

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 9, 2014
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 9, 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 Shawn Whitewolf 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 19, 2014 were approved as submitted.

Presentation

PRESENTATION:

A. Life Saving Award – Corporal Berkley Conrad

Police Chief Troy McGee reported Corporal Berkley Conrad was recently awarded the Helena Police Department's (HPD) Life Saving Award and explained this award is usually presented internally within the department. Chief McGee explained Corporal Conrad was given the award after providing life-saving assistance to two fishermen whose boat had capsized on Lake Helena, while he too was fishing and off-duty. Chief McGee presented Corporal Conrad with the HPD Life Saving Award for his efforts that day in May and commended him for being a great representative of the HPD and great human being.

Corporal Conrad introduced his family and friends in attendance and gave the history of the incident. He commented he believes he did what any Helena citizen would do and did not do anything out of the ordinary. He commended the gentlemen involved in the accident for helping to save their own lives by holding onto the boat until help could get to them.

Jason Sampson and Robert Charles Morris, the gentlemen involved in the boating accident, thanked Corporal Conrad for his assistance during the incident.

Mayor Smith and the Commission members thanked Corporal Conrad for rendering aid to Mr. Sampson and Mr. Morris following their accident on Lake Helena and congratulated him on being chosen to receive the annual Life Saving Award.

Proclamation

PROCLAMATION:

A. Advance Directives Day

Mayor Smith read the proclamation designating June 9, 2014 as Advance Directive Day in the City of Helena.

Dr. Ken Eden accepted the proclamation and spoke of how critical it is for people of all ages to recognize the importance of end-of-life issues and decisions. He listed www.compassionandchoices.org as a website that can provide data on the topic and noted, locally, St. Peter's Hospital has a wealth of resources on the issue.

Commissioner Haladay thanked Dr. Eden for his work on the issue of end-of-life dignity choices and spoke to the importance of

professional advocates being available to assist patients when they make those decisions for themselves.

Board Appointments BOARD APPOINTMENTS:

- A. Helena Housing Authority (HHA) & Non-Motorized Transportation Advisory Council (NMTAC)

Mayor Smith recommended the following board appointments:

Helena Housing Authority - Appointment of Krystal Craft as tenant representative to the Helena Housing Authority; first term will begin upon appointment and expire August 1, 2016.

Non-Motorized Travel Advisory Council - Appointment of Robert Rasmussen to NMTAC; the unexpired term will begin upon appointment and expire March 31, 2015.

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

Motion

Commissioner Haladay moved approval of the appointments to the HHA and NMTAC as listed above.
Commissioner Ellison seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution declaring certain personal property to be abandoned and unclaimed (twenty bicycles). **Res #20079**

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison introduced the newly hired Editor for the Helena Independent Record (IR), Mr. Jesse Chaney.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Alles invited Chief McGee to report on HPD Corporal Domingo Leveque-Zapata's recognition from the Special Olympics. Chief McGee stated Special Olympics of Montana (MT) has selected Corporal Zapata to represent the State of Montana in the torch run of the National Special Olympic Games being held in New Jersey over the next week. Corporal Zapata will represent Montana while running the final leg, in addition to serving as a bearer of the Flame of Hope through many New Jersey communities. Chief McGee added the Law Enforcement Torch Run is the largest grassroots fundraiser for the Special Olympics program in the world, having raised over \$40 million dollars last year.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Shawn Whitewolf presented a formal recommendation from the Helena Citizens Council regarding parking on the 300 & 400 Block of Last Chance Gulch. The recommendation stated the City Commission should work with the business owners located on the 300 & 400 Blocks of Last Chance; members of the community group, "Friends of the 400 Block"; Helena Parking Commission (HPC), and Citizens Council members; to find a solution to the issue (s). A copy of this recommendation is included in the Commission packet as part of the official record.

Mayor Smith explained the procedure for addressed formal recommendations from the HCC, explaining a formal written response would be sent from the City Commission to the Citizen's Council outlining any proposed action moving forward.

Commissioner Haque-Hausrath asked for the reasoning behind the reduction in the allowed parking time from two hours to one hour. Manager Alles gave a brief overview of the details behind the HPC's decision. He confirmed the issue is currently before the HPC and they are working to address it.

Eileen Byrd, Friends of the 400 Block Vice-President, 3478 Kim Drive; urged the Commission to support their group's concern for adequate parking and beautification in the downtown area.

Tony Wilson, President of Friends of the 400 Block; urged the Commission to listen and address their concerns.

Sumner Sharp, HCC Member, 621 Holter Street; stated there is a lack of designated parking for the blocks being discussed.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RESOLUTION OF INTENTION TO BUDGET ADDITIONAL PROPERTY TAX REVENUE FOR FY2015.

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 a 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 of intention as it will allow the City to advertise the required notices and hold a public hearing to obtain public input on budgeting additional tax revenues. These additional tax revenues are necessary to preserve the present level of services to the community.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Haladay moved approval of a resolution of intention to budget additional property tax revenue for fiscal year 2015 with an increase of up to 2.19% over the property taxes levied in the prior year and set a public hearing date of June 23, 2014.

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20080**

- B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING TITLE 2, CHAPTER 6, PART 3, OF THE HELENA CITY CODE TO HAVE THE CITY OF HELENA BUILDING BOARD OF APPEALS SERVE AS AN APPEALS BOARD FOR THE CITY'S

FIRE CODE IN THE SAME MANNER IN WHICH IT PRESENTLY SERVES AS AN APPEALS BOARD FOR THE CITY'S BUILDING, MECHANICAL, ELECTRICAL AND PLUMBING CODES.

Staff Report

City Attorney Jeff Hindoien reported Section 2-6-3 of the Helena City Code establishes a "board of appeals" to consider appeals from orders, decisions, or determinations made by the applicable code official under the uniform building, mechanical, electrical, and plumbing codes. The current fire code (§3-9-8, Helena City Code) makes reference to the Building Board of Appeals, but contemplates a more limited role for the Board of Appeals than it serves with respect to the other uniform codes.

The City Commission is presently considering proposed amendments to the fire code that would remove that specialized language, and this proposed amendment to Title 2 will then have the fire code treated in the same fashion as the other uniform codes for purposes of the Building Board of Appeals.

Attorney Hindoien recommended approval of the proposed ordinance as it would create uniformity and consistency in the city's treatment of its uniform codes and the role of the Building Board of Appeals under Helena City Code Section 2-6-3.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Haque-Hausrath moved approval for first passage of an ordinance amending Title 2, Chapter 6, Part 3, of the Helena City Code and set a public hearing date of June 23, 2014.

Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3195**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW UP TO 4,000 SQUARE FEET OF OFFICE SPACE FOR GENERAL AND PROFESSIONAL SERVICES IN A R-3 (RESIDENTIAL) DISTRICT ON THE NORTHERN PORTION OF PROPERTY LEGALLY DESCRIBED AS LOTS 10-12, BLOCK 2, PARCHEN ADDITION, HELENA, MONTANA; GENERALLY LOCATED ON WEST OF KESSLER STREET AND SOUTH OF LYNDAL AVENUE.

Staff Report

Planner Kathy Macefield reported on Tuesday, May 13, 2014 the Helena Zoning Commission recommended approval (2:1 vote) for a resolution granting a Conditional Use Permit (CUP) to allow up to 4,000 square feet of office space for general and professional services in a R-3 (Residential) District on the northern portion of property legally described as Lots 10-12, Block 2, Parchen Addition, Helena, Montana; generally located on the west side of Kessler Street and south of Lyndale Avenue (and south of the alley).

A new 5-foot wide boulevard-type sidewalk will be installed along the entire length of the eastern property boundary along Kessler Street. Vehicular access, which includes access for bicycles, to the subject property would be from Kessler Street. Vehicular access to the 8 parking spaces located behind the building would be provided by the unpaved T-shaped alley.

According to ITE trip generation estimates, the 4,000-square foot office would generate fewer weekday vehicle trips than 8 dwelling units

(DU's) that could be constructed on the property and would not significantly impact the street network. All new construction must comply with the codes adopted by the City, including building and fire codes. The proposed parking complies with the parking requirements of the Zoning Ordinance. Therefore, staff determined the proposed conditional use will not significantly increase risk to the public health, safety, or general welfare, and is not expected to significantly reduce or impair the peaceful use of existing property, improvements in the vicinity and the R-3 District.

Eight (8) letters of opposition were received stating concerns related to traffic and parking, and three (3) letters of support were submitted. The aforementioned letters were included in the Commission packet.

Ms. Macefield recommended approval of the CUP and noted the proposed office location could encourage visitors to: stay at the northern portion of the property; not travel through the alley or neighborhood; help reduce some of the current traffic noise from Lyndale Avenue; encourage mixed use development; and reduce vehicles miles traveled (vmt).

Discussion

Commissioner Ellison asked if the parking requirements would be the same if the applicant constructed the maximum allowable use of two eight-dwelling units on the property. Ms. Macefield explained the parking requirements would be lower; one parking spot per dwelling for a total of eight spots. Ms. Macefield discussed the possibility of accommodating the parking requirements via a garage.

Mayor Smith asked for clarification and was pointed out on map.

Commissioner Haladay asked for an explanation of the reasoning behind the disparate amount of parking required per use. Ms. Macefield explained she was unsure; the requirements are national standards and achieved by observation.

Commissioner Haladay asked if revising the site plan would negate the CUP and gave the example that if it were conditioned upon the use being located in the northern portion of the property, if the site plan were revised to relocate the office building to the southern portion of the lot, it would appear the condition for approval would not have been met. Attorney Hindoien agreed the CUP would be negated since the condition upon which it was granted would've changed.

Commissioner Haladay asked for more information on the maintenance provided to the alley adjacent to the southern end of the property. Ms. Macefield explained the variations that could occur based on the minimum amount of parking required, eight spots, and the amount the applicant may choose to provide; up to sixteen spots. She expressed the City Public Works Department's desire to provide better maintenance to the alley. Commissioner Haladay asked if the applicant would be allowed to construction more parking than required. Ms. Macefield answered there is nothing to prohibit it.

Public Testimony

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

Mike Bowler, 912 Kessler; expressed concern for traffic that could be created by the CUP or any development of the lot.

Dan Felska, 919 North Park; stated the alley adjacent to the property is too narrow to accommodate any parking located for the property.

Shawn Whitewolf, 716 Jackson; noted all ADA parking should be located in the front of the building due to the grade of the alley.

Bill Butler, applicant; urged the Commission to approve the CUP and gave a brief overview of his concept for the property.

Mike Casey, Trimac Group, 4973 Last Chance Gulch; stated he is working with Mr. and Mrs. Butler to creatively and efficiently develop the property and urged the Commission to approve the CUP.

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

Motion

Commissioner Ellison moved to approve a resolution granting a CUP to allow up to allow construction of up to 4,000 square feet of office space for general and professional services in the R-3 (Residential) District to be located on the northern portion of the property legally described as Lots 10-12, Block 2, Parchen Addition, Helena, Montana; generally located west of Kessler Street and south of Lyndale Avenue. Commissioner Haque-Hausrath seconded the motion.

Comment

Commissioner Haque-Hausrath acknowledged concerns for increased traffic and parking problems raised by the neighborhood. However, the CUP will result in less new traffic to the lot than another use that would be allowed by right. She noted the office building will be a nice buffer to the residential portion and the applicant has been very upfront with their plan for the property and providing a dialogue related to parking and traffic.

Commissioner Ellison stated he would vote in favor of the CUP and assured the neighborhood their concerns have registered with him. He commented the CUP is a compromise between the applicant and the city in order to provide an option that will result in less traffic and trips per day than if eight duplex housing units were constructed on the site, which the applicant could do by right under the current zoning.

Mayor Smith concurred with Commissioners Ellison and Haque-Hausrath and spoke of the neighborhood's prior concern over the Great Northern development and traffic that would occur from it. He commented the city had worked to address those issues in the past and is doing the same now

Vote

All voted aye, motion carried. **Res #20081**

B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW UP TO SIX (6) DWELLING UNITS TO BE LOCATED IN A CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT. SAID PROPERTY IS LEGALLY DESCRIBED AS LOTS 11-13 IN BLOCK 48 OF THE NORTHERN PACIFIC ADDITION, HELENA, MONTANA.

Staff Report

Planner Dustin Ramoie reported the applicant/property owner is seeking to obtain a Conditional Use Permit (CUP) to allow multiple dwelling units to be located at 1529 and 1531 Railroad Avenue, a CLM zoned property. City Code requires a Conditional Use Permit (CUP) be obtained for multiple dwelling units that are proposed to be located in a CLM District.

According to the applicant, the existing building is a multiple dwelling unit consisting of three (3) apartments also defined as a triplex. The applicant proposes to build a second triplex on the property bringing the total number of units to six (6). The applicant states that they will provide more off street parking than what currently exists.

On May 13, 2014 the Helena Zoning Commission unanimously (3-0) recommended approval of this proposal.

Mr. Ramoie recommended approval of the proposed CUP as it would allow for infill development using city services on underutilized vacant land as well as make a currently non-compliant property compliant with the zoning ordinance.

Public Testimony

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

Kyle Perkins, partial owner of the property; spoke in support of the proposal.

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

Motion

Commissioner Ellison moved approval of a resolution granting a Conditional Use Permit (CUP) to allow up to six (6) dwelling units to be located in a CLM district. Said property is legally described as Lots 11-13 in Block 48 of the Northern Pacific Addition, Helena, Montana; subject to the following condition:

a. Owner shall obtain, at their own expense, inspections by the Helena Fire Department and the Helena Building Division to ensure that the pre-existing dwelling units are habitable. Further, applicant shall comply with any recommended findings of those inspections.

Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20082**

C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3192 ADOPTING THE 2012 EDITION OF THE INTERNATIONAL FIRE CODE AND REVISIONS TO TITLE 3, CHAPTER 9, OF THE HELENA CITY CODE.

Staff Report

Fire Chief Sean Logan reported on May 19, 2014 the Helena City Commission approved first passage of the above listed ordinance and set a public hearing date for June 9, 2014. By state law, ordinance changes relative to the fire code require thirty days from first to final passage. Due to that requirement, Chief Logan recommended the Commission table final passage of Ordinance No. 3192 to the June 23, 2014 Commission Meeting.

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 Haladay moved to table final passage of No. 3192 until June 23, 2014. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Ord #3192**

D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3194 REVISING BOULEVARD LANDSCAPING AND PUBLIC TREE REQUIREMENTS BY AMENDING TITLE 7, CHAPTER 10 OF THE HELENA CITY CODE AND APPROVAL OF THE 2014 HELENA ARBORICULTURAL SPECIFICATIONS AND STANDARDS MANUAL.

E. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3193
REMOVING THE BOULEVARD LANDSCAPING STANDARDS
PRESENTLY CONTAINED IN TITLE 7, CHAPTER 4 OF THE
HELENA CITY CODE.

Staff Report

Parks 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, does not include national specifications and standards for tree care; lacks purpose, and contains outdated terminology. 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 the City Codes and does not specify timeframes for adjacent landowners to plant boulevard vegetations.

Staff presented recommendations to the Commission at a March 2014 Administrative Meeting and the Commission approved first passage on May 19, 2014 and set a public hearing date for June 9, 2014.

Director Teegarden noted the proposal includes the following:

1. Revisions to 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.

Mr. Marr discussed the concerns submitted by Growing Friends of Helena and gave an overview of changes to the ordinance and the information contained in the HASS. He also explained an amendment staff is requesting be approved by the Commission.

Discussion

Commissioner Haladay discussed concerns the Commission had received regarding who would be allowed to perform minor pruning and asked if the language in Section 7-10-3 would be appropriately revised to read: "For any person to conduct major pruning". Superintendent Marr stated yes.

Public Testimony

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

Robert Throssell, President of Growing Friends of Helena (Growing Friends); explained the concerns expressed by Growing Friends. He clarified they would support approval of the ordinance and HASS tonight; with the understanding that city staff and the Commission will work on issues perceived as "errors" by Growing Friends over the next year.

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

Motion Commissioner Haque-Hausrath moved to table final passage of Ordinance No. 3194 revising boulevard landscaping and public tree requirements by amending Title 7, Chapter 10 of the Helena City Code, and consideration of the 2014 Helena Arboricultural Specifications and Standards (HASS) manual to the call of the City Manager. Commissioner Ellison seconded the motion.

Comment Commissioners Haque-Hausrath, Haladay and Ellison spoke in favor of the tabling motion. Noting Commissioner Elsaesser's absence, they requested that discussions on the proposal include the entire Commission.

Vote All voted aye, motion carried.

Motion Commissioner Ellison moved to table final passage of Ordinance No. 3193 removing the boulevard landscaping standards presently contained in Title 7, Chapter 4 of the Helena City Code to the call of the City Manager. Commissioner Haladay seconded the motion. All voted aye, motion carried.

Public Communications PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest MEETINGS OF INTEREST
The next Administrative Meeting is June 18, 2014 and the next Commission Meeting is June 23, 2014.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 8:08 p.m.

/S/ James E. Smith
Mayor James E. Smith

ATTEST:

/S/ Debbie Havens
Clerk of the Commission