

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

Time & Place A regular City Commission meeting was held on Monday, March 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 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 February 25, 2013 were approved as submitted.

Proclamation PROCLAMATION:
A. Earth Hour

Commissioner Thweatt, on behalf of Mayor Smith, delivered the proclamation designating March 23rd from 8:30 – 9:30 p.m. as Earth Hour. He explained the purpose of Earth Hour and urged all citizens of Helena to participate.

Commissioner Haque-Hausrath asked which actions the city has taken from the Climate Change Action Plan and requested a report of the actions be made available to provide to the public. Manager Alles explained the city keeps a Global Climate Change Action Plan matrix that lists what the city has done and chose not to do; he noted he would be happy to provide the matrix to the public. The Action Plan is also reviewed during budget discussions to ensure the city is purchasing energy efficient equipment and vehicles.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Authorize staff to void stale dated checks

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 thanked the Public Works Department for their work on the plastics drive held over the past weekend. He also thanked Commissioner Thweatt for bringing forward the Earth Hour proclamation and noted he would participate.

Commissioner Thweatt urged citizens to wear hiking cleats and stay on designated trails throughout the open lands system rather than step off the trail to avoid ice and snow as it encourages erosion of the soil.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

Attorney Hindoiien updated the Commission on a summary judgment motion hearing recently held by Judge Seeley regarding a lawsuit challenging the viability of the City's Urban Wildland Interface District. He stated the city hopes to receive a final judgment on the case in the coming weeks.

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

No report was given.

Regular Items

REGULAR ITEMS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 3 ADOPTING THE 2011 EDITION OF THE NATIONAL ELECTRICAL CODE (NEC) BY THE NATIONAL FIRE PROTECTION ASSOCIATION AND SET A PUBLIC HEARING DATE.

Staff Report

Building Inspector John Pallister reported the Building Division for the City of Helena is enforcing the 2008 edition of the NEC. Effective January 18, 2013, the State of Montana's Building Codes Bureau within the Department of Labor and Industry adopted new Administrative Rules implementing the use of the 2011 edition of the National Electrical Code (NEC) and mandating its adoption by all certified local jurisdictions within 90 days thereafter.

Mr. Pallister recommended approval of first passage of the proposed ordinance as it would set the course for the Building Division to comply with the state's directive to adopt the new edition of the NEC code. In addition to keeping the City's certified enforcement program in good standing, updating to the new edition of the code provides builders and the public with the opportunity to make use of newest technologies, processes and materials that are authorized in the code. The NEC keeps pace with emerging technologies incorporating a broad spectrum of energy conserving equipment, controls and wiring methods. Mr. Pallister requested the Commission set a public hearing date of April 22, 2013.

Discussion

Commissioner Haque-Hausrath asked why the definition of "public place" had been deleted. Mr. Pallister explained it was not contained in the Administrative Rules of the State of Montana as a definition, thus it was removed.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Thweatt moved approval for first passage of an ordinance amending Chapter 3 of Title 3 adopting the 2011 edition of the National Electrical Code (NEC), and set a public

hearing date of April 22, 2013. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3173**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION TO ESTABLISH A CABLE TELEVISION SERVICE FEE.

Staff Report

Administrative Services Director Tim Magee 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.

Discussion

Commissioner Elsaesser asked how much money would be generated by the fee. Director Magee stated approximately \$28,000 per year.

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 Hague-Hausrath moved approval of a resolution to establish a Cable Television Service Fee.

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19988**

- B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE OFFICIAL HELENA ZONING MAP FOR A ZONE CHANGE FROM R-3 (RESIDENTIAL) TO B-2 (GENERAL COMMERCIAL) DISTRICT FOR 1111, 1107 AND 1101 11TH AVENUE.

Staff Report

City Planner Kathy Macefield reported on Tuesday, February 12, 2013 the Helena Zoning Commission unanimously (4:0 vote) recommended APPROVAL for passage of an Ordinance amending the Official Zoning Map described in Section 11-1-3 of the Helena Zoning Regulations, for a zone change from R-3 (Residential) to a B-2 (General Commercial) District. Legally described as the west 50 feet of Lot 71B as shown on 532553/B (1111 11th Avenue), all of Lot 72A as shown on 531522/B (1107 11th Avenue), and the west 28 feet of Lot 73 and all of Lot 74 as shown on COS #471401/T (1101 11th Avenue), Block 9, Beattie Addition, Helena, Montana; generally located mid-block between Montana Avenue and Dakota Street at 1111, 1107 and 1101 11th Avenue respectively. The initial zone change application was for 1111 and 1107 11th Avenue. Staff initiated the zone change for 1101 11th Avenue so that all of the property located south of 11th Avenue and north of the alley between Montana Avenue and Dakota Street could be legally advertised and considered at the same time.

Ms. Macefield recommended approval of the zone change as the proposed westward expansion of the B-2 for the half block located north of the alley recognizes the mix of residential and commercial uses in the

vicinity; is consistent with the B-2 zoning located on the north side of 11th Avenue; would facilitate the concentration of additional commercial development on this half block; could support the creation and expansion of small businesses in the area; and would accommodate mixed use development such as residential and non-residential uses. Infill mixed-use development encourages walkability and may reduce the amount of vehicle miles travelled (vmt).

Discussion

Commissioner Elsaesser asked if there would be setback requirements related to the R-2 and R-3 zoning across the street from the proposal. Ms. Macefield stated yes, there would be additional setback requirements for rear yards along with some screening requirements.

Commissioner Ellison asked if there would be adverse impacts to the sidewalks and boulevard in the area if the zone change were approved. Ms. Macefield explained those items are conditioned by the building permit so they would not be related to the zone change.

Commissioner Thweatt referred to the growth policy and noted the proposal is in an area proposed for mixed-use development and asked for the boundary. Ms. Macefield explained the property is located in a fairly large designated area on the future land use map, taking in portions of Montana and 11th Avenues then heading eastward and northward from the subject property. Commissioner Thweatt asked if Dakota Street is the western boundary. Ms. Macefield commented the boundaries are considered general and not absolute. Commissioner Thweatt asked how a proposal would be reviewed, with respect to mixed use, if someone applied for a zone change from residential to commercial west of Dakota Street. Ms. Macefield explained all zone change review criterion have to be considered when deciding the appropriateness of a proposal. She noted she could not provide a definitive answer without performing a full evaluation of a proposal. Commissioner Thweatt expressed concern for commercial zoning moving into the residential neighborhoods west of 11th Avenue. Ms. Macefield reiterated that all zone change criteria must be taken into consideration when reviewing a proposal for appropriateness. Commissioner Thweatt asked if the existing Walgreens and Montana Eyecare facility across and adjacent to the property are key factors in recommending that this half block be amended to commercial zoning. Ms. Macefield commented they are important factors but not the only criteria considered during review of the proposal.

Commissioner Elsaesser asked if the zone change would require a left-hand turn lane be installed on Montana Avenue. Ms. Macefield explained the Montana Department of Transportation is responsible for Montana Avenue and the applicant will be required to work with them on any traffic revisions.

Public Testimony

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

Ben Tintinger, Mosaic Architecture, representing the applicant; gave an overview of the project related to the zone change.

Jeff Teeberry, Montana Association of Conservation Districts, 1101 11th Avenue; spoke in support of the zone change.

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

Comment

Commissioner Elsaesser noted he would look forward to public comment on this proposal during the hearing for final passage of the ordinance and would vote in support of first passage.

Commissioner Haque-Hausrath spoke in support of the proposal and noted it is clearly a very appropriate zone change for the existing character of the area.

Commissioner Ellison noted he would support the proposal and thanked Ms. Macefield for her staff report.

Commissioner Thweatt noted the proposal makes sense but he hates to see the existing houses torn down. He commented this proposal represents progress.

Motion

Commissioner Elsaesser moved approval of first passage of an ordinance amending the Official Zoning Map of the Helena Zoning Regulations, for a zone change from R-3 (Residential) to a B-2 (General Commercial) District for property legally described in the ordinance. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Ord #3174**

Public Communications

PUBLIC COMMUNICATIONS

Mr. Teeberry noted one of the houses involved in the proposal may be moved instead of torn down.

Dr. Hasquet assured the Commission he is trying to find a way to move the existing homes instead of demolishing them.

Meetings of Interest

MEETINGS OF INTEREST

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

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 6:46 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission