

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**May 19, 2014**  
**6:00 P.M.**

- Time & Place*** A regular City Commission meeting was held on Monday, May 19, 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 and Haladay were present. Commissioner Haque-Hausrath and City Manager Alles were excused. Acting City Manager Amy Teegarden, City Attorney Jeff Hindoien and Deputy City Clerk Robyn Brown were present.
- Pledge of Allegiance*** Mayor Smith asked the members of Boy Scout Troop #214 in attendance to lead the pledge of allegiance.
- Minutes*** The minutes of the regular City Commission meeting of May 5, 2014 were approved as submitted.
- Presentation*** PRESENTATION:  
A. Confirmation of Deputy Fire Marshal Lou Antonick  
  
Fire Chief Sean Logan introduced Firefighter Lou Antonick and reported he had successfully completed his one-year probationary period in order to serve in the position of Deputy Fire Marshal. He gave an overview of the specialized training and education Mr. Antonick received for the position and recommended approval of his designation to Deputy Fire Marshal.  
Mr. Antonick introduced his family members in attendance and explained how he came to choose fire service as his career. He stated he is very excited to serve the citizens of Helena as Deputy Fire Marshal. Commissioners Ellison and Elsaesser congratulated Mr. Antonick on his achievement.  
Mayor Smith administered the Firefighter's Oath to Deputy Fire Marshal Antonick.
- Public comment Mayor Smith asked for public comment, none was received.
- Motion*** **Commissioner Ellison moved approval of the confirmation of Firefighter Lou Antonick as Deputy Fire Marshal with the Helena Fire Department (HFD).** Commissioner Haladay seconded the motion. All voted aye, motion carried.
- Proclamation*** PROCLAMATION:  
A. Ron Mercer Day  
  
Mayor Smith read the proclamation designating May 19<sup>th</sup> as "Ron Mercer Day" throughout the City of Helena. He spoke of Mr. Mercer's career as Executive Director of the Helena Regional Airport and wished him well in his retirement.  
Mr. Mercer spoke of the issues the airport faced over his career and thanked the City of Helena for its ongoing support of the Helena

Regional Airport. He spoke fondly of the time retirement will give him to spend with his 22-member family.

Commissioners Ellison and Elsaesser recognized Mr. Mercer's work at the Airport and thanked him for his service. Mr. Mercer thanked Mayor Smith and the Commission members for the recognition and thanked the City of Helena for its' ongoing support of the airport.

Mayor Smith announced a public reception will be held for Mr. Mercer at the Helena Regional Airport on Wednesday, May 28, 2014 at 11:00a.m.

**Board Appointments** BOARD APPOINTMENTS:

- A. ADA Compliance Committee, Civil Service Board and Non-Motorized Travel Advisory Council

Mayor Smith recommended the following appointments:

ADA Compliance Committee – Appointment of Eric Kohring as the Architect Representative on the ADA Compliance Committee; unexpired term will begin upon appointment and expire September 1, 2016.

Civil Service Board – Appointment of Karen Bryson to the Civil Service Board; the first term will begin upon appointment and expire May 1, 2017.

Non-Motorized Travel Advisory Council – Appointment of Andrew Hagemeyer to NMTAC; the first term will begin upon appointment and expire March 31, 2017.

Public comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Haladay moved approval of board appointments to the ADA Compliance Committee, Civil Service Board and Non-Motorized Travel Advisory Council as outlined 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. Traffic Control Maintenance Agreement between the Montana Department of Transportation (MDT) and the City of Helena to provide maintenance on state routes with provision for full reimbursement for three years beginning July 1, 2014.
- D. Resolution declaring tangible personal property (vehicles and miscellaneous equipment) owned by the City of Helena to be surplus property and authorizing the sale or disposal of that property. **Res #20077**
- E. Final passage of Ordinance #3191 pre-zoning to R-2 (Residential) prior to annexation into the City of Helena: for property legally described as Lots 17, 18, 19, 20, and 21, Block 172 of the Syndicate Addition; Lots 13, 14, 15, and 16, Block 173 of the Syndicate Addition; and Lot 9, Block 6 of the Broadwater 2nd Addition, and adjacent Leslie Avenue, Linden Street, and alley rights-of-way. **Ord #3191**

Acting City Manager Amy Teegarden recommended approval of the claims and the consent agenda.

Commissioner Elsaesser requested item D be removed for discussion.

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

**Motion** Commissioner Elsaesser moved approval of items A, B, C and E on the consent agenda. Commissioner Haladay seconded the motion. All voted aye, motion carried.

**Item D** Commissioner Elsaesser asked if surplusing the vehicles would allow for them to be transferred to other city departments. Street Superintendent Ben Sautter explained city departments can notify City Manager Alles if they are interested in a vehicle on the list and he will make the decision on whether or not the vehicle should be transferred.

**Motion** Commissioner Elsaesser moved approval of item D on the consent agenda. Commissioner Ellison seconded the motion. All voted aye, motion carried.

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Elsaesser discussed the Commission's decision to use CTEP funds for several pedestrian projects. He listed the projects and commended the choice to financially support them.  
Mayor Smith noted the Art Walk and History Fair were held on May 16 & 17, 2014. A poster of Sidney Edgerton, Montana's first Territorial Governor, was hung in the Commission Chambers and Mayor Smith gave his biography.  
Commissioner Ellison spoke of the work the Street Department is doing near his home on California Street and Beltview. He commended City Manager Alles, the Public Works Department and Street Superintendent Sautter for attending to the streets of Helena that really need it.

**Report of the City Attorney** REPORT OF THE CITY ATTORNEY  
No report was given.

**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 (HCC)  
There was no member of the HCC present to provide a report.

**Regular Items** REGULAR ITEMS:  
A. CONSIDER A RESOLUTION OF INTENTION TO AMEND SPECIAL IMPROVEMENT LIGHTING DISTRICT (SILD) NO. 222 AND SET A PUBLIC HEARING FOR JUNE 23, 2014.

Staff Report City Controller Glenn Jorgenson reported the City Commission approved the creation of Special Improvement Lighting District No. 222 (SILD) on March 14, 2011 for Antelope Trace and Craftsman Village of

Crossroads at Mountain View Meadows Subdivision. The Commission approved an amendment to the original lighting district to include Antelope Trace Phase 2, consisting of five additional lights, on July 25, 2011.

City staff received a petition to amend SILD 222 to include Antelope Trace Phase 3 of the Crossroads at Mountain View Meadows Subdivision. The amended district will consist of 5 additional lighting units with underground wiring, fiberglass or metal poles with 16-foot mounting heights, and Lexington Colonial luminaries with 100-watt high-pressure sodium vapor lamps. There will be a total of 74 lights if approved.

The estimated cost of maintenance, electrical energy, and administration for the first year in the amended portion is \$3,733 with the full district being assessed \$30,633. This will result in the estimated cost being \$.0227 per square foot of property owned, said amount to be paid by the property owners. Staff planned to increase the rate per square foot for the next tax year 3% to cover the estimated increase in electrical costs. The cost per square foot is now expected to remain the same as the prior tax year due to amending the boundary.

Mr. Jorgenson recommended approval of the resolution of intention as it would result in the area having one contiguous lighting district. He noted staff could've created a new district as opposed to amending the existing one; however, amending the existing district will allow the new property owners to help pay for the costs of lights previously installed along the main arterial streets they receive a benefit from, resulting in a lower cost per square foot for the entire amended district.

Public comment

Mayor Smith called for public comment; none was received.

Motion

**Commissioner Ellison moved approval of a resolution of intention to amend Res #19818 that created Special Improvement Lighting District No. 222, to alter the boundaries and add five (5) lights in SILD No. 222 in the City of Helena, Montana, and set a public hearing date for June 23, 2014.** Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20078**

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE ADOPTING THE 2012 EDITION OF THE INTERNATIONAL FIRE CODE AND REVISIONS TO TITLE 3, CHAPTER 9, OF HELENA CITY CODE.

Staff Report

Fire Chief Sean Logan reported the Helena Fire Department (HFD) is currently operating using the 2008 Edition of the International Fire Code. The 2008 Edition is no longer being published. The State of Montana has adopted the 2012 Edition of the International Fire Code and local jurisdictions are following suit.

Chief Logan recommended the Commission vote in favor of adoption the 2012 Edition in order to be consistent with what the State of Montana and other Montana cities enforce by using a more current code edition. He recommended first passage of the ordinance adopting the code discussed above, as set forth in by MCA 7-1-113 and ARM 23.7.301 and requested the Commission set a public hearing date of June 9, 2014.

## Discussion

Commissioner Haladay stated he had discussed the 2012 IFC Provision on Traffic Calming Devices with City Attorney Jeff Hindoien via email and asked if City Attorney Hindoien's comments in said email from May 17, 2014 could be attached to the minutes of tonight's Commission Meeting. Attorney Hindoien stated yes.

Commissioner Haladay referred to the 2012 IFC Provision 503 related to Traffic Calming. It states "all traffic calming devices shall be prohibited, except as approved by the Fire Official, defined as: Fire Department Chief, Fire Marshal, or an authorized representative. Commissioner Haladay asked if the City Commission could opt to name itself as the authorized representative. Attorney Hindoien explained amendments to the code are only allowed to adopt standards that were not adopted by the Department of Justice or adopt standards that are more stringent than what is contained in the code. He stated from his perspective he does not see the amendment discussed by Commissioner Haladay as they type of amendment that would be allowed.

Commissioner Haladay stated he doesn't have a problem with adoption of this code and how the city currently performs road design; his concern lies in how it could bind a future Commission in regards to traffic calming.

Commissioner Elsaesser reminded the public that medical response is another service provided by the Fire Department.

## Public comment

Mayor Smith called for public comment; none was received.

## Motion

**Commissioner Haladay moved approval for first passage of an ordinance amending Chapter 9 (Fire Prevention Code) of Title 3 of the Helena City Code and set a public hearing date of June 9, 2014.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3192**

Mayor Smith announced agenda Item D would be presented and acted on prior to Item C.

D. CONSIDER FIRST PASSAGE OF AN ORDNANCE REVISING BOULEVARD LANDSCAPING AND PUBLIC TREE REQUIREMENTS BY AMENDING TITLE 7, CHAPTER 10 OF THE HELENA CITY CODE.

## Staff Report

Parks Maintenance Superintendent Craig Marr reported in December, 2010, the city finalized an Urban Forest Management Plan (UFMP) that provides direction to maintain, enhance and preserve Helena's tree canopy. One recommendation included updating and revising the Helena Tree Ordinance. The current tree ordinance which was adopted in 1984 lacks purpose, contains outdated terminology and it does not include national specifications and standards for tree care. The UFMP recommends the development of a companion document to the ordinance containing arboricultural standards and specifications that are subject to change over time. Subsequently boulevard landscaping is addressed in chapter 4 of City Code and does not specify timeframes for adjacent landowners to plant boulevard vegetation.

Staff is recommending the following changes:

1. Revise Title 7 Chapter 10 of Helena City Code to consolidate and clarify responsibilities for boulevard landscaping and public trees. The revised boulevard landscaping and tree ordinance will provide guidance for planting, pruning, removing and other maintenance of boulevard and public trees. National industry standards for tree care would be incorporated into the ordinance and only qualified people would be permitted to do major pruning and removal of public trees. In addition, the revised ordinance identifies responsibilities for boulevard landscaping and establishes timeframes for adjacent landowners to plant boulevard landscaping.
2. Adopt the Helena Arboricultural Specifications and Standards Manual as a companion document to the Boulevard Landscaping and Public Tree Ordinance that can be frequently updated and revised as necessary.

The revised ordinance would clarify responsibilities and requirements for caring for boulevard vegetation and public trees, set timeframes for planting boulevard vegetation, and align Helena tree care with national industry standards.

#### Discussion

Commissioner Elsaesser asked if this ordinance would allow for city staff to aid Northwestern Energy when they prune the trees that lie over their property or the Montana Conservation Corps (MCC) when they perform pruning projects. Superintendent Marr noted Northwestern Energy usually has a certified arborist on site when they are pruning; MCC would require the City's help. Superintendent Marr indicated the city's arborist could be on site to provide assistance if they need it.

Commissioner Elsaesser asked if a vehicle hit a boulevard tree and the damage exceeded \$500, would the driver's insurance end up paying for the tree. Attorney Hindoi stated that would likely end up being a Title 61 offense and the damages to the tree would be recovered in the form of restitution.

Commissioner Elsaesser asked how this ordinance would affect established neighborhoods that are currently out of compliance. Superintendent Marr stated the City's Code Compliance Officer is going to be looking into those areas of town. He commented it would be preferable that the property owners plant the trees in their boulevards; however, staff is not opposed to planting the needed trees.

Commissioner Elsaesser commented he would like to see fruit trees allowed in the boulevard. Superintendent Marr stated staff would like to add a clause to the Allowable Trees section stating the planting of fruit trees will be reviewed on a case-by-case basis.

Commissioner Ellison asked if it's a common occurrence for the Parks Department to learn there has been unauthorized maintenance done on the boulevard trees by people that should not be doing it. Acting Manager Teegarden stated it is not a common complaint received by the Parks Department and is usually noticed by the city's arborists. She discussed the benefits of getting a work permit from the Parks Department before pruning a boulevard tree. Commissioner Ellison spoke in support of the vegetative cover incentive included in the resolution.

Commissioner Elsaesser requested Mr. Marr's PowerPoint presentation be made available online and emailed to the Commission. Acting Manager Teegarden concurred.

Public comment

Mayor Smith called for public comment; none was received.

Motion

**Commissioner Ellison moved approval of first passage of a revised ordinance to consolidate and clarify requirements for boulevard landscaping and public trees by amending Chapter 10, of Title 7 of the Helena City Code, and set a public hearing date of June 9, 2014.** Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3194**

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE REMOVING THE BOULEVARD LANDSCAPING STANDARDS PRESENTLY CONTAINED IN CHAPTER 4 OF TITLE 7 OF THE HELENA CITY CODE.

Staff Report

City Attorney Jeff Hindoien reported Title 7, Chapter 4 of the Helena City Code broadly relates to "*Sidewalks, Curbs and Gutters*", but also contains a section [§ 7-4-2] entitled "*Sidewalks and Boulevard Landscaping*."

The City Commission is concurrently considering proposed amendments to Title 7, Chapter 10 of the Code relating to "*Trees*", and those proposed amendments to Chapter 10 would create a consolidated City Code structure addressing both (1) boulevard landscaping and (2) public trees.

Staff is proposing the Commission repeal the current boulevard landscaping standards in HCC § 7-4-2(F) concurrent with the adoption of the proposed amendments to Title 7, Chapter 10, *Boulevard Landscaping and Public Trees*, which separately include requirements for boulevard landscaping. It should be noted that those requirements in the proposed Title 7, Chapter 10 language were not lifted verbatim from the current § 7-4-2(F) requirements. Rather, they have been modified as necessary to better align with the current landscaping requirements in our commercial and non-residential zoning regulations (see HCC § 11-24-6), and thus better align with the Commission's goals concerning landscaping on private property. Thus, for example, the new regulations would not impose an obligation to plant grass that would require a variance to deviate from, but rather would just set a certain standard for vegetative cover consistent with the standard set by the Commission in the zoning regulations.

City Attorney Hindoien recommended approval of the ordinance and noted assuming the Commission adopts the proposed amendments to Title 7, Chapter 10; that separately address boulevard landscaping, repealing 7-4-2 (F) would eliminate the potential for any redundancy and/or inconsistency in the municipal regulation of trees and landscaping.

Discussion

Commissioner Elsaesser commented he would be looking into types of fruit trees/edible forest that would be appropriate for the boulevard and also allowing permeable pavers that would help with stormwater issues and aid in providing water to boulevard trees.

Public comment

Mayor Smith called for public comment; none was received.

**Motion** Commissioner Haladay moved approval of first passage of an ordinance repealing the boulevard landscaping standards presently contained in Helena City Code Section 7-4-2 (F), and set a public hearing date of June 9, 2014. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. Ord #3193

**Public Communications** PUBLIC COMMUNICATIONS  
No public communications were given.

**Meetings of Interest** MEETINGS OF INTEREST  
The next Administrative Meeting is June 4, 2014 and the next Commission Meeting is June 9, 2014.  
The Commission will hold a Budget Work Session on June 2, 2014 at 3:00 p.m. in City/County Building - Room 326. The City/County Join Work Session is scheduled for June 5, 2014.

**Adjournment** There being no further business to come before the Commission, the meeting was adjourned at 7:11 p.m.

/S/ James E Smith  
Mayor James E. Smith

ATTEST:

/S/ Debbie Havens  
Clerk of the Commission

Attached:  
Comment related to traffic calming devices by City Attorney Jeff Hindoiem (**see item 12.B.**)

**From:** Andres Haladay  
**To:** Craig Trapp; Jeffrey Hindoien; Ron Alles; Sean Logan; Katherine Haque-Hausrath; Jim Smith; Dan Ellison; Matthew Elsaesser  
**CC:** Ryan Leland  
**Date:** 5/17/2014 7:50 PM  
**Subject:** Re: Query re 2012 IFC Provision on Traffic Calming Devices

Jeff,

Thanks for the follow-up and analysis. I appreciate it. I've cc'd the remainder of the Commissioners in case anyone has questions.

Thanks again,

andres

Andres Haladay

Helena City Commissioner  
316 N. Park Ave  
Helena, MT 59623

>>> Jeffrey Hindoien 05/17/14 9:42 AM >>>  
Gentlemen --

This is just a follow-up to the discussion at Wednesday's Admin Meeting regarding the above-captioned matter. As Commissioner Haladay noted, the 2012 IFC contains a new provision at 503.4.1 entitled "Traffic Calming Devices", which is a sub-section to an existing provision entitled "Obstruction of Fire Apparatus Access Roads". The new provision states that "[t]raffic calming devices shall be prohibited unless approved by the fire code official", and defines "traffic calming devices" as being "designed elements of fire apparatus access roads such as street alignment, installation of barriers, and other physical measures intended to reduce traffic and cut-through volumes, and slow vehicle speeds." As indicated by Craig, the 2012 IFC as adopted by the MT Department of Justice, Fire Prevention and Investigation Section (DCI) "establishes a minimum fire protection code to be used in conjunction with the building code", and that local governments are generally restricted to only adopting (1) portions of the uniform code that may not have been adopted by FPIS or (2) standards more restrictive than those contained in the IFC. (See ARM 23.12.601)

As Commissioner Haladay noted, the underlying rationale for the new provision in the 2012 IFC was presumably based on instances in other municipalities where the lack of coordination between fire officials and public works officials may have led to the design and installation of street features that obstructed the ability of fire service officials to get apparatus to where it needed to be to protect lives and property. From a practical perspective, the City of Helena has institutionalized regular consultation with HFD attendant to the actions of both Public Works and Community Development as they may relate to road location and design, so I certainly don't see this provision as implicating any changes for how we presently do business. Likewise, as also noted by Commissioner Haladay, the Engineering Standards (Section 5.4) separately address traffic calming and indicate that its application to new development will be evaluated on a case-by-case basis, which in turn will trigger the institutionalized consultation process referenced above. The Engineering Standards also indicate that traffic calming, if utilized, should be appropriate for the intended

function of each street or street segment. Thus, to the extent the intended function of any given street or street segment may be (even in part) to provide access for fire apparatus, the Engineering Standards themselves dictate that any traffic calming measure be appropriate relative to that particular function.

Again, I just wanted to provide this follow-up to give everyone the same baseline of info to work with . . . . If there are any further questions that may come up on Monday night on this front, we'll certainly do our best to answer them from the staff level. Thanks.

Jeff