

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 13, 2014
6:00 P.M.**

Time & Place A regular City Commission meeting was held on Monday, January 13, 2014 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, Haque-Hausrath and Haladay were present. City Manager Ron Alles, City Attorney Jeff Hindoién and Deputy City Clerk Robyn Brown were present. No one was present to represent 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 16, 2013 were approved as submitted.

Presentations PRESENTATIONS:

A. Oath of Office – Helena Citizens Council

All members of the Helena Citizens Council that were present were given the oath of office and sworn-in by Mayor Smith.

B. Confirmation of Firefighter David Gambill

Fire Chief Sean Logan gave probationary Firefighter David Gambill's work and personal history and introduced him to the Commission. Chief Logan recommended his confirmation as a Firefighter with the Helena Fire Department (HFD).

Motion Commissioner Ellison moved approval of the confirmation of David Gambill as a Firefighter with the City of Helena Fire Department. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Mayor Smith administered the *City of Helena Fire Department-Firefighter's Oath* to Firefighter Gambill.

Firefighter Gambill thanked the members of the HFD for the mentoring he received during his first year. He also recognized and thanked his family for their support.

Mayor Smith, on behalf of the entire Commission, congratulated and welcomed Firefighter Gambill to the HFD.

Board Appointments BOARD APPOINTMENTS:

A. ADA Compliance Committee, City-County Planning Board, Public Art Committee & Zoning Commission

Mayor Smith recommended the following appointments:

ADA Compliance Committee – Appointment of Marty Crennen, representing the disabled community; term will begin upon appointment and expire September 1, 2016.

City/County Planning Board – Appointment of Dick Thweatt as a city representative; term will begin upon appointment and expire September 1, 2016.

Public Art Committee – Reappointment of Carol Swanson and Carol Montgomery to second terms on the Public Art Committee; terms will begin upon appointment and expire December 31, 2016.

Zoning Commission – Appointment of Ed Stevenson to a first term on the Zoning Commission; term will begin upon appointment and expire September 30, 2016.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haque-Hausrath moved approval of the appointments to the ADA Compliance Committee, City/County Planning Board, Public Art Committee and Zoning Commission as outlined above. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

B. 2014-2015 Commission Board Appointments

Mayor Smith recommended the following appointments:

MAYOR PRO TEM

Matt Elsaesser

ADA COMPLIANCE COMMITTEE

Andres Haladay

BOARD OF ADJUSTMENT

Dan Ellison

AUDIT COMMITTEE

James E. Smith

Dan Ellison

Katherine Haque-Hausrath

BUSINESS IMPROVEMENT DISTRICT/HELENA PARKING COMMISSION

Andres Haladay

CITY-COUNTY ADMINISTRATION BUILDING

Katherine Haque-Hausrath

CITY-COUNTY BOARD OF HEALTH

James E. Smith

CITY-COUNTY PARKS BOARD

Andres Haladay

CITY-COUNTY WEED BOARD

No appointment at this time

CIVIC CENTER BOARD

James E. Smith

HELENA CHAMBER OF COMMERCE LIAISON

Dan Ellison

INFORMATION TECHNOLOGY COMMITTEE

Dan Ellison

INFRASTRUCTURE COMMITTEE

No Appointment

INTERGOVERNMENTAL TRANSIT COMMITTEE

Matt Elsaesser

LEWIS & CLARK COUNTY MENTAL HEALTH ADVISORY
COMMITTEE

James E. Smith

MONTANA BUSINESS ASSISTANCE CONNECTION

Dan Ellison

MONTANA LEAGUE OF CITIES AND TOWNS

James E. Smith

NON-MOTORIZED TRAVEL ADVISORY BOARD

Matt Elsaesser

PRE-RELEASE COMMITTEE

No Appointment

PUBLIC ART COMMITTEE

Katherine Haque-Hausrath

TRANSPORTATION COORDINATING COMMITTEE

Matt Elsaesser

Andres Haladay

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

Motion **Commissioner Ellison moved approval the 2014
Commission Board Appointments as outlined above.** Commissioner
Haladay seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B . Final passage of Ordinance No. 3187 for a zone change from
PLI (Public Lands and Institutions to B-2 (General Commercial)
District
C . Funding agreement with the Montana Department of
Transportation (MDT) and Lewis and Clark County for the
greater Helena Area Transportation Plan Update

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

Public comment

Mayor Smith asked for public comment, none was received.

Comment

Commissioner Elsaesser spoke in support of Consent Agenda Item- C.

Motion

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

BID AWARD:

A. CONSIDER A PROFESSIONAL SERVICES AGREEMENT WITH ROBERT PECCIA & ASSOCIATES (RPA) FOR THE 2014 UPDATE OF THE GREATER HELENA AREA TRANSPORTATION PLAN

Staff Report

City Engineer Ryan Leland reported The Greater Helena Area Transportation Plan is updated on a ten year cycle with the last update in 2004. The Greater Helena Area Transportation Plan is meant to provide an overall direction for transportation improvements in the Helena area and a basis for how federal transportation funds will be allocated to prioritized projects from the plan. The 2004 plan, which was completed by Robert Peccia & Associates, was very useful to the City, County and MDT in directing the overall transportation improvements and federal funding. Several improvements from the 2004 plan have been constructed with a major impact for overall traffic patterns. Plus, the City of Helena has adopted policies since the last plan, such as the Complete Streets Policy that will be incorporated in to the new update.

In July 2013 the TCC selected a subcommittee to review consultants and provide a recommendation to the full TCC. The subcommittee short listed three firms from the MDT pre-approved list and requested an abbreviated request for proposal (RFP). From the RFP process the subcommittee selected RPA with the full TCC later approving the recommendation from the subcommittee. After the recommendation of the TCC; City, County and MDT staff negotiated the scope and an estimated cost for the Update to the Transportation Plan. The proposed cost from RPA for the plan is \$253,532.

Engineer Leland recommended approval of a contract with RPA for the 2014 Update to the Greater Helena Area Transportation Plan in the amount of \$253,532. The plan's cost is proposed to be split between the City at 30%, County at 20% and MDT at 50%.

Discussion

Commissioner Haque-Hausrath referred to the review of existing pedestrian areas in the Scope of Services and recommended "medical facilities" be included in the listing of destinations that need review and analysis. Manager Alles stated "hospital areas" are listed as a "*heavy pedestrian use area*" and will be reviewed. Commissioner Haque-Hausrath asked if more specificity is needed. Engineer Leland indicated staff would add a more specific description to the contract.

Commissioner Haque-Hausrath referred to *Section 7.4.2: "Pedestrian Facilities Network Improvements"* and stated she would support soliciting recommendations on where additional sidewalks would

be most important, according to the research performed. Engineer Leland concurred that data will be included in the plan.

Commissioner Haque-Hausrath referred to the mention of "pedestrian and bicycle marketing and educational programs" listed in the Scope of Services and recommended the inclusion of a "driver education program" on how to drive safely around bicyclists and pedestrians. Engineer Leland confirmed staff is planning to conduct a "driver education program" and it will be included in the overall Scope of Services.

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

Motion Commissioner Haque-Hausrath moved approval of a Professional Services Agreement for the 2014 Greater Helena Area Transportation Plan Update with Robert Peccia & Associates in the amount of \$253,532. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith and Commissioners Ellison, Elsaesser and Haque-Hausrath welcomed Commissioner Haladay to his seat on the City Commission and stated they look forward to working with him.

Commissioner Elsaesser reported Lewis & Clark County has \$100,000 to spend on CTEP Projects; he has created a proposal outlining ways funding could be shifted in order to provide funding for the Henderson Bridge Project to be completed.

He also reported the Commission had agreed to include a permanent plastics location at the Transfer Station at a recent Administrative Meeting.

Commissioner Haladay spoke of his first week as a member of the City Commission and expressed excitement for his seat. He congratulated the members of the HCC on their elections and swearing-in and commented they are a valuable tool to the city.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

A. Kay McKenna Youth Foundation Presentation

Charlie Hail, President of the Kay McKenna Youth Foundation; gave an overview of former Mayor McKenna's history in public service. Following Mayor McKenna's passing the Kay McKenna Youth Foundation was created to fund "Kay's Kids", the city's summer recreation program.

The annual Kay's Kids Dance, which raises funds for the Kay's Kids Summer Program, will be held Friday, February 28th at the Civic Center.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL (HCC)

There was no HCC member in attendance to provide a report.

Regular Items

REGULAR ITEMS:

A. CONSIDER A RESOLUTION OF ANNEXATION INTO THE CITY OF HELENA FOR THE WEST AND NORTHERN PORTIONS OF BLOCK 21-A, BOYCE ADDITION, LEWIS AND CLARK COUNTY, MONTANA AS SHOWN ON COS #3249720.

Staff Report

Planner Kathy Macefield reported Block 21 and the east 1/2 of closed and vacated Market Street ROW are currently located inside the city. Property owner 2014 Helena, LLC has petitioned to annex the east portion of former Block 20 and the discontinued portion of former Missoula Avenue right of way (ROW) adjacent to the east part of Block 20 and Block 21, along with adjacent Market and Butte Street ROWs, all located east of Blaine Street and pre-zoned as a CLM District (Ordinance No. 3180), to obtain all city services. Additional background information is attached, including the status of the conditions that were to be met prior to annexation. With the annexation, the water and wastewater service boundary will automatically be extended and the CLM rezoning designation will become effective.

Water mains, sewer mains, and fire hydrants have been installed in the former Missoula Avenue ROW. Additional Blaine Street ROW has been dedicated to the City between Billings and Missoula Avenue as shown on COS #3249720. Blaine Street will be constructed to City standards within a 60-foot wide ROW to provide access to the property. A 20-foot wide emergency access has been constructed in Market Street.

All the conditions specified in Resolution of Intent No. 20026 have been satisfied or financially guaranteed and the proposed annexation is in accordance with the 2011 Growth Policy and Montana law for annexation by petition. Ms. Macefield recommended approval of the proposal.

Public comment

Mayor Smith called for public comment.

Jeff Larson, Larson Engineering, representing the developer; urged the Commission to approve the resolution of annexation.

Candace Payne, representing the developer; thanked city staff for the excellent service they provided throughout the various stages of the application/development process.

Jenny, Helena; asked what kind of business is planned to be located on the property.

Comment

Mayor Smith reported the applicant desires to construct a Fed Ex processing facility on the subject property.

Motion

Commissioner Ellison moved approve a resolution of annexation for the property legally described in the resolution.

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

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A TAVERN AND RESTAURANT TO BE LOCATED IN A CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT

Staff Report

Zoning Officer Elroy Golemon reported on Tuesday, December 10, 2013 the Helena Zoning Commission held a public hearing on the proposed CUP and unanimously recommended approval, (3:0 vote) of a Resolution granting a CUP to allow a tavern and restaurant to be located in a CLM (Commercial Light Manufacturing) District at 1517 Dodge Avenue. According to the applicant, the proposed CUP would enable the Lewis & Clark Brewing Company to acquire a "City Beer License". The applicant further states the proposed Tavern and Restaurant CUP would allow the current brewing operations to expand beyond 10,000 bbls per year limitation set for a small brewery because the tavern and restaurant use would replace the on-site consumption area.

In addition, the portion of the current brewery commonly known as the tap room would change to tavern and restaurant uses. The applicant stated that part of this proposal includes addressing the need for additional off street parking to comply with the City of Helena's current parking regulations.

According to the 2011 Growth Policy Future Land Use Map, the subject property is located in a commercial area. Commercial areas support higher density development, a mix of commercial, residential activities and services; and a variety of motorized and non motorized transportation options.

Based on the criteria established in City Code 11-3-5 (Conditional Use Permit Requirements) staff has found that the proposed tavern and restaurant activities will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity or in the zoning district in which the subject property is located if the recommended conditions of approval are completed.

Mr. Golemon recommended approval of the CUP and noted projects such as the one proposed help support infill and redevelopment of properties by allowing for the development of a compatible mix of land uses and structure types and encouraging the use of existing infrastructure.

Discussion

Commissioner Haque-Hausrath asked City Attorney Hindoien if the Commission's action tonight would address the amount of ADA accessible spaces. Attorney Hindoien explained compliance with ADA requirements will be confirmed or addressed by staff before the business license is issued.

Commissioner Haque-Hausrath referred to the installation of sidewalks and asked if the applicant would have to get permission for access from the adjoining property owners or would that property be considered city right-of-way. Attorney Hindoien stated it is city right-of-way and the project cannot be denied because the surrounding properties are not supportive.

Commissioner Elsaesser asked how the lights would be installed. Engineer Leland explained the applicant would need to work with Northwestern Energy (NWE) to create and Special Lighting District (SLD) and ensure lighting is installed that meets NWE standards. He noted lighting is not a condition of approval; however, the installation of curb and gutter in compliance with city standards is.

Commissioner Haque-Hausrath asked about the possibility of installing solar powered lighting. Mayor Smith Engineer Leland noted NWE would regulate what type of lighting fixtures can be used.

Commissioner Ellison noted the subject property and proposed parking lot are adjacent to the railroad track and asked how staff was

able to find that the proposal would not impact public safety when trains pass by at least 16 / per day. Mr. Golemon explained how parking requirements apply in the CLM District and stated per City Code parking lots can be established by right in the CLM District as long as they meet landscaping requirements. Mr. Golemon noted staff's analysis is based solely on the proposed use and not the parking lot. Commissioner Ellison commented he respectfully disagrees with staff's finding regarding public safety and explained the proposed parking lot's location in relation to the existing railroad spur line.

Commissioner Ellison then referred to staff's finding (#2) that the proposal would result in no reduction or impairment of peaceful use of existing property in the area and asked how that could be when so many letters of opposition were submitted by adjacent properties, in addition to reports of crime in the area. Mr. Golemon deferred the questions to Community Development Director Sharon Haugen. Director Haugen explained the CUP review process related to the traffic generation data associated with the proposed use. She stated the Commission must establish whether the criteria for a restaurant and/or tavern would significantly increase loss of peaceful use in the neighborhood.

Commissioner Ellison referred to proposed ADA parking for the business and asked if it is compliant with ADA requirements. Mr. Golemon stated the proposed off-site parking lot could provide ADA parking. Whether or not it could be used to offset parking requirements at the business location depends on where the ADA spots would be located. Commissioner Ellison stated the railroad spur must be crossed in order to reach the proposed off-site parking lot and asked if that crossing complies with ADA standards. Mr. Golemon read the ADA requirement and explained how the spur line attains compliance would be up to the applicant, Montana Rail Link and the City Public Works Department.

Commissioner Ellison referred to a letter submitted by an attorney representing a business in the same neighborhood as the proposal and asked City Attorney Hindoien to comment on the correspondence. Attorney Hindoien addressed each item identified as a reason to support denial in the letter.

Public Testimony

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

Gary Parisi, Parisi Plumbing, Helena; urged the Commission to approve the CUP.

Max Pigman, applicant; gave a PowerPoint Presentation explaining why their current facility needs to expand to keep up with demand for their product and gave the history behind their current location. Mr. Pigman urged the Commission to approve the proposal.

John McCllen, lead singer of The Clintons; urged the Commission to support the proposal.

Marlene Perrin, Helena Arts Center; spoke in support of the CUP.

Amy Fauser, 1101 Woodbridge; spoke in favor of the proposal.

Phil Sebastian, owner of Eagle Tire; gave the reasons he believes the CUP should be denied. The main reason is that he is not willing to work out a shared parking agreement with the applicant, Mr. Pigman.

Wendy Sebastian, owner of Eagle Tire; submitted written testimony for the record opposing the CUP. This testimony is filed in the Commission packet as part of the official record.

Scott Svee, attorney representing Phil and Wendy Sebastian; urged the Commission to deny the proposal.

Barb Kirkland, Helena; spoke in support of the CUP.

David Kempna, Tempana Loop; spoke in favor of the CUP.

Trevor Parrish, owner of Signs Now; spoke in support of the proposal and noted there is not one single handicapped parking space anywhere near his building which is located in downtown Helena.

Corey Johnson, Helena; expressed support for the proposal and commended Mr. Pigman for his generous monetary offer to make this expansion work for all the surrounding property owners.

Tony Herbert, Montana Brewery Association; urged the Commission to support the proposal.

Pat Lowgey, 719 Cherry Avenue; spoke in favor of the CUP.

Gary Hicks, Helena; spoke to the financial ramifications that denial of the CUP could have on the existing brewery/tap room.

Sean Tobin, Helena; commented the only objection he has to the proposed CUP is due to patrons of the brewery leaving their vehicles in the Eagle Tire lot overnight because they have had too much to drink to drive home.

Rand Pigman, Helena; spoke in favor of the proposal.

Richard Swanson, Rodney; explained he has mixed emotions on the proposal and is concerned for parking problems.

Myles Anderson, brewery employee; spoke in support of the CUP.

Cindy Humphrey, Helena; spoke in favor of the proposal.

Ron Darlington, Helena; spoke in support of the proposal.

Kevin Hamm, local comedy group; urged the Commission to support the proposed CUP.

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

Motion

Commissioner Haque-Hausrath moved approval of a resolution granting a CUP to allow a tavern and restaurant to be located in a CLM District for property as legally described in the resolution and subject to conditions contained in the resolution.

Commissioner Haladay seconded the motion.

Discussion

Commissioner Haque-Hausrath indicated she would vote in support of the CUP as she believes it has been demonstrated that the legal standards for approval of the application have been met. She spoke in support of the proposal and commended it for being infill development.

Commissioner Elsaesser spoke of the review process for uses dealing in alcohol consumption. He noted he would support the proposal and spoke of the applicant's right to the property. He urged the applicant to form a lighting district for the property and install and maintain sidewalks surrounding the property.

Commissioner Haladay indicated he would support the CUP. He stated the Commission is charged with making this decision based on the facts on the ground. Via opponent testimony he did not hear reasoning for denial because the CUP would result in a threat to public

safety and peaceful enjoyment. He urged the applicant to install sidewalks around the property.

Commissioner Ellison asked if parking beyond 700-feet from the business would count toward the amount of parking required for the proposal. Attorney Hindoien explained it would not count toward the requirements.

Commissioner Ellison commented he is concerned the Commission members seem willing to order in sidewalks by approving the proposed CUP, while it has not ordered in sidewalks anywhere else in Helena. Discussion was held on the installation of sidewalks at the subject property.

Mayor Smith disclosed he lobbies for the Brewer's Association and that he is a customer of Eagle Tire. He indicated he would support the CUP and urged the businesses of the neighborhood to relieve their conflict and discord.

Commissioner Ellison noted he is a patron of many of the businesses in the neighborhood and that he would vote in support of the proposal.

Vote All voted aye, motion carried. **Res #20065**

Public Communications PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest MEETINGS OF INTEREST
The next Administrative Meeting is January 22, 2014 and the next Commission Meeting is January 27, 2014.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 9:53 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission