

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
April 7, 2014
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, April 7, 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 Hindoien and Deputy City Clerk Robyn Brown were present. Others present were Gus Voss 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 March 24, 2014 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Private Driveway Easement for access across City owned property adjoining 1764 Orofino Gulch
- C. Permission to alter the exterior of the building commonly referred to as the Bluestone Building located on Parcel 7 as shown in the First Subdivision of the Last Chance Revision of a portion of the original Townsite of Helena, MT

City Manager Ron Alles recommended approval of the claims and the consent agenda. Commissioner Haladay requested Item B be removed for further discussion.

Public comment

Mayor Smith asked for public comment.
Laura Parr, representing the Montana Wilderness Association; urged the Commission to vote in support of Item C.

Motion

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

Item B

- B. PRIVATE DRIVEWAY EASEMENT FOR ACCESS ACROSS CITY OWNED PROPERTY ADJOINING 1764 OROFINO GULCH

Commissioner Haladay stated he did not have a problem with the proposal, only a few questions. He noted where the City of Helena's property line runs across the parcel and stated there currently appears to be some debris across the property and asked if discussions have been held with the applicant regarding cleaning up that debris. He noted he feels the city is being a good partner by legally defining a 30-foot wide easement across its' property so perhaps the applicant could also be a good partner in aiding to clean up the property.

Manager Alles reported the applicant, Mr. Gerleman, was

present to answer questions. He noted Mr. Gerleman has been more than amenable to any requests the city has had so far and all of that property will be titled to the city.

Commissioner Haladay asked if vehicular traffic will still be allowed to drive over the northwest portion of the property if the easement is approved. The applicant, Mr. Gerleman, explained this property was originally Forest Service property and gave its original size and use. The other homes involved with the property have been driving over the city's property to access their homes.

Motion

Commissioner Ellison moved approval of item B on the consent agenda. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser reported the City of Helena is almost ready to begin accepting type 1 and 2 plastics at the Transfer Station. Manager Alles added a start date of April 22nd is being aimed for, following the refurbishment of some borrowed equipment. For more information citizens can go to www.helenamt.gov and renters should call 447-8084.

Mayor Smith spoke of attending a recent event celebrating the retirement of outgoing Helena Regional Airport Director Ron Mercer and encouraged citizens to participate in additional ceremonies that will be held in the community in the near future.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

Manager Alles reported today Governor Bullock announced he would be nominating the Upper Tenmile Watershed to the Secretary of Agriculture for landscapes that have been affected by insect or beetle kill. This designation will allow the Secretary to enable a more efficient and prioritized response toward the issue, all the while maintaining public involvement.

Secondly, Helena National Forest Supervisor Bill Avey announced he had signed the decision for work on the Upper Chessman Reservoir portion of the Tenmile Watershed.

Mayor Smith discussed how much those projects will mean towards protecting the city's water supply.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC District 4 member Gus Voss reported the HCC did not have anything specific to report on. Commissioner Elsaesser listed some of the issues facing the city that the Commission may request help from the HCC on.

Public Hearings

PUBLIC HEARINGS:

- A. **CONSIDER A RESOLUTION ESTABLISHING FEES CHARGED BY THE HELENA CIVIC CENTER.**

Staff Report

The current basic fee schedule was adopted in July 2010. The three fee documents were reviewed and discussed by Civic Center staff, a Civic Center Board Committee and the full Civic Center Board. The

Board voted to approve the attached fee related documents at the February 4, 2014 meeting and recommended that they be submitted to the City Commission for approval.

Staff is recommending to update the fee schedule for the Civic Center facility for the 2014-2015 event season. The proposed fee documents include: basic room rental increases, a full facility rental increase, select equipment rental increases and a Box Office Service fee that includes both a minimum and maximum rate, minimal language clarification and a returned per ticket increase.

Ms. Stavnes recognized that it has been four years since the last Civic Center fee increase was enacted and doing another increase now allows for keeping at market value with other area facilities.

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.

Comment

Commissioner Elsaesser thanked the Civic Center Board for their work and encouraged them to figure out how the facility could become more flexible, in order to allow for more days used per season.

Motion

Commissioner Elsaesser moved approval for a resolution increasing the fees charged by the Helena Civic Center for the 2014-2015 season, to become effective September 1, 2014. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20075**

B. CONSIDER FIRST OF AN ORDINANCE AMENDING THE LAND USE TABLE FOR ZONING DISTRICTS IN SECTION 11-2-3 OF CITY CODE TO ALLOW INDOOR ENTERTAINMENT, SPORTS AND RECREATION AS A PERMITTED USE IN THE M-I (MANUFACTURING AND INDUSTRIAL) DISTRICT.

Staff Report

City Zoning Officer Elroy Golemon reported on Tuesday, March 11, 2014, the Helena Zoning Commission held a public hearing on the proposed amendment and recommended unanimous approval (5:0 vote) for the adoption of an ordinance amending the Land Use Table for Zoning Districts in Section 11-2-3 of City Code to allow indoor entertainment, sports and recreation as a permitted use in the M-I (Manufacturing and Industrial) District.

Zoning Officer Golemon recommended approval of the amendment and stated as proposed, indoor entertainment, sports and recreation activities are similar in intensity and activity when compared to similar uses permitted in the M-I District. The list of uses currently permitted in the M-I District includes: open space, horticulture, dwelling units constructed on the floor above a commercial use, rooming and boarding houses, instructional and public safety facilities and artisan shops. Therefore the proposed amendment would continue to promote compatible urban growth and encourage the appropriate use of land in the M-I District.

The inclusion of indoor recreational opportunities into the M-I district will help accommodate the reuse of larger building typically found in an M-I District in a way that is compatible with other uses in the district. Often times, these buildings may sit vacant.

Discussion

Commissioner Elsaesser stated the Commission had received several emails on the issue and those would be made a part of the official record as public comment. He asked if this could be allowed by conditional use in the M-I Districts? Mr. Golemon stated that could've been an option but the applicant requested it be reviewed as a permitted use in the M-I District. Commissioner Elsaesser asked if only the subject district could be amended. Mr. Golemon stated no, as there is no numbering system for the M-I Districts within the city.

City Attorney Hindoien explained the districts may be able to be broken out at a later date but not during tonight's meeting.

Public Testimony

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

Dee Ann Cooney, Helena; spoke in support of the amendment to the land use table.

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

Motion

Commissioner Haladay moved approval of first passage of an ordinance amending the Land Use Table for Zoning Districts in Section 11-2-3 of City Code to allow indoor entertainment, sports and recreation as a permitted use in the M-I (Manufacturing and Industrial) Districts. Commissioner Haque-Hausrath seconded the motion.

Comment

Commissioner Elsaesser explained he is very comfortable with the proposal based on the comments received by the Commission, but he does not support these types of zoning changes without all of the affected property owners being notified. He explained mixed-use could result in industrial jobs within housing districts where they were never intended.

Commissioner Ellison stated he shares some of Commission Elsaesser's concerns and would've felt more comfortable if this were being proposed as a permitted use instead. He noted he would support first passage of the ordinance tonight and will await testimony from other business owners at final passage.

Commissioner Haladay asked if the M-I District currently allows other residential, boarding and hospitality- type businesses. Mr. Golemon stated it does and explained they could've been defined differently in the Standard Industrial Classification (SIC) manual that was attached to the zoning when it was enacted.

Commissioner Elsaesser again expressed concern that these may be changes that would not be desired by the other two M-I Districts even though it seems like a good proposal for this one.

Commissioner Haque-Hausrath explained she would support the proposed ordinance as she does not see any reason why the proposed uses would not be compatible with the existing zoning, or would not be a good use. She noted the uses are very similar to what is allowed in CLM zoning.

Mayor Smith stated it may be helpful for the Commission to review the overhaul of the Zoning Ordinance a few years ago and discussed the way land use changes have been reviewed in past instances; permitted vs. allowed. He indicated he would support first passage of the ordinance and wait to hear testimony at the final hearing.

Vote

All voted aye, motion carried. **Ord #3189**

- C. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING ORDINANCE NO. 2359 AND THE OFFICIAL ZONING MAP, FOR A ZONE CHANGE FROM R-O (RESIDENTIAL OFFICE) DISTRICT AND R-3-T #25 (RESIDENTIAL) DISTRICT TO B-2 (GENERAL COMMERCIAL) DISTRICT; FOR PROPERTY LEGALLY DESCRIBED AS LOTS 3 - 11 IN BLOCK 8 OF THE FLOWER GARDEN ADDITION AND, LOTS 12 - 14 IN BLOCK 9 OF THE FLOWER GARDEN ADDITION HELENA, MONTANA.

Staff Report

Zoning Officer Golemon reported on Tuesday, March 11, 2014 the Helena Zoning Commission held a public on the proposed zone change and recommended unanimous approval (4:0 vote) for the adoption 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 and R-3-T #25 (Residential) District to B-2 (General Commercial) District.; for property legally described as Lots 3 - 11 in Block 8 of the Flower Garden Addition and, Lots 12 - 14 in Block 9 of the Flower Garden Addition Helena, Montana generally located north of Phoenix Avenue, south of Chestnut Street, east of North Montana Avenue and west of North Cooke Street.

The zone change request comes from several property owners that wish to provide consistent zoning of their property. Currently the blocks containing the 12 lots, approximately 1.87 acres, of the proposed zone change contain a mix of B-2, R-O and R-3-T #25 zoning designations. Six (6) lots proposed for the zone change is are located in an R-O District and the remaining six (6) lots located in the R-3-T #25 District.

According to the 2011 Growth Policy Future Land Use Map, the subject property is located in a commercial area west of North Cooke Street. Commercial areas support higher density development, a mix of commercial, residential activities and services; and a variety of motorized and non-motorized transportation options. The proposed B-2 District would allow a greater variety of compatible mixed uses than currently permitted with the existing R-O and R-3-T #25 zoning district designations. In addition, the proposed B-2 District zoning would be more consistent with the commercial land use designation along the west side of North Cooke Street 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.

Mr. Golemon recommended approval of the ordinance as the proposed zone change helps support the infill and redevelopment concept of the 2011 Growth Policy 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 Ellison asked if there are any single-family homes located in the parcel bordering Phoenix to the South and Cooke Street to the East; and if so, what effect would this zone change have on them. Mr. Golemon explained any single-family dwelling would continue in its current state as a non-conforming use until it is redeveloped to current B-2 District standards. Commissioner Ellison stated he is taking it as an article of faith that property owners in the vicinity have been notified of

this proposal without any negative feedback. Mr. Golemon confirmed legal notifications have been published in the Independent Record, the proposed change has been physically posted in the area and the surrounding property owners have been mailed notice in accordance with state statute.

Commissioner Haladay stated it appears the proposed zone change could lift the ceiling for the property into the highest economic use of the land and wondered if you should risk devaluing the property to the detriment of a current resident to increase the value to the extent the Department of Revenue (DOR) will classify the land as far more valuable than it was before with restricted uses. Mr. Golemon commented the value of the property isn't so much based on the use that could occur, but the use that has been developed on the property. Commissioner Haladay asked for clarification related to allowable use vs. existing use. Manager Alles explained this property is classified by DOR as Class 4. When they look at that classification they review based upon the existing use on the property. For example, agricultural land carries a different taxable value than residential and business; DOR measures the property based on how it is actually being used.

Commissioner Haladay asked if the current traffic and school-parking related issues in the neighborhood are irrelevant to rendering a decision on the zone change proposal. Mr. Golemon agreed; however, the proposal was brought to the school to let them know. Commissioner Haladay stated the Zoning Commission minutes indicated the property was to be developed into 4-plexes and asked if that is still the proposal. Mr. Golemon referred his question to the applicant as staff can only review the appropriateness of the B-2 zoning designation for the property, not one specific use. Commissioner Haladay noted the City Public Works Department had previously offered "no comment" on infrastructure related to the proposal. Mr. Golemon explained the Public Works Department acknowledges there is already existing infrastructure in the area and will not know what kind of improvements may be required until a specific use has been identified, that is why they did not submit any comment on the proposal.

Commissioner Haque-Hausrath asked for clarification of if all of the properties included in the proposal are owned by various iterations of the Zimmerman family. Mr. Golemon stated yes, various groups of the same family are in ownership of the properties.

Commissioner Elsaesser asked if there will be specialized requirements or controls where the B-2 zoning would be adjoining the R-3 District. Mr. Golemon explained those requirements would be decided at the time of development of the property, during the permitting process. Commissioner Elsaesser asked if the adjoining zoning will be taken into account when the subject property is being built. Mr. Golemon stated setback, landscaping and screening requirements would be applied but infrastructure requirements wouldn't be reviewed by the Public Works Department until the time the project is permitted. Commissioner Elsaesser commented on the importance of requiring the appropriate setbacks.

Public Testimony

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

Laurie Koutnik, on behalf of Gloria Keller, applicant; spoke in support of the proposal. The house that sits on the property Ms. Keller owns is vacant and has been primarily condemned.

Gabe Nistler, representing the applicants; urged the Commission to approve the zone change and confirmed he does plan to build multi-family residences.

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

Motion

Commissioner Ellison 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 and R-3-T #25 (Residential) District to B-2 (General Commercial) District for property legally described in the ordinance. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Ord #3190**

Public Communications

PUBLIC COMMUNICATIONS

Nate Crowley, 18 South Beattie; Daniel Kalusee, 89 South Hoback Street; and Gunter Royslansk, 707 North Warren Street; with the Helena School District's Gifted and Talented Program; announced they are working on a civic engagement project to improve transportation for seniors and Helena residents lacking stable transportation in the community. They announced they are planning an event where seniors can come play games on April 20th from 3:00-4:00p.m. at the Lewis & Clark Library. An issue when planning the event has been finding transportation for the seniors being invited to attend; first they had been referred to Rocky Mountain Development Council (RMDC) for assistance with rides. After being told RMDC could not help, they are looking into "First Student" which costs \$30 per hour. Mr. Crowley urged the city to provide HATS service on weekends and evenings.

Mayor Smith and the Commission members thanked Mr. Crowley, Kalusee and Royslansk for their testimony and commended their willingness to bring attention to the issue of public transportation service.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is April 16, 2014 and the next Commission Meeting is April 21, 2014.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:22 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission