

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 10, 2013
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 10, 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 Janet Hess-Herbert 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 May 20, 2013 were approved as submitted.

Presentation

PRESENTATION:

A. Recognition of Officers Matt Post, Nathan Casey and Mark Ekola

Police Chief McGee reported on May 16, 2013, at the Montana Association of Chief's of Police Convention Banquet in Billings three Helena Police Officers received awards. Officer Matt Post received the Life Saving Award in recognition of his efforts to save a driver that was pinned by her vehicle in January 2012. Officers Nathan Casey and Mark Ekola received the Medal of Honor for their struggle with an armed suspect in March 2012.

Ray Brown, Helena; commended the Police Department for their work in the community.

The Commission congratulated Officers Post, Casey and Ekola for the awards they received.

Board Appointments

BOARD APPOINTMENTS:

A. Helena Open Lands Management Committee (HOLMAC), Lewis & Clark County Heritage Preservation & Tourism Council and Public Art Committee

Mayor Smith recommended the following appointments:

Helena Open Lands Management Advisory Committee (HOLMAC) - Appointment of James R. Phillips to a first term on HOLMAC. Term will begin upon appointment and expire on June 30, 2016. Reappointment of Clint Morrison to a first full term on HOLMAC. Term will begin upon appointment and expire June 30, 2016.

Lewis & Clark County (LCC) Heritage Preservation & Tourism Council (HPTC) - Reappointment of Donna Torgerson to a first full term on the Lewis & Clark County Heritage Preservation & Tourism Council. Term will begin upon appointment and expire June 30, 2016.

Public Art Committee (PAC) - Appointment of John Moore as an Art Organization representative on the Public Art Committee. The unexpired term will begin upon appointment and expire December 31, 2013.

Motion Commissioner Haque-Hausrath moved approval of the appointments to HOLMAC, HPTC and PAC as listed above. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Acceptance of pledged collateral for City deposits at financial institutions
C. Amend agreement with the Helena Parking Commission /Business Improvement District

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 through C on the consent agenda. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Ellison spoke of the passing of Senator Frank Lautenberg of New Jersey and his accomplishments toward providing clean indoor air for United States citizens.
Commissioner Elsaesser spoke of attending recent events related to wildfire awareness. He also referred to the May Commuter Challenge and thanked all citizens who participated.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
City Attorney Hindoi reported District Court Judge Seeley had ruled against the validity of the city's Wildland Urban Interface Ordinance and stated the city would appeal the ruling.

Report of the City Manager REPORT OF THE CITY MANAGER
City Manager Alles announced Public Works Director John Rundquist is retiring effective June 11, 2013. He thanked Director Rundquist for his service to the City of Helena and wished him well in his retirement.

Director Rundquist spoke of his career with the City of Helena and commended the quality of work performed by the employees of the city.

The Commission thanked Director Rundquist for his work and dedication to the City of Helena and wished him the best.

Report from the Helena Citizens REPORT FROM THE HELENA CITIZENS COUNCIL
Helena Citizens Council (HCC) member Janet Hess-Herbert announced the HCC would be providing comments on the Helena Area Transit Service (HATS) plan and Fiscal Year 2014 budget. She noted HCC Coordinator Kelli McClane has been busy working on marketing

vacant council positions and the upcoming election of council members in November.

Ms. Hess-Herbert also commented on the disposal of surplus city property and community gardens.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A SIDEWALK VARIANCE FOR 1824 MISSOULA AVENUE

Staff Report

City Engineer Leland reported the property at 1824 Missoula Avenue is currently being developed by the owner to build a multi-family building. Missoula Avenue is a paved road with curb and gutter but no sidewalk on the north side of the street. However, there are boulevard sidewalks adjacent to the church that is located across the street.

The owners of the property, William and Sandra Kokoruda, are requesting a sidewalk variance from the requirement of installing a sidewalk. Variances are not usually granted for locations where curb and gutter are already in place unless there are physical constraints that would make installation very difficult.

Engineer Leland recommended the proposed variance be denied.

Discussion

Commissioner Ellison referred to the disadvantages listed in the staff report and asked where pedestrians are currently walking in the subject area. Mr. Leland stated people walking in the area are currently walking in the street and noted by denying the proposed variance the city will be moving forward toward compliance with the Complete Streets Policy, although the sidewalks will be installed piecemeal. Commissioner Ellison commented regarding "who" is forcing pedestrians to use the street and noted he does not understand the terminology used in the staff report.

Mayor Smith asked if the variance request would be permanent. Mr. Leland explained there would be no triggering event to require sidewalks at a later date; however, the Commission could order sidewalks be installed at any time.

Public comment

Mayor Smith called for public comment; none was received.

Comment

Commissioner Thweatt indicated he would vote to deny the variance and commented on the need for the city to develop a program to deal with these proposals. He noted he empathizes with the property owner as the sidewalk will get limited use and they have to bear the expense of the installation.

Commissioner Ellison stated although the sidewalk may get limited use for the next year or two, denial of the variance is the right thing to do as sidewalks need to be installed in the area.

Commissioner Elsaesser commented the city needs a better program to deal with these situations. He noted he would not be comfortable supporting the variance in this area.

Mayor Smith stated he too would vote to deny the variance and spoke of discussion of sidewalk installation during future review of the subdivision regulations.

Motion

Commissioner Elsaesser moved denial of a sidewalk variance for 1824 Missoula Avenue. Commissioner Haque-Hausrath seconded the motion; all voted aye, motion carried.

- B. CONSIDER AN ENLARGEMENT OF WATER AND SEWER SERVICE AREA ON SOUTH DAVIS STREET TO INCLUDE THE DEFORD FAMILY TRACT.

Staff Report

Engineer Leland reported the property described as Parcel A as shown on Certificate of Survey #551341/T is requesting a water and wastewater boundary extension. The property is located in the Southwest quarter of Section 31, Township 10 north, Range 3 west; Lewis & Clark County.

The owner of the property, Lois Deford, is requesting enlargement of the water and wastewater service area. She is planning a family transfer to create five buildable lots for single-family residences. City staff has reviewed the application and proposed the conditions to extend the water and sewer mains across the entire frontage of the property, and that the applicant sign a Waiver of Right to Protest an SID for the construction of the street to City Standards.

The applicant is requesting a variance from the city requirement to extend the water and sewer mains across the entire frontage of the property. Justification for the variance is because the southern portion of the property is not developable because of the terrain.

Mr. Leland noted staff had no recommendation on the proposal.

Discussion

Commissioner Thweatt asked why staff is requiring the extension of the water and sewer main all the way to the edge of the property if it is undevelopable. Mr. Leland noted it is city ordinance that the main be extended across the front of the property and spoke of water line issues in the area.

Commissioner Elsaesser asked if there would be concerns with fire-flow for the property. Mr. Leland explained installation of a hydrant would be required. He also discussed the possible configuration of the subdivision.

Commissioner Haque-Hausrath asked for confirmation of what lots would be buildable. Mr. Leland stated Lots 1-5 would be buildable but not Lot 6.

Commissioner Ellison asked if the trail that runs along Davis Street will remain intact when the lots are developed. Mr. Leland explained the utilities would be extended under the road. The driveways would have to cross the path but it is required the path remain intact and continuous. He confirmed there would be no loss of trail if the proposed variance were granted.

Public comment

Mayor Smith called for public comment.

Greg Wirth, Northland Engineering & Surveying, representing the applicant; urged the Commission to approve the enlargement of water and sewer services and the variance.

Byron DeFord, 188 Sandpiper Loop, applicant; explained the history of the property and asked the Commission to support the proposal.

- Motion** Commissioner Ellison moved approval of the enlargement of water and sewer service area for the Deford family tract, Parcel A as shown on COS #551341/T and a variance from the requirement to extend the water and sewer mains across the frontage of the property, and to sign a Waiver of Right to Protest an SID for the construction of the street. Commissioner Elsaesser seconded the motion.
- Comment** Commissioner Elsaesser asked if the subject property is in the city limits. Mr. Leland stated yes and explained the SID process for developing the street. Commissioner Elsaesser asked if the city would still have rights to connect to the main if the variance were approved. Mr. Leland stated yes; it would still be the city's main.
Mayor Smith asked for the cost of extending the main to the undevelopable lot. Mr. Leland stated approximately \$160,000.
Commissioner Haque-Hausrath indicated she would support the motion and explained this is a unique situation.
Commissioner Ellison stated he would support the motion and discussed visiting the property and his rationale for approval.
Mayor Smith commented he would support the enlargement and variance.
- Vote** All voted aye, motion carried.
- C. CONSIDER A RESOLUTION OF INTENTION TO VACATE AN ALLEY LOCATED WITHIN THE LOCKEY ADDITION IN BLOCK 26, LOTS 1-2 AND 5-17.
- Staff Report** Engineer Leland reported Fiehrer Properties, Inc., the primary applicant, and Columbia West (Columbia Paints) own property adjacent to the alley in question and wish to develop their properties to better utilize the space they presently have. Century Link has buried utilities in the alley and has withdrawn their objection to the proposed vacation, contingent on the applicants providing an easement for its utilities.
The applicant is requesting the vacation of this alley to allow one large lot to be developed that will incorporate the alley right-of-way. The square footage of the alley to be vacated is 3366 square feet. The total calculated value to vacate for Fiehrer Properties is 3077 square feet at \$6.75/SF for a total of \$20,769.75. The total calculated value for the Columbia West, LLC (Columbia Paints) portion is 289 square feet at \$6.75 for a total of \$1950.75, for a total transfer fee of \$22,720.50.
- Discussion** Commissioner Haque-Hausrath asked if the city has any current use for the alley. Mr. Leland stated no.
Mayor Smith asked for the Montana Department of Transportation's (MDT) interest in the vacation. Mr. Leland stated MDT would encourage the vacation due to access issues onto Montana Avenue.
Commissioner Ellison noted the property is currently being used as a parking lot although the picture in the Commission packet shows its old use as a car lot.
- Public Comment** Mayor Smith called for public comment; none was received.

Motion

Commissioner Thweatt moved approval of a resolution of intention to vacate an alley located within the Lockey Addition in Block 26, Lots 1-2 and 5-17 and set a public hearing date for June 24, 2013. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Res #20001**

D. CONSIDER THE 2013 UPDATE TO THE CITY OF HELENA ENGINEERING STANDARDS

Staff Report

City Engineer Leland reported the City of Helena adopted the First Engineering Standards on June 19, 2006. As a result of updating the Subdivision Regulations, the Engineering Department needed to update its Engineering Standards. The update to the standards evolved from city staff, public and commission comments and new policies and regulations. The draft has gone through several rounds of comments and review by the Commission and the public.

Mr. Leland presented the final "red-lined" draft of the 2013 update to the City of Helena Engineering Standards. He noted all of the public and Commission comments that have received consensus have been included in the "red-lined" version.

Mr. Leland recommended approval of the proposed update to the Engineering Standards as it incorporates several new policies and regulations such as complete streets and the city's new MS4 permit into design standards for development in the City of Helena.

Comment

Commissioner Haque-Hausrath commended Mr. Leland for his work on the update.

Public Comment

Mayor Smith called for public comment.
Paul Cartwright, 512 Madison; provided comments related to Section 5 of the proposed standards.

Motion

Commissioner Ellison moved approval of the 2013 Update to the City of Helena Engineering Standards, as amended. Commissioner Elsaesser seconded the motion.

The Commission discussed the amendments contained in the document entitled "Consensus Amendments for Engineering Standards".

Commissioner Elsaesser expressed concern for Thweatt Amendment #6. Commissioner Haque-Hausrath asked if it's possible to have sharrows without the extra 2-feet of right-of-way (ROW) width. Mr. Leland stated yes. Commissioner Ellison stated he sits on the Non-Motorized Travel Advisory Council (NMTAC) and they discussed this amendment thoroughly and could not come to a unanimous recommendation; however, he is comfortable with the amendment.

Commissioner Elsaesser expressed concern for Thweatt Amendment #7. Commissioner Ellison stated he understands the rationale for the amendment, although he has some discomfort with the amendment as there will be situations where there will need to be exceptions. Commissioner Thweatt noted he would withdraw Thweatt Amendment #7 from consideration.

Note: The amendments listed below and their rationales are included in the Commission packet as part of the official record.

Amendment Commissioner Haque-Hausrath moved approval of Thweatt Amendment #3 as listed in the “Consensus Amendments for Engineering Standards” document. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Amendment Commissioner Haque-Hausrath moved approval of Thweatt Amendment #5 and Haque-Hausrath Amendment #1 as listed in the “Consensus Amendments for Engineering Standards” document. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Amendment Commissioner Haque-Hausrath moved approval of Thweatt Amendment #6 as listed in the “Consensus Amendments for Engineering Standards” document. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Note: The amendments listed below and their rationales are included in the Commission packet as part of the official record.

Amendment Commissioner Thweatt moved approval of amendment T-1 as listed on the “Thweatt Amendments” document. Commissioner Elsaesser seconded the motion.

Comment Commissioner Elsaesser commended Commissioner Thweatt for his work on the amendment. Commissioners Ellison and Haque-Hausrath spoke in support of the amendment.

Vote All voted aye, motion carried.

Discussion Commissioner Thweatt presented amendment T-2. Commissioner Elsaesser expressed concern with the proposed language and offered the friendly amendment as listed below. Mr. Leland addressed Commissioner Elsaesser’s comments and discussed traffic calming on collector streets. Discussion was held on the proposed amendment.

Amendment Commissioner Elsaesser moved approval of amendment T-2 of the “Thweatt Amendments” document written as follows: “Appropriate traffic calming measures must be used to discourage excess speeds on all local and collector streets”. Commissioner Ellison seconded the motion.

Public comment Mayor Smith called for public comment. Paul Cartwright, 512 Madison; spoke in support of the amendment.

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

Amendment Commissioner Thweatt moved approval of amendment T-4a as listed on the “Thweatt Amendments” document. Commissioner Ellison seconded the motion.

- Discussion
Commissioner Elsaesser expressed concern with amendment T-4a, due to the importance of keeping driving lanes wide enough for emergency vehicle access. Commissioner Ellison concurred with Commissioner Elsaesser's concerns.
Commissioner Thweatt stated he thought the extra 2-feet gained from reducing the width of the street would come out of the required right-of-way. Commissioner Ellison asked for an explanation of what happens to the extra property when the driving lane is narrowed. Mr. Leland explained if there is existing ROW in an existing platted street that is currently undeveloped and the road width is narrowed, it would go to the buffer zone. If it is a new subdivision without established ROW widths, then it would be given to the adjacent property owner instead of the buffer strip.
- Friendly Amendment** ***Commissioner Elsaesser offered a friendly amendment to amendment T-4a to strike "9-feet" and add "10-feet; if on street parking is present on that side of the street"***. The amendment was rejected.
- Amendment** **Commissioner Elsaesser moved to amend amendment T-4a as follows: strike "9-feet" and add "10-feet; if on street parking is present on that side of the street"**. Commissioner Ellison seconded the motion.
- Discussion
Discussion was held on Commissioner Elsaesser's amendment and the amount of space given for emergency vehicles.
- Vote**
Motion failed 2-3, with Mayor Smith and Commissioners Haque-Hausrath and Thweatt voting no.
- Public comment
Mayor Smith called for public comment.
Paul Cartwright, 512 Madison; spoke in support of Commissioner Thweatt's version of amendment T-4a.
- Vote on original amendment T-4a**
Motion carried 3-2, with Commissioners Elsaesser and Ellison voting no.
- Amendment** **Commissioner Thweatt moved approval of amendment T-4b as listed on the "Thweatt Amendments" document.** Commissioner Ellison seconded the motion.
- Comment
Commissioner Ellison noted he would support the above amendment as his concerns with the previous amendment were only related to local streets.
- Public comment
Mayor Smith called for public comment.
Paul Cartwright, 512 Madison; spoke in support of amendment T-4b.
- Vote**
All voted aye, motion carried.

Amendment Commissioner Thweatt moved approval of amendment T-4c as listed on the "Thweatt Amendments" document. Commissioner Ellison seconded the motion. Motion carried 4-1, with Mayor Smith voting no.

Amendment Commissioner Thweatt moved approval of amendment T-4d as listed on the "Thweatt Amendments" document. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Amendment Commissioner Elsaesser moved approval of Elsaesser amendment #2 as listed on the "Elsaesser Engineering Standards-Addition to Complete Street Checklist" document. Commissioner Ellison seconded the motion.

Discussion Discussion was held on the above amendment. Mr. Leland noted he does not see any conflict between city departments/divisions if the amendment were approved.

Vote All voted aye, motion carried.

Amendment Commissioner Elsaesser moved to recognize city staff will have to make grammatical and other non-substantive changes to the standards. Commissioner Haque-Hausrath seconded the motion.

Discussion Commissioner Elsaesser referred to page 30 and asked if it would be necessary to add the wording "other soil amendments" after the word "manure". Attorney Hindoien explained the wording would not be necessary.

Motion Commissioner Ellison moved approval of the 2013 Update to the City of Helena Engineering Standards, as amended. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

E. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 5 OF THE HELENA CITY CODE TO CLARIFY THE ANIMAL CONTROL REGULATIONS

Staff Report City Attorney Hindoien reported the City is in the process of creating a dog park in Centennial Park to be known as "Paws Park at Centennial Park," which will be a discretely identified and fenced area, with the intention that dogs in that area of the park do not have to be kept on leashes. Under the current Helena City Code, all dogs are required to be kept on leashes unless they are on private property, are being physically held, or are in a natural park designated by the City Commission such as Mount Helena or Mount Ascension.

The city recently received a favorable ruling from the Montana Supreme Court in a case where a citizen asserted the City Code does not require use of a leash outside a natural park. That ruling was based in part on the completeness of the factual record which could conceivably leave the door open to future litigation on the same issue.

Staff is proposing to create a second exemption from the leash requirement to include a dog park as formally designated by the Commission, and eliminate the definitional language in the City Code to avoid any further or future litigation concerning the operation of the

substantive regulation in the leash law contained in Section 5-2-14 of the Helena City Code. Proposed changes are:

- Delete the terms and definitions of "at large" and "restraint," leaving only the substantive leash requirement in Section 5-2-14.
- Refine the substantive leash requirement in Section 5-2-14.
- Add an exemption from the leash requirement in Section 5-2-14 for dogs in any dog park designated by the Commission.
- Delete redundant language from Sections 5-2-15 and 5-2-17, leaving Section 5-2-14 as the substantive regulatory section for the leash requirement.

Attorney Hindoiien recommended approval of the proposed amendments as they would authorize dogs to be off-leash when inside the confines of a Commission-designated dog park, and eliminate certain language in the Code to avoid further litigation regarding the operation of the leash law.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Haque-Hausrath moved approval for first passage of an ordinance amending Chapter 2 of Title 5 of the Helena City Code to clarify the Animal Control Regulations and set a public hearing date of June 24, 2013. Commissioner Thweatt seconded the motion. All voted aye; motion carried. **Ord #3178**

Public Hearings

A. CONSIDER FINAL PASSAGE OF ORDINANCE 3176, AMENDING SECTION 1-4-10 OF THE HELENA CITY CODE TO SHOW NEW BOUNDARIES OF THE HELENA CITIZENS COUNCIL DISTRICTS.

Staff Report

City Attorney Jeff Hindoiien reported on May 15, 2013, the City Commission approved first passage of Ordinance No. 3176, amending Section 1-4-10 of the Helena City Code to correctly show new boundaries of the Helena Citizen Council Districts.

Attorney Hindoiien recommended approval for final passage of Ordinance No. 3176 amending Section 1-4-10 of the Helena City Code to show and set the new boundaries of the Helena Citizen Council Districts.

Public Testimony

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

Elizabeth Andrews, HCC member; noted the council supports the proposed ordinance.

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

Motion

Commissioner Haque-Hausrath moved approval for final passage of Ordinance No. 3176, amending section 1-4-10 of the Helena City Code to show new boundaries of the Helena Citizens

Council Districts. Commissioner Ellison seconded the motion. All voted aye; motion carried. **Ord #3176**

B. CONSIDER A RESOLUTION TO BUDGET ADDITIONAL PROPERTY TAX REVENUE FOR FISCAL YEAR 2014.

Staff Report

Administrative Services Director Tim Magee reported state statute allows the city to budget additional property tax revenues over the prior year level as specified in 15-10-420, MCA. In accordance with 15-10-203, MCA the city is required to hold tonight's public hearing before budgeting any increase in total property tax revenues. The city intends to budget tax revenue increases as allowed by state law.

Director Magee recommended approval of the resolution as the proposed tax revenue increases are necessary to preserve the present level of services to the community.

Public Testimony

Mayor Smith 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 Elsaesser moved approval of a resolution to budget additional property tax revenue of 1.12% for fiscal year 2014.

Commissioner Ellison seconded the motion. All voted aye; motion carried. **Res #20002**

C. CONSIDER A RESOLUTION TO ESTABLISH VARIOUS MUNICIPAL FEES AND CHARGES PREVIOUSLY SET BY ORDINANCE.

D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3177, ADOPTING A UNIFORM PROCEDURE FOR ESTABLISHING MUNICIPAL FEES AND CHARGES.

Staff Report

City Attorney Hindoi reported currently city ordinances provide for the setting or amending fees and charges by either: 1) ordinance, or 2) resolution. Both ordinances and resolutions for fees and charges require public notices and hearings. Ordinances make fee and charge setting a more cumbersome and lengthy process, without any public advantage. The lack of a uniform procedure for setting fees and charges results in procedural confusion.

Staff is proposing to create a uniform procedure for all fees and charges by taking two coordinated Commission actions, both of which will take effect July 15, 2013. The recommended actions are as follows:

Action 1-A: Single Uniform Procedure for Establishing Municipal Fees and Charges Ordinance is proposed, which would take all fees and charges out of existing ordinances, and provide for all fees and charges to be set by resolution.

Action 2-A: Resolution Establishing Various Municipal Fees and Charges is proposed, which would reset existing fees and charges that were in ordinance at their existing fee and charge amounts effective at the time the procedure ordinance takes effect.

Attorney Hindoiien recommended approval of both the proposed ordinance (Action 1-A) and resolution (Action 2-A) as they will create a uniform procedure for setting city fees and charges in order to reduce procedural confusion and reset existing fees by resolution.

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 Ellison moved approval of a resolution to establish various municipal fees and charges previously set by ordinance. Commissioner Haque-Hausrath seconded the motion. All voted aye; motion carried. **Res #20003**

Motion

Commissioner Ellison moved approval of final passage of Ordinance No. 3177 adopting a uniform procedure for establishing municipal fees and charges. Commissioner Thweatt seconded the motion. All voted aye; motion carried. **Ord #3177**

- E. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR A ZONE CHANGE FROM B-2 (GENERAL COMMERCIAL) TO CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT FOR PROPERTY GENERALLY LOCATED NORTH OF HIGHWAY 12 EAST AND EAST OF I-15.
- F. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR PRE-ZONING TO CLM (COMMERCIAL-LIGHT MANUFACTURING) DISTRICT PRIOR TO ANNEXATION FOR PROPERTY GENERALLY LOCATED NORTH OF HIGHWAY 12 EAST AND EAST OF I-15.

Staff Report

City Planner Kathy Macefield reported on Tuesday, May 14, 2013 the Helena Zoning Commission unanimously recommended approval (4:0 vote) for passage of an ordinance for a zone change from B-2 (General Commercial) to CLM (Commercial-Light Manufacturing) District for Block 21, Boyce Addition, and 1/2 closed Market Street and Butte Avenue (Resolution No. 1979-4), Helena, Montana; generally located north of Highway 12 East and east of I-15.

On Tuesday, May 14, 2013 the Helena Zoning Commission also unanimously recommended approval (4:0 vote) for passage of an ordinance for rezoning to a CLM (Commercial-Light Manufacturing) District; legally described as the east portion of Block 20, Boyce Addition, and 1/2 closed and vacated Market Street and the adjacent portion of closed and vacated Butte Avenue (Resolution No. 1979-4), Helena, Montana; generally located north of Highway 12 East and east of I-15.

This proposal is accompanied by simultaneous requests for annexation of the same property, and a zone change from B-2 (General Commercial) to a CLM District for the adjacent block located to the east. It is anticipated that the two properties will be developed together. The rezoning would become effective as an adopted zoning district when the property is annexed.

With a zone change, any use permitted by the zoning district can occur on the property in conformance with the Zoning Ordinance.

Therefore, a proposal for a zone change is not reviewed for a specific use but for all the uses permitted in the zoning district.

With rezoning, any use permitted by the zoning district can occur on the property in conformance with the Zoning Ordinance. Therefore, a proposal for rezoning is not reviewed for a specific use but for all the uses permitted in the zoning district.

Block 21 was annexed into the city in 2001 with CLM zoning (Resolution No. 11716) with other properties that were wholly surrounded by the city limits. The zoning was changed to the current B-2 zoning in 2007 (Ordinance No. 3094). The B-2 zoning was consistent with the Residential/Commercial land use designation of the Growth Policy in effect at that time. The adjacent portion of Blaine Street was annexed in 2011 (Resolution No. 19826). Infrastructure (water, wastewater, streets) will be required to be installed as part of the building permit process in addition to the accompanying annexation request.

The east portion of Block 20 and the adjacent closed and vacated portions of ROW were included in a Resolution of Intention to Annex (Resolution No. 19474) in 2007 without a rezoning designation. The conditions at that time required the rezoning designation to be approved by the City; addressed installation of infrastructure; review of building construction; payment of taxes and assessments; and one year to complete the conditions. These conditions were not completed so the resolution has expired.

Ms. Macefield recommended approval of the proposal as the proposed rezoning (along with the adjacent zone change that is also simultaneously proposed) would expand the CLM zoning designation in the area which could facilitate the potential concentration of additional commercial, light industrial, storage and warehousing uses in the vicinity, thereby helping support the existing uses in the area. The property is located adjacent to the city limits, can be served by the extension of city infrastructure, and is in an area close to major transportation routes (I-15 and Highway 12 East) and the railroad tracks – all factors that represent an efficient use of energy and resources.

Discussion

Commissioner Elsaesser asked if the two parties that submitted letters opposing the proposal would be notified of any additional proposals to vacate the ROW. Ms. Macefield stated yes and noted copies of the letters have been given to the Engineering Department.

Public Testimony

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

Mark Rispens, D & D RV Center; stated they have no objection to the zone change, but may oppose future applications for street closures or vacations.

Jeff Larson, representing the applicant; urged the Commission to support the proposals.

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

Comment

Mayor Smith and Commissioners Elsaesser and Ellison noted they would support the zone change and pre-zoning proposals.

Motion

Commissioner Ellison moved approval for first passage of an ordinance for a zone change from B-2 (General Commercial) to CLM (Commercial Light Manufacturing) District for property legally described in the proposed ordinance. Commissioner Elsaesser seconded the motion. All voted aye; motion carried. **Ord #3179**

Motion

Commissioner Ellison moved approval of first passage of an ordinance rezoning to a CLM (Commercial Light Manufacturing) District for property legally described in the ordinance. Commissioner Elsaesser seconded the motion. All voted aye; motion carried. **Ord #3180**

- G. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR A ZONE CHANGE FROM R-O DISTRICT TO B-2 DISTRICT FOR LOTS 5 THROUGH 18 IN BLOCK 26 OF THE LOCKEY ADDITION; AND LOTS 1 THROUGH 12 IN BLOCK 24 OF THE LOCKEY ADDITION, HELENA, MONTANA.

Staff Report

City Planner Elroy Golemon reported on Tuesday, May 14, 2013 the Helena Zoning Commission held a public on the proposed zone change and recommended approval (3:0 vote), with Zoning Commissioner Susan Wolcott abstaining, for the adoption of an ordinance for a zone change from an R-O (Residential-Office) District to a B-2 (General Commercial) District; for property legally described as Lots 5 through 18 in Block 26 of the Lockey Addition; and Lots 1 through 12 in Block 24 of the Lockey Addition, Helena, Montana. The zone change request comes from several property owners. Currently the proposed zone change area is zoned as an R-O District and contains several office uses, vacant lots and a nonconforming retail sales store. In addition, the R-3 District located to the west contains a mix of residential and office uses. The office uses located in the R-3 District were established by Conditional Use Permits. As proposed the existing uses located in the zone change area would all be permitted uses in the adjacent B-2 District located north, east and south of the proposed zone change area and compatible with the adjacent R-3 District.

On May 07, 2013, a written petition opposing the proposed zone change was submitted. The petition is signed by two (2) residential tenants living in the general area, one (1) commercial tenant and four (4) property owners, of which only one (1) lives within 150 feet of the proposed zone change.

There are 80 lots within 150 feet of the proposed zone change. If 20 (25%) of those lot owners submit written protest to the proposed zone change, a vote of 2/3 of the City Commission would be required to approve the proposed change. Currently 1 property owner who owns 2 lots (2%) within 150 feet of the proposed zone change has signed the protest petition.

Mr. Golemon recommended approval of the zone change as the proposed B-2 District would allow a greater variety of compatible mixed uses than currently permitted with the existing R-O zoning district. In addition, the proposed B-2 District zoning would be more consistent with the commercial land use designation and mixed use concept of the Growth Policy. The proposed B-2 District could help create a

coordinated development pattern that is unified, functional and efficient. The 2011 Growth Policy describes how the community can benefit from both infill and redevelopment by providing opportunities for mixed-use development to reduce the need for automobiles, encourage walking, and save energy by better utilizing existing resources; conserving land, energy, and infrastructure. The rezoning of the area would better accommodate the mixed use designation for this area.

Discussion

Commissioner Elsaesser asked if screening would be required. Mr. Golemon explained if there is new construction, screening would be required to separate the commercial use from the residential district.

Public Testimony

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

Ed Biehl, Capital Sports & Western; spoke in support of the zone change.

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

Motion

Commissioner Elsaesser moved approval of first passage of an ordinance amending City of Helena Ordinance No. 2359 and amending the official zoning map, for a zone change from R-O (Residential-Office) District to a B-2 (General Commercial) District for property legally described in the proposed ordinance.

Commissioner Ellison seconded the motion. All voted aye; motion carried. **Ord #3181**

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is June 19, 2013 and the next regular City Commission meeting is June 24, 2013.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:15 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission