

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
February 11, 2013
6:00 P.M.

- Time & Place*** A regular City Commission meeting was held on Monday, February 11, 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 City Clerk Debbie Havens were present. Others present were Andres Halladay 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 January 28, 2013 were approved as submitted.
- Presentation*** PRESENTATION:
A. Confirmation and introduction of Officers Matt Lewis & John Kaleczyc
- Staff Report** Police Chief Troy McGee introduced Matt Lewis & John Kaleczyc and gave their work and training/education history. He recommended approval of their confirmation as Police Officers with the Helena Police Department (HPD).
- Motion** **Commissioner Haque-Hausrath moved approval of the confirmation of Matt Lewis & John Kaleczyc as Police Officers with the City of Helena.** Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Comment** Commissioner Elsaesser congratulated Officers Lewis and Kaleczyc.
Chief McGee presented Officers Lewis and Kaleczyc with Police Department challenge coins.
Captain Steve and Barb Hagen presented Emily Kaleczyc and Meagan Lewis with a copy of the book "I Love a Cop".
Officer Lewis introduced his family and thanked Chief McGee and the Commission for the opportunity to serve the City of Helena.
Officer Kaleczyc introduced his wife and parents. He too thanked Chief McGee and the Commission for the opportunity to serve Helena. He also recognized the entire Police force for their support and training.
Commissioner Ellison congratulated the officers on their permanent position with the Helena Police Department. Mayor Smith officially welcomed Officers Lewis and Kaleczyc to the Helena Police Department.
- Consent Agenda*** CONSENT AGENDA:
A. Claims
B. Final passage of Ordinance No. 3171 amending City of Helena Ordinance No. 2359 and amending the official zoning map, for a

zone change from CLM (Commercial Light Manufacturing) District to B-2 (General Commercial) District, for property generally located east of North Montana Avenue, north of Birch Street, and west of North Sanders Street.

- C. Memorandum of Agreement (MOA) with the Montana Department of Transportation (MDT) for the development of a Community Transportation Safety Plan (CTSP).
- D. Final passage of Ordinance No. 3165 for pre-zoning to R-2 (Residential) District prior to Annexation into the City of Helena: for property legally described as lots 17, 18, 19, and 20 Block 192, of the Ames Addition, and adjacent Choteau and Winston Street rights of way. **Ord #3165**
- E. Final passage of Ordinance No. 3172 amending City of Helena Ordinance No. 2359 and amending the Official Zoning Map, for a zone change from CLM (Commercial Light Manufacturing) District to an R-O (Residential-Office) District for property legally described as Lots 8 through 17 in Block 5 of the Woodlawn Park Subdivision, Helena, Montana. **Ord #3172**
- F. Sale of surplus real property, Block 570 of the Easterly Addition.

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

Commissioner Haque-Hausrath asked that Consent Agenda Item B be removed for discussion.

Public comment

Mayor Smith asked for public comment.

Steve Skinner, 8305 N. Lamborn, Helena; spoke in support of final passage of Ordinance No. 3171.

Motion

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

- B. Final passage of Ordinance No. 3171 amending City of Helena Ordinance No. 2359 and amending the official zoning map, for a zone change from CLM (Commercial Light Manufacturing) District to B-2 (General Commercial) District, for property generally located east of North Montana Avenue, north of Birch Street, and west of North Sanders Street.

Discussion

Commissioner Haque-Hausrath requested an update regarding environmental issues/concerns that she expressed at the January 28th City Commission Meeting. She asked City Attorney Hindoien if there was anywhere in the city ordinances that would address her concern related to allowing residential-type uses to be built on property that could've been contaminated by a previous auto repair shop.

Attorney Hindoien stated he is not aware of any other provisions within the City Code that would restrict use based on potential contamination of the property; he noted the city does not have the authority to condition a zone change.

Motion

Commissioner Ellison moved final passage of Ordinance No. 3171 amending City of Helena Ordinance No. 2359 and amending the official zoning map, for a zone change from CLM

(Commercial Light Manufacturing) District to B-2 (General Commercial) District, for property generally located east of North Montana Avenue, north of Birch Street, and west of North Sanders Street. Commissioner Elsaesser seconded the motion.

Comment

Commissioner Elsaesser stated he believes this is an appropriate zone change and consistent with the overall area. Commissioner Haque-Hausrath indicated she would vote against the zone change and stated she does not believe there is an adequate process in the city ordinances to safeguard against inappropriate uses and protect the use of property. She recommended a safeguard be incorporated into the building permit process.

Vote

Motion carried 4-1 with Commissioner Haque-Hausrath voting no. **Ord #3171**

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser thanked staff for the updates the Commission has received on Phase II of Centennial Park.

Commissioner Ellison thanked City Manager Alles for his work on the Tenmile Watershed issue. With his work, others are taking notice and results will be forthcoming.

Commissioner Ellison stated he attended the Chamber of Commerce banquet and the Governor's Ball at the Fairgrounds and congratulated the County Commission, Fair Board and staff for providing a great facility.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Alles introduced Sarah Elkins as his Administrative Assistant.

Report from the Helena Citizens

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chair Andres Haladay presented a letter recommending amendments to the Subdivision Regulations. He then reviewed the specific amendment language.

Regular Items

REGULAR ITEMS:

- A. **CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH A CABLE TELEVISION SERVICE FEE.**

Staff Report

City Manager Alles reported the franchise agreement with Optimum/Bresnan for Cable Television includes a provision for the City to set a per subscriber per month Cable Television Service Fee of up to \$0.35 for the support of public, educational, and government (PEG) access programming.

HCTV has a 3 to 5 year High Definition (Digital) Conversion Plan with a tentative budget of \$347,000 to \$482,000. The current analog systems are obsolete, and it is necessary to move to high definition capabilities to continue PEG programming.

Setting a per subscriber per month Cable Television Service Fee of up to \$0.35 for the support of public, educational, and government

(PEG) access programming is recommended in order to help fund the High Definition (Digital) Conversion Plan.

Manager Alles recommended approval of the resolution of intention and requested the Commission set a public hearing date of March 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 establish a Cable Television Service Fee and set a public hearing date of March 11, 2013. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res# 19985**

Public Hearings PUBLIC HEARINGS:
A. CONSIDER A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING DISTRICT (SILD) NO. 224 IN THE COMMERCIAL PHASE 1 OF CROSSROADS AT MOUNTAIN VIEW MEADOWS SUBDIVISION.

Staff Report City Controller Glenn Jorgenson reported the Commission approved a resolution of intention to create SILD No. 224 on January 14, 2013. Staff sent notices to all property owners within the proposed district and advertised the public hearing twice in the Independent Record. The district includes all property bordering Alice Street, Eloise Cobell Street, and a portion of Jeannette Rankin Way in Commercial Phase 1 of Crossroads at Mountain View Meadows Subdivision except Lot 3 as it is only for storm water drainage and will receive no benefit from the lights. Staff recommended using lineal feet of the properties due to large undeveloped tracts.

NorthWestern Energy installed the lights at the request of the developer. Ten percent of the property is located outside the City limits.

There are 36 poles with 16 foot mounting heights, sodium vapor lamps, and Lexington Colonial style luminaries. These conform to the dark-skies ordinance and are consistent with other lights in Mountain View Meadows subdivision.

There was one protest received by East Valley Four Square Church that represented 10.4% of the property owners.

Discussion Commissioner Elsaesser asked the process for collecting for electricity prior to creation of the district. Controller Jorgenson explained the city is not charged the electrical costs until the district is approved. Once the district is approved, the city will pay the costs and actually go negative in the fund. The funding is then recouped by being placed on the next available tax bill.

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

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

Discussion Commissioner Thweatt asked Controller Jorgenson if he knew why the church was objecting to the creation of the district. Controller Jorgenson explained he had spoken with the church's representative and they felt it was too expensive.

Commissioner Elsaesser asked why the district lights had been installed and turned on prior to the approval of the lighting district. Controller Jorgenson stated the subdivision's developer had requested and installed the improvements.

Motion

Commissioner Haque-Hausrath moved approval of a resolution to create Special Improvement Lighting District No. 224 in the City of Helena, Montana and a portion of Lewis & Clark County adjacent thereto. Commissioner Ellison seconded the motion. Motion carried 4-1 with Commissioner Elsaesser voting not. **Res #19986**

- B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3164 AMENDING CHAPTER 1 TITLE, PURPOSE, DEFINITIONS IN TITLE 12 SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3166 AMENDING CHAPTER 2 PROCEDURES IN TITLE 12 – SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3167 AMENDING CHAPTER 4 DESIGN STANDARDS, IMPROVEMENTS IN TITLE 12 – SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- E. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3168 AMENDING CHAPTER 5 MINOR SUBDIVISION, IN TITLE 12 – SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- F. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3169 AMENDING CHAPTER 6, AMENDMENTS, FEES, GENERAL PROVISIONS IN TITLE 12 – SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.
- G. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3170 AMENDING CHAPTER 7, AMENDED PLATS IN TITLE 12 – SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.

Staff Report

Planner Lucy Morell-Gengler reported the Consolidated Planning Board conducted public hearings on October 18 and November 1, 2011 and held an additional Planning Board meeting on November 29, 2011. After reviewing public comments, staff's recommendations and the City Growth Policy, the Planning Board recommended 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. On January 14, 2013, the City Commission passed first reading of Ordinances amending the City subdivision regulations and set a public hearing date of February 11, 2013. Publication of the hearing notice was not less than 15 days prior to the public hearing per MCA 76-3-503.

Ms. Morell-Gengler gave the following brief overview of proposed changes to the regulations:

The ordinance amending Chapter 1 of the City subdivision regulations includes language to reorganize and clarify sections of the City Subdivision Regulations. Sections 12-1-6: "Lands Unsuitable for Subdivision Development" and 12-1-7: "Subdivision for Building Purposes Prohibited" were moved from Chapter 2 to this chapter and the language was consolidated. The definition section was changed to reflect proposed changes to other sections of the Title regarding water body protection.

Planner Morell-Gengler reported due to several reconfigurations of Chapter 2 resulting in numerous underlining and cross outs which made the revisions difficult to understand, the entire chapter will be repealed and presented as a new chapter; the majority of the chapter has not changed.

The ordinance amending Chapter 2 of the City Subdivision Regulations includes language that updates procedures and final plat requirements. The items required for a complete application have been amended and a one year time frame for submitting missing preliminary plat information is added. The changes include a new section on Parks Board review of applications; clarifies what is required prior to final plat approval including infrastructure installation; the sidewalk installation is now consistent with sidewalk requirements in other sections of City Code. The amendments also include changes to assure compliance with state law.

Planner Morell-Gengler reported the ordinance amending Chapter 4 of the City subdivision regulations includes the following: Changing the right-of-width (ROW) for:

- Local streets from 48-foot to 48 or 60 foot wide ROW,
 - Collectors from 64 or 66-foot to 76-foot wide ROW,
 - Minor arterials from 76-foot to 100-foot wide ROW, and
 - Major arterials from 100-foot to 120-foot wide ROW
- Street components within the ROW such as pavement width, sidewalk width, etc. will be required to meet City standards such as those in the City Engineering Standards.
 - The minimum 400-foot long block length would be removed and a maximum 600-foot long block length.
 - The current limitations for double frontage lots (lots that are adjacent to a street on two sides of the lot), and the requirement for two tiers of lots will be eliminated.
 - Every lot must be adjacent to a street ROW.
 - The requirement for water, wastewater and stormwater infrastructure and solid waste disposal to meet city standards will be specifically stated in the subdivision regulations.

Setbacks for waterbody protection have been included:

- A 200-foot building setback and 150-foot vegetative buffer for perennial streams and
 - A 130-foot building setback and 100-foot vegetative buffer for intermittent streams, wetlands, ponds, lakes or reservoirs.
- Park dedication will be required for subdivisions located in a zoning district that allows residential uses by right and for minor subdivisions.

Other amendments to Chapter 4 include reorganizing sections, making changes to be consistent with other proposed changes in this Title and clarification.

The ordinance amending Chapter 5 of the City Subdivision Regulations includes language clarifying park dedication and material changes to a plat.

The ordinance amending Chapter 6 of the City Subdivision Regulations includes language clarifying sections of this chapter.

Ms. Morell-Gengler reported the information currently contained in Chapter 7 of the City Subdivision Regulations is primarily procedural; this, the ordinance amending Chapter 7 will eliminate this chapter in its entirety; applicable information is moved to Chapter 2.

Public Testimony

Mayor Smith declared the public portion of the hearing open on Chapter 1 of the Subdivision Regulations 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.

Public Testimony

Mayor Smith declared the public portion of the hearing open on Chapter 2 of the Subdivision Regulations and called for any persons wishing to address the Commission.

Bob Mafitt, Montana Independent Living Project (MILP), 34 N. Last Chance Gulch; stated MLIP is concerned with safety and access for those they represent. The current subdivision regulations allow for the installation of sidewalks at various times during the development period; however, it is important to install sidewalks all at the same time to accommodate those MILP represent and all others with physical challenges.

Brittney Mullen, MILP; gave a PowerPoint presentation showing examples of where sidewalks have created issues for those with physical limitations.

Kelly Parsley, 1516 Stuart Street; supports the city's complete streets resolution and the revised subdivision regulations. She addressed the importance of installing the sidewalks at the same time as other infrastructure.

MC Beebe, 1620 Townsend, Chair of the Safe Routes to Schools; spoke to the importance of connectivity and encouraged the Commission to require sidewalks be installed at the same time as other infrastructure.

Rebecca Ryland, Director of Design Review with Mountain View Meadows Subdivision; addressed sidewalk installation and boulevard trees. She agreed that sidewalks and boulevard trees should be installed; however, she recommended the installation be allowed after the lots have been developed. There is a natural construction sequence that has the potential to damage sidewalks and boulevard trees if installed prior to the construction of the structure.

Debora Swingley, Executive Director of the Montana Council on Developmental Disabilities, spoke to safety issues related to the lack of sidewalks throughout newly developed subdivisions. She asked the

Commission to require sidewalks be installed at the time of other infrastructure.

Mark Cramer, 2415 Teakwood Lane; thanked the Commission for the work they do. He encouraged the City to require better installation of ADA ramps at intersections and relayed an instance in which his wheelchair tipped over due to incorrect installation of a stormwater drainage grate.

Byron Stahly, Stahly Engineering; gave the history of the present Subdivision Regulations. He stated if the boulevard trees are installed before there is water service, they will die. He also explained how damage occurs to sidewalks due to construction vehicles and recommended requiring both sidewalks and trees be installed after the construction of the home.

Tyler Emmert, 1015 Mendocino; spoke in support of requiring sidewalk installation after the construction of the structure.

David Scrimm, 841 6th Avenue; spoke to the issue of when sidewalks should be installed. If damage is done during the construction period, the contractor should be liable for the damage.

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

Public Testimony

Mayor Smith declared the public portion of the hearing open on Chapter 4 of the Subdivision Regulations and called for any persons wishing to address the Commission.

Sarah Sadowski, Chair of the Non-Motorized Transportation Advisory Council (NMTAC); stated the members of NMTAC want to ensure the proposed right-of-way requirements include all aspects of the city's complete streets policy. She also spoke in support of recommendations provided by the HCC.

Kevin Keeler, Helena; spoke to kiosks in relation to the proposed Subdivision Regulations.

Tyler Emmert; thanked the Commission for their work on the Subdivision Regulations and asked them to look at the broad impacts some of the amendments may have, including lots adjacent to right-of-way, block length, the complete streets policy, and right-of-way width. He also encouraged the Commission to bring forward the update of the Engineering Standards at the same time as the Subdivision Regulations.

Byron Stahly; spoke to the proposed right-of-way widths for the specific types of streets and asked staff to consider the traffic volume associated with each type of street being discussed. He also addressed requirements related to wetland boundaries.

David Scrimm; spoke about right-of-way width and the components of the complete streets resolution.

Mark Runkle, Mountain View Meadows Subdivision; spoke on behalf of the Helena Building Industry Association (HBIA). He stated the HBIA would welcome a meeting with staff to discuss the impacts of the proposed changes to the Subdivision Regulations.

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

Public Testimony Mayor Smith declared the public portion of the hearing open on Chapter 5 of the Subdivision Regulations 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.

Public Testimony Mayor Smith declared the public portion of the hearing open on Chapter 6 of the Subdivision Regulations and called for any persons wishing to address the Commission.

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

Public Testimony Mayor Smith declared the public portion of the hearing open on Chapter 7 of the Subdivision Regulations and called for any persons wishing to address the Commission.

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

Discussion The Commission held discussion on requirements related to installing infrastructure and final plat approval, current and proposed ROW width, sidewalk installation at the time of construction and technology available to protect existing sidewalks.

Motion Commissioner Elsaesser moved to table the public hearing for final passage of Ordinance No. 3164 amending Chapter 1, Title, Purpose, Definitions in Title 12 - Subdivision Regulations of the Helena City Code to the call of the City Manager. Commissioner Thweatt seconded the motion.

Comment Commissioner Elsaesser recommended tabling the Subdivision Regulations to be jointly considered and discussed with updates to the Engineering Standards.

Substitute Motion Commissioner Thweatt moved to table all six public hearings to the call of the City Manager until a public hearing has been held on the Engineering Standards. Commissioner Haque-Hausrath seconded the motion. Motion died 1-4, with Commissioners Elsaesser, Ellison, Haque-Hausrath and Mayor Smith voting no.

Commissioner Haque-Hausrath recommended the motions to table be date-specific to allow the public to follow the process.

Commissioner Thweatt stated both documents intertwine and should be reviewed and considered together.

Commissioner Ellison spoke of the public testimony received tonight and recommended tabling final passage of the Subdivision Regulations to allow for further discussion.

City Manager Alles confirmed a work session would be scheduled for discussion and review of the proposed updates to the Engineering Standards.

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

Motion Commissioner Ellison moved to table the public hearing on final passage of Ordinance No. 3166 amending Chapter 2, Procedures in Title 12 – Subdivision Regulations of the Helena City Code to the call of the City Manager. Commissioner Thweatt seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Motion Commissioner Haque-Hausrath moved to table the public hearing for final passage of Ordinance No. 3167 amending Chapter 4, Design Standards, Improvements in Title 12 – Subdivision Regulations of the Helena City Code to the call of the City Manager. Commissioner Elsaesser seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Motion Commissioner Thweatt moved to table the public hearing for final passage of Ordinance No. 3168 amending Chapter 5, Minor Subdivisions in Title 12 – Subdivision Regulations of the Helena City Code to the call of the City Manager. Commissioner Ellison seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Motion Commissioner Haque-Hausrath moved to table the public hearing for final passage of Ordinance No. 3169 amending Chapter 6, Amendments, Fees, General Provisions in Title 12 – Subdivision Regulations of the Helena City Code, to the call of the City Manager. Commissioner Ellison seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Motion Commissioner Ellison moved to table the public hearing for final passage of Ordinance No. 3170 amending Chapter 7, Amended Plats in Title 12 – Subdivision Regulations of the Helena City Code, to the call of the City Manager. Commissioner Haque-Hausrath seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is February 20, 2013 and the next Commission Meeting is February 25, 2013.

Adjournment

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

Mayor James E. Smith

ATTEST:

Clerk of the Commission