and abilities. (NOTE: This is language from the definition of complete streets, Section 2a of Resolution #19799)

Vote All voted aye, motion carried.

Amendment **Commissioner Thweatt moved approval of the amendment as listed below.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

THWEATT AMENDMENT 4: This amendment is a correction.

Section 12-4-2 Streets

Amend 12-4-2 (D): ~~Streets~~BLOCKS may not exceed six hundred feet (600') in length except when a longer length is needed to meet grade limitations, the existing built environment, waterbody or railroad crossings, or industrial uses.

Amendment **Commissioner Thweatt moved approval of the amendment as listed below.** Commissioner Haque-Hausrath seconded the motion.

THWEATT AMENDMENT 5: This amendment has been revised. My intent is to ensure that street layout provides for connectivity to adjacent undeveloped private land. It amends consensus amendments to restore some of the planning board’s language (underlined) and add language as follows (red capitals):

Section 12-4-2 Streets:

Amend 12-4-2 (B) as follows: Each public street right-of-way must ~~meet complete street standards by including appropriate features that~~ accommodate and coordinate all modes of transportation, both motorized and non-motorized, and people of all ages and abilities, with special consideration to optimize safety, interconnectivity, compatibility, and convenience, including opportunities to connect to adjacent undeveloped private property in the future.

Discussion

Discussion was held on the proposed amendment. Commissioner Elsaesser expressed concern that the proposed amendment may create scenarios where non-resident traffic begins cutting through neighborhoods.

Commissioner Thweatt asked for an explanation of the following excerpt from the proposed amendment: with special consideration to optimize safety, interconnectivity, compatibility, and convenience, including opportunities to connect to adjacent undeveloped private property in the future.

Ms. Morell-Gengler explained one reason the language was originally stricken was because of ambiguity with the language.

Commissioner Ellison referred to the portion of the amendment related to “connecting to adjacent undeveloped private property”. He expressed concern that the city is demanding opportunities to connect to that adjacent undeveloped private property and if there would be any legal issues associated with that portion of the amendment.

Commissioner Thweatt stated the intent of the amendment is not to affect the adjacent property at all; this refers to how the subdivision and road network are designed within the subdivision. This requires the subdivider to provide for the extension of streets into the adjacent property which may be subdivided down the road; he noted it does not affect property outside of the subdivision. City Attorney Hindoien stated he is unsure if there is a plain legal consequence to that. It is his understanding that pragmatically that is currently a consideration as staff goes through subdivision review at this point. It adds one more thing to take into consideration in a section that deals with right-of-way width.

Commissioner Elsaesser stated he supports the idea but has some concerns on whether subdivision could reasonably predict what connectivity might be needed, depending on whether the surrounding property would be developed residentially or commercially. He indicated he would like more specific language written on the issue before the public hearing on the ordinance.

Friendly Amendment

Commissioner Ellison offered a friendly amendment to remove the following language: ~~special consideration to optimize safety, interconnectivity, compatibility, and convenience,~~. Following discussion, Commissioner Ellison withdrew his friendly amendment.

NOTE: At this point Commissioner Thweatt removed the word “special” from Thweatt Amendment #5.

Vote

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

Amendment

Commissioner Thweatt moved approval of the amendment as listed below. Commissioner Haque-Hausrath seconded the motion.

THWEATT AMENDMENT 6: This amendment revises the consensus amendments to 12-4-11(B) on water body setback in order to improve readability without changing substance.

12-4-11: Waterbody Setback

A minimum of 150 feet of vegetative buffer is required on each side of a perennial stream as measured from the ordinary high water mark on a horizontal plane. A minimum of 100 feet of vegetative buffer is required on all sides of a wetland, pond, lake, reservoir, or intermittent stream as measured from the ordinary high water mark on a horizontal plane. Existing vegetation in those areas may not be disturbed or removed, except as needed to control noxious weeds, reduce accumulated fuels for fire protection, to remove individual trees that pose an imminent physical danger to people or property, or to construct city approved public infrastructure.

Discussion

Commissioner Elsaesser asked if the wetlands described in the proposed amendment would apply to any wetlands regardless of conductivity or U.S. Army Corp of Engineer definitions. Deputy City Attorney Jodoin stated he was unsure as he used the language provided by Commissioner Thweatt. Commissioner Elsaesser asked if there would be a potential for this to interfere with a development's adaptation for stormwater control; would a new stormwater pond be exempt from the setback requirement if it is effectively a wetland. Deputy Attorney Jodoin again stated he was unsure but would expect a retention pond or detention pond to be included in this language. Further discussion was held on water body setbacks and why item G was removed from the draft ordinance. Commissioner Thweatt noted the proposed amendment was not very different from previous language in the ordinance; he had simply wanted to make it more readable.

Commissioner Elsaesser indicated he would not support the amendment as he is concerned it may create some unintended impacts to the regulations. Mayor Smith concurred.

Vote

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

Amendment

Commissioner Thweatt moved to reinsert paragraph G (page 182 of the Commission packet) and add the Department of Environmental Quality as an agency that can verify the boundary of a wetland. Commissioner Haque-Hausrath seconded the motion. Motion carried 4-1 with Commissioner Elsaesser voting no.

Amendment

Commissioner Haque-Hausrath moved approval of the amendment as listed below. Commissioner Thweatt seconded the motion.

Haque-Hausrath Amendment #1

NOTE: The amounts below will most-likely be amended again when the Engineering Standards are updated at a future date.

Section 12-4-2(A)

The minimum right of way width for each type of street is as follows:

1. Forty eight feet (48') for local access streets with less than two thousand (2,000) vehicle trips a day that do not permit on-street parking or for lots that also have an alley abutting the lots along the 48' right of way.
2. Sixty feet (60') for local access streets with less than two thousand (2,000) vehicle trips a day.
3. ~~Sixty-four Seventy-six~~ feet (6476') for collector streets with two thousand (2,000) to five thousand (5,000) vehicle trips a day.
4. ~~Seventy-six One hundred~~ feet (76100') for minor arterial streets with five thousand (5,000) to fifteen thousand (15,000) vehicle trips a day.
5. One hundred ~~and twenty~~ feet (1020') for major/principal arterial streets with over fifteen thousand (15,000) vehicle trips a day.

Discussion

Discussion was held on Commissioner Haque-Hausrath's amendment. Commissioner Ellison stated he is reluctant to support the amendment he feels it would be taking a step back now that the Commission is close to formally adopting the Subdivision Regulations. Commissioner Elsaesser concurred and stated he does not want to adopt the Subdivision Regulations only to have to come back and revise and adopt it again based on this amendment. Both Commissioners Elsaesser and Ellison noted the regulations would have to go back through Planning Board review if the proposed amendment passes and they are not comfortable delaying its implementation any longer.

Commissioner Haque-Hausrath spoke in support of her amendment and urged the Commission to vote for its approval. She noted the numbers proposed in her amendment are not based on any existing city policy so the Commission will have to revisit the issue regardless. She suggested adding 10 feet to cover bikes lanes.

Commissioner Thweatt expressed concern that the proposed amendment is putting the cart-before-the-horse as the Commission hasn't yet decided what amounts will be needed to include complete streets features in the city's streets.

Director Rundquist explained staff is more concerned with the components of the streets rather than the right-of-way width. Commissioner Elsaesser asked if the ROW figures in the regulations are not definitive and if the city can require more ROW than what is listed. Director Rundquist explained staff can require more than what is listed in

the regulations based on the components required to comply with the Complete Streets Ordinance.

Commissioner Thweatt asked when the Engineering Standards would be ready for Commission review and consideration. City Manager Alles stated hopefully before summer.

Vote

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

Amendment

Commissioner Elsaesser moved approval of the following amendment:

Section 12-4-2(A)

The minimum right-of-way width for each type of street is as follows, except as determined by section 12-4-2(A)(1):

[NEW] Section 12-4-2(A)(1)

Right-of-way requirements for collector streets and minor arterials may be reduced by the width of bike or parking lanes if bike lanes or parking will not be required based on the following:

- A one-way street will only require right-of-way for one bike lane.
- A street with an adjacent bike boulevard or off-street bike/pedestrian trail within one block is exempt from having bike lane right-of-way.
- Parking right-of-way may be waived if street will not require on-street parking on that street on one or both sides.

Commissioner Ellison seconded the motion.

Discussion

Commissioner Elsaesser spoke in support of the amendment.

Friendly amendment

Commissioner Haque-Hausrath offered a friendly amendment to include language stating "all collector and minor arterials require a bike lane except for as provided in this section". Commissioner Elsaesser declined the friendly amendment.

Vote

Motion failed 2-3 with Mayor Smith and Commissioners Thweatt and Haque-Hausrath voting no.

Motion

Commissioner Elsaesser moved approval of the consensus amendments for Chapter 4. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Vote on Chapter 4 as amended

All voted aye, motion carried. **Ord #3167**

Motion

Commissioner Elsaesser moved approval of first passage of an ordinance amending the Helena City Code, Title 12, Subdivision Regulations, Chapter 5, Minor Subdivisions; as described in the ordinance including the consent amendments and set a public hearing date of February 11, 2013. Commissioner Haque-Hausrath seconded the motion.

- Public comment Mayor Smith called for public comment.
David Scrimm; discussed including Complete Streets Ordinance features in the Subdivision Regulations.
Paul Cartwright, spoke regarding updates to the Engineering Standards.
- Vote** All voted aye, motion carried. **Ord #3168**
- Motion** **Commissioner Ellison moved approval of first passage of an ordinance amending the Helena City Code, Title 12, Subdivision Regulations, Chapter 6, Amendments, Fees, General Provisions; as described in the ordinance and set a public hearing date of February 11, 2013.** Commissioner Elsaesser seconded the motion.
- Motion** **Commissioner Haque-Hausrath moved approval of the clean-up amendment to Chapter 6, as listed in the packet.** Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Vote** All voted aye, motion carried. **Ord #3169**
- Motion** **Commissioner Elsaesser moved approval of first passage of an ordinance amending the Helena City Code, Title 12, Subdivision Regulations, Chapter 7, Amended Plats; as described in the ordinance and set a public hearing date of February 11, 2013.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3170**
- Public comment Mayor Smith called for public comment.
Marshall Gingery, Planning Board Chair; commended the Commission for approving the amendments to the Subdivision Regulations tonight.
- Motion** **Commissioner Ellison moved approval of amendments to Chapters 1, 2, 4, 5, 6 and 7 of Title 12 of the Helena City Code, Subdivision Regulations, as described in the ordinance and set a public hearing date of February 11, 2013.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.
- E. CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA PROPERTY LEGALLY DESCRIBED AS LOTS 17, 18, 19 & 20 IN BLOCK 192 OF THE AMES ADDITION, LEWIS & CLARK COUNTY, MONTANA; AND THE ADJACENT CHOTEAU AND WINSTON STREET RIGHTS-OF-WAY.
- Staff Report City Planner Dustin Ramoie reported the applicant has requested annexation of Lots 17, 18, 19 and 20 in Block 192 of the Ames Addition, Helena, Montana. The property is adjacent to the City of Helena and is located within the "Urban Standards Boundary Area". The property is currently undeveloped and vacant. The applicant wishes to annex this property immediately to attain water, wastewater and other city services and to utilize the property with an R-2 (Residential) zoning

designation. With annexation, extension of the water and wastewater service boundary will occur.

Mr. Ramoie recommended approval of the resolution of intention to annex as it will allow for the residential development of the subject property with a density and use as provided by the R-2 zoning district as well as the use of city services. Development of the property in the city eliminates the need for an individual well and septic system. The area is within the Urban Standards Boundary which is a priority area for annexation for the City of Helena.

Motion

Commissioner Ellison moved approval of a resolution of intention to annex property legally described as Lots 17, 18, 19 and 20 in Block 192 of the Ames Addition, Lewis & Clark County, Montana; the adjacent Choteau and Winston Streets and the alley between Choteau and Cannon Street rights-of-way, and establish conditions for annexation. Commissioner Thweatt seconded the motion. All voted aye, motion carried. **Res #19982**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO R-2 (RESIDENTIAL) DISTRICT PRIOR TO ANNEXATION INTO THE CITY THE CITY OF HELENA FOR PROPERTY LEGALLY DESCRIBED LOTS 17, 18, 19 AND 20 BLOCK 192, OF THE AMES ADDITION AND ADJACENT CHOTEAU AND WINSTON STREET RIGHT OF WAY.

Staff Report

City Planner Dustin Ramoie reported the applicant wishes to pre-zone the subject property to R-2 (Residential). City Ordinance requires property to be pre-zoned prior to annexation. Current land use in the area includes but is not limited to single family residential, multi-family residential and some commercial. On Tuesday, November 20, 2012, the Helena Zoning Commission unanimously recommended APPROVAL (5:0 vote) for the adoption of an Ordinance Pre-Zoning to R-2 (Residential) prior to Annexation for the subject property.

Mr. Ramoie recommended approval of the pre-zoning as it and annexation will allow for the residential development of the subject property with a density and use as provided by the R-2 zoning district as well as the use of city services. Development of the property in the city eliminates the need for an individual well and septic system.

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 of first passage of an ordinance for pre-zoning to R-2 (Residential) District, amending City of Helena Ordinance No. 2359 and the official zoning map after the property is annexed, for property legally described as lots 17, 18, 19 and 20, Block 192 of the Ames Addition. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Ord #3165**

- B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3163 AMENDING VARIOUS CHAPTERS OF THE HELENA CITY

CODE TO INCREASE FINES FOR ON-AND OFF-STREET
PARKING VIOLATIONS INCLUDING, BUT NOT LIMITED TO,
THOSE UNDER THE JURISDICTION OF THE HELENA
PARKING COMMISSION (HPC).

Staff Report

Parking Commission Director Dave Hewitt reported the HPC has not increased parking fines since 1993, and is experiencing a financial shortfall. The Commission is proposing to increase the five-dollar (\$5.00) fine for parking violations in on- and off-street public parking spaces to ten dollars (\$10.00), and increase twenty-dollar (\$20.00) fines to twenty-five dollars (\$25.00). Such increases may discourage more parking violations in the Helena Parking District, and would provide funding for the operation and maintenance of public parking spaces and facilities administered by the HPC.

He recommended approval of final passage of the ordinance to increase the fees as any creation of new revenue will clearly impact the HPC budget in a positive fashion.

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 recommended approval of final passage of Ordinance No. 3163 amending Chapters 11, 12, 13 and 14 of Title 8 of the Helena City Code to increase minimum parking fines. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3163**

**Public
Communications**

PUBLIC COMMUNICATIONS

No public communications were given.

**Meetings of
Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is January 23, 2012 and the next Commission Meeting is January 28, 2012.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:22 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission