

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
August 18, 2014
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, August 18, 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. 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 August 4, 2014 were approved as submitted.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Grant award from Montana Fish, Wildlife & Parks (MFWP) to assist in the purchase of a permanent vaulted restroom facility to be installed at the Mount Helena Trailhead parking area.

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

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

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

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Mayor Smith referred to the ongoing protest period for the creation of a Non-Motorized District and commented although it is public information; he will be regarding it as a secret ballot. He stated he has no interest in viewing the protests that have been submitted.
Commissioner Haladay said the City is saddled with a legislatively enacted protest system for creating special districts. It was confusingly designed by the state legislature and values the vote of commercial and residential land owner's much more than human citizen's of Helena. In other words, a corporate citizen is worth much more than a human citizen. The protest amount has reached 10% and may go out to a vote of the public. Commissioner Haladay stated as a matter of policy, if this is going to be decided via a popular referendum, he needs to know if the 10% opposition is made up of 3,200 residential property owners/human citizens, who would be allowed to vote on the matter and sending a strong signal they do not support the creation of the district; or if the opposition is made up of corporate land owners that would not be allowed to vote on a referendum.

Commissioner Haladay stated given the complexity of the issue, he feels he would be voting blindly to send it to a referendum if he did not review the breakdown of who has protested the district. For him it is another way of weighing whether the community wants the Commission to move forward and important to see where the ayes and nays are coming from.

Commissioner Haque-Hausrath stated she has not looked at the protests but intends to, for similar reasons to Commissioner Haladay's; she too sees it as another way to gauge the community's interest before the Commission votes to spend money to put it on the ballot. She noted it is public information and akin to public comment. She commented she does not intend to have any sort of retribution against anyone that does not support it, and gave examples of situations where she has made fair decisions regardless of who has opposed what she supports. She summarized she does not see this as any different than any other decision the Commission makes involving public comment. Commissioner Haque-Hausrath suggested future protest ballots contain language indicating the votes are not secretive.

Commissioner Elsaesser thanked Fish, Wildlife and Parks for awarding the City the grant for permanent restrooms at Mount Helena Park. He also complimented Mayor Smith on the comments he gave at a recent Brewfest celebrating Helena's 150th birthday and thanked him for asking him to join him in during his speech.

Commissioner Elsaesser reported according to recent data the ratio of housing starts outside the City limits versus inside the City of Helena's limits is 4:1. He urged his fellow Commissioners to continue to work on the proposed Memorandum of Understanding with Lewis & Clark County and development within the Urban Standards Boundary.

***Report of the City
Attorney***

REPORT OF THE CITY ATTORNEY

Mayor Smith on behalf of the Commission wished Attorney Hindoien well in his new position working in a local private law firm.

***Report of the City
Manager***

REPORT OF THE CITY MANAGER

A. Recognition of City Planner Kathy Macefield

City Manager Alles announced Planner Kathy Macefield is retiring at the end of August and asked Community Development Director Haugen to say a few words about Ms. Macefield's career with the City. He commended Ms. Macefield on her commitment to the city and its planning efforts.

Director Haugen stated Ms. Macefield will retire after spending 31 years employed with the City of Helena. She listed the many projects Ms. Macefield worked on during her career and spoke of the numerous organizations she volunteers with. Director Haugen commented Ms. Macefield has made the city a better place and will be missed.

Ms. Macefield discussed her career with the City and recounted the many projects she was able to work on and how much has changed in the world of community planning since she was hired in 1983. She commended the quality of the co-workers she was blessed to work with and learn from, and expressed excitement to join the world of community volunteers.

Mayor Smith and the Commission members thanked Ms. Macefield for her service and commended the work she has done to improve the City of Helena.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RESOLUTION PROVIDING FOR THE ANNUAL TAX LEVY FOR FISCAL YEAR (FY) 2015.

Staff Report

Administrative Services Director Tim Magee reported as required by MCA 15-10-203 the City held a public hearing and subsequently adopted a resolution to budget additional property tax revenue on June 23, 2014. On June 23rd the City Commission also adopted the final budget. MCA 7-6-4036 requires the City to fix the tax levy by the later of the 1st Thursday in September (September 4, 2014) or within 30 calendar days after receiving certified taxable values. Certified taxable values were received August 5, 2014. September 4, 2014 is 30 days after receipt of those values; therefore, that is the later deadline. He noted newly taxable property growth was 2.41% last year and is 1.35% this year.

Under MCA 2-9-212, Group Health Insurance tax levies may include annual increases for insurance premiums and are not subject to the general purpose mill levy calculation limitations provided for in MCA 15-10-420. The FY 2015 budget provides for \$1,489,247, or 25.16 mills, to be levied for group health insurance premiums in 2014 for FY 2015, which includes \$114,644 for a premium increase as allowed under MCA 2-9-212.

Director Magee recommended approval of the resolution and noted the FY 2015 budget provides for the full authorized tax levy to be levied.

Discussion

Commissioner Elsaesser asked if it could be assumed the centrally assessed valuations will be an ongoing trend. Director Magee gave a detailed explanation of how the centrally assessed amounts report on an honor system.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Haque-Hausrath moved approval of a resolution providing for the annual tax levy in mills for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #20112**

- B. CONSIDER AMENDING THE SUBDIVISION PLAT FOR PROPERTY LEGALLY DESCRIBED AS LOT 6, BLOCK 2 OF THE HAGLER & WADDELL SUBDIVISION; GENERALLY LOCATED SOUTH OF ENTERPRISE DRIVE AND EAST OF NATIONAL AVENUE WITH A PROPERTY ADDRESS OF 1021 ENTERPRISE DRIVE.

Staff Report

City Planner Lucy Morell-Gengler reported the City Commission established the T#22 District in 1978 when a zone change from R-2 to B-2 for Lots 1-2 of the Richmond Hill Addition was requested. The T#22 District requires a 20-foot wide green belt and 37 ½ - foot wide building setback from the alley. In 1984, the subject property was incorporated into the Hagler & Waddell major subdivision. One of the conditions of subdivision approval required the 37 ½ - foot wide setback on Lots 5, 6 and 8 – Block 2, as required by the B-2 T#22 zoning, be noted graphically on the final plat.

The property owner of Lot 6, Block 2 of the Hagler & Waddell Subdivision, in addition to requesting the removal of the T#22 zoning, has also submitted a request to the City Commission to remove the setback and greenbelt/landscape requirements from the subdivision plat for Lot 6. Both requested actions, the zone change and amended plat, are going to the City Commission simultaneously this evening. Multiple dwelling units are currently being constructed on Lot 6.

Planner Morell-Gengler recommended approval of the amendment eliminating the special requires of the T#22 zoning. Compliance with the current B-2 zoning standards for setback and screening would still be required which would provide a consistent application of zoning requirements, similar to the rest of the City.

Discussion

Commissioner Haque-Hausrath referred to the reasoning behind the original requirements of the plat and asked if the greenbelt requirement is on any contiguous properties, such that it would be possible to install a green belt throughout the area. Planner Morell-Gengler explained it is only required on two properties and according to the minutes the developer felt it was unsightly and wanted to use it for parking so he did not protest the setback.

Commissioner Elsaesser asked if the plat is amended tonight, would the neighboring properties have to come before the Commission to remove the setback restriction. Planner Morell-Gengler stated yes because it was a condition of approval. Commissioner Elsaesser asked what the restrictions would be related to access from the alley and commercial development. Ms. Morell-Gengler explained it would be secondary access; primary access would be from the right-of-way (ROW).

Commissioner Haque-Hausrath asked if lot 6 has sidewalk installed on Enterprise Drive. Ms. Morell-Gengler stated she believes there is already sidewalk as that property is currently being developed and sidewalks are required with the building permit.

Public Testimony

Mayor Smith called for public comment.

Greg Painter, adjacent property owner; expressed displeasure with the proposal because of the applicant's intention to build a parking lot on the greenbelt portion. He noted the rest of the properties with the setback requirement have complied with the condition.

Jeanette Painter, adjacent property owner; spoke in opposition to the proposal as she does not believe it is an appropriate lot for another apartment building.

Gabe Nistler, applicant; urged the Commission to approve the proposal and maintained the zone change would decrease traffic in the alley.

Tanya Lynch, Maple Avenue; urged the Commission keep the requirement for the greenbelt and setback and spoke of already occurring parking issues.

George Skaagen, 1000 Maple Avenue; stated there are presently considerable traffic problems in the area and asked the Commission to deny the proposal.

Discussion

Commissioner Haque-Hausrath asked when the subdivision and alley was originally platted. Planner Morell-Gengler stated the alley existed with the original subdivision over 100 years ago. Commissioner Haque-Hausrath asked for the width of the alley. Ms. Morell-Gengler stated 16 feet, noting today the standard is 20 feet.

Commissioner Haque-Hausrath asked for the landscaping requirements when B-2 zoning abuts residential areas. Planner Gengler explained the areas that are not developed or used for parking are landscaped and there are screening requirements. The setback for B-2 adjacent to residential is 15 feet for the rear.

Commissioner Haque-Hausrath asked Mr. Nistler how much parking is currently available on the property. Mr. Nistler stated one (1) parking stall per unit. He explained there will be a garage that blocks the development so the first twelve (12) units won't be able to access the alley way. There will be eight (8) additional parking sites total, resulting in twenty-four (24) parking stalls for sixteen (16) units and twenty-five (25) feet of green grass. He noted the apartments are smaller, with one or two bedrooms and one bathroom. The amount of vehicles is usually one per unit, two at the most. He agreed the current construction is causing a lot of on-street parking to be taken up by contractors and it is problematic for the neighborhood. Those issues will be resolved as soon as construction is complete.

Commissioner Elsaesser asked for an explanation of primary and secondary access as it relates to this property. Planner Morell-Gengler gave a detailed explanation of how the developments would be accessed.

Commissioner Haque-Hausrath asked if the amended plat were not approved, would the applicant be allowed to pave the lot and use it for parking. Planner Gengler indicated that would contradict the greenbelt/landscaping requirement, which is the focus of the application for the plat to be amended. Parking could be installed in the 37 ½ foot no-build area.

Commissioner Haladay asked what would happen if the amended plat were not approved but the zone change is. Attorney Hindoien stated he was unsure what would be accomplished by taking action to amend the zoning ordinance to remove that restriction from that property, yet not taking action to remove that same restriction from the plat. He cautioned against approving one action and not the other as it would not leave the record with a clear outcome.

Motion

Commissioner Ellison moved approval of the amended plat removing the 37 1/2 –foot wide setback and 20-foot wide landscape notation for Lot 6, Block 2, of the Hagler & Waddell Subdivision.

Commissioner Haque-Hausrath seconded the motion.

Comment

Commissioner Ellison stated he visited the property and believes the proposal will fit with the surrounding area. He noted these two

parcels are the only ones in the whole neighborhood area with the setback requirements and that seems unreasonable.

Commissioner Haque-Hausrath concurred with Commissioner Ellison and stated it seems the proposal tonight will improve parking in the area and be much needed infill development. She noted "spot" requirements should not be placed on individual property owners and indicated she would support the proposal.

Commissioner Elsaesser indicated he would not support the proposal because of concerns related to parking for the development.

Vote

Motion carried 4-1, with Commissioner Elsaesser voting no.

Public Hearings**PUBLIC HEARINGS:**

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR A ZONE CHANGE TO ELIMINATE THE TRANSITION #22 DISTRICT STANDARDS AND RETAIN THE B-2 (GENERAL COMMERCIAL) DISTRICT FOR PROPERTY LEGALLY DESCRIBED AS LOTS 5, 6, AND 8 IN BLOCK 2 OF THE HAGLER & WADDELL SUBDIVISION; GENERALLY LOCATED SOUTH OF ENTERPRISE DRIVE AND EAST OF NATIONAL AVENUE WITH PROPERTY ADDRESSES OF 1021 AND 1051 ENTERPRISE DRIVE AND 2801 NATIONAL AVENUE RESPECTIVELY.

Staff Report

Planner Morell-Gengler further reported on July 8, 2014 the Helena Zoning Commission unanimously recommended approval (5:0 vote) for the adoption of an Ordinance amending Ordinance #2073 and the Official Zoning Map described in Section 11-1-3 of the Helena Zoning Ordinance to eliminate the Transition Zoning #22 standards and designation for property legally described as Lots 5, 6, and 8, Block 2, of the Hagler & Waddell Subdivision. The underlying B-2 (General Commercial) District zoning would be retained.

The City Commission established the T#22 District in 1978 when a zone change from R-2 to B-2 for Lots 1-2 of the Richmond Hill Addition was requested. T#22 District requires a 20-foot wide green belt and 37 ½ - foot wide building setback from the alley. In 1984, the subject property was incorporated into the Hagler & Waddell major subdivision. One of the conditions of subdivision approval required the 37 ½-foot wide setback on Lots 5, 6, and 8, Block 2, as required by the B-2 T#22 zoning, be noted graphically on the final plat. The property owner of Lot 6, in addition to requesting the removal of the T #22 zoning, has also submitted a request to the City Commission remove the setback requirements from the subdivision plat on Lot 6. Both requested actions, the zone change and amended plat, will go to the City Commission simultaneously.

Lot 5 currently has a preschool located on the property, multiple dwelling units are currently being constructed on Lot 6, and Lot 8 has been developed with multiple dwelling units. One letter in opposition was received.

As stated in the Helena Zoning Regulations, each transitional district has unique standards and is intended to be temporary and phased out over time. The subject district was established in 1978 and elimination of the T#22 District is consistent with the stated intent of the Zoning Regulations. Elimination of the T-District would also result in the subject lots having just one zoning district instead of the lots split with

two zoning districts, one on the north portion and another on the south portion of the lots. Removal of the T#22 District would eliminate a very small area of unique zoning and convert it to zoning that is more consistent with other areas of the City.

Discussion

Commissioner Elsaesser indicated he would not support the zone change as the Commission needs to be more mindful of how such changes affect residential neighborhoods.

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 further persons wishing to address the Commission, Mayor Smith closed the public hearing.

Motion

Commissioner Ellison moved approval of first passage of an ordinance for a zone change to eliminate the Transition Zoning #22 District standards and retain the B-2 (General Commercial) District for property legally described in the ordinance. Commissioner Haladay seconded the motion. Motion carried 4-1, with Commissioner Elsaesser voting no. **Ord #3197**

- B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AND ORDINANCE #1990 FOR A ZONE CHANGE FROM R-3-T#25 TO B-2 DISTRICT FOR LOTS 9-A AND 10-A, BLOCK 11, FLOWER GARDEN ADDITION, HELENA, MONTANA; GENERALLY LOCATED WEST OF COOKE STREET AND NORTH OF CHESTNUT STREET.

Staff Report

City Planner Kathy Macefield reported on Tuesday, July 8, 2014 the Helena Zoning Commission recommended approval (4:1 vote) for passage of an ordinance amending the Official Zoning Map described in Section 11-1-3 of the Helena Zoning Regulations, for a zone change from T#25 to B-2 District for Lots 9-A and 10-A, Block 11, Flower Garden Addition, Helena, Montana as shown on COS #3244730; generally located west of Cooke Street and north of Chestnut Street.

The T-Standard #25 was established by Ordinance #1990 in 1976 when a large portion of the surrounding area was undeveloped. Over time other zone changes have occurred that removed T-Standard #25 south of Chestnut Street between Montana Avenue and the east side of Cooke Street. The T-Standard #25 allows only single dwellings and duplexes in the zoning district. If the zone change is approved and the property is developed in the future, any of the uses allowed in the B-2 District would be allowed on the two lots. A list of the permitted and conditional uses and the dimensional standards of the B-2 Residential District are attached to the staff report that was provided to the Zoning Commission.

The subject property is currently vacant and undeveloped, and is adjacent to the R-3-T #25 District on the north and south, the PLI District on the east, and the B-2 District on the west. Surrounding land uses include single and multiple dwelling units and an elementary school. The lots are not located on an arterial which could affect their desirability for commercial development.

The proposed zone change would facilitate opportunities for mixed use redevelopment of the property which would be compatible with the area, and could allow the property to be redeveloped with higher

density residential uses or commercial uses. Due to the small size of the lots and their location, plus the onsite parking and landscaping requirements, the amount of potential traffic generation is not expected to be significant. The proposed B-2 District is consistent with the commercial designation of the 2011 Helena Growth Policy and Montana zoning criteria. Infill mixed-use development could encourage non-motorized traffic, which could reduce the amount of vehicle miles traveled. Planner Macefield recommended approval of the proposal.

Discussion

Commissioner Haladay referred to comments made by a Zoning Commissioner during its hearing stating there are not enough zoning districts and asked for an explanation of those comments. Ms. Macefield explained he feels there are not enough mixed-use zones available for use in the best interest of the city; some sort of hybrid between B-2 and R-3 is needed.

Public Testimony

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

Gabe Nistler, applicant; urged the Commission to approve the proposed zone change.

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

Discussion

Commissioner Haque-Hausrath asked Mr. Nistler for his opinion on the zoning designations offered by the City of Helena. Mr. Nistler gave thorough comments in support of more designations that would allow higher density residential development.

Commissioner Elsaesser indicated he would support the proposal. He stated he looks forward to future discussions with the Zoning Commission, builders and developers regarding zoning delineations and building fees.

Commissioner Haladay requested the Commission support asking the Zoning Commission to embark on the creation of hybrid zoning designations at a future date.

Motion

Commissioner Haque-Hausrath moved approval of first passage of an ordinance, amending the Official Zoning Map, for a zone change from R-3-T #25 (Residential) to a B-2 (General Commercial) District for property legally described in the ordinance.

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3198**

C. 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 ADOPTION OF THE 2014 HELENA ABORICULTURAL STANDARDS.

Staff Report

Parks Superintendent Craig Marr reported on May 19, 2014, the City Commission approved first passage of the Boulevard Landscaping and Public Tree Ordinance. At the public hearing on June 9, 2014, the Commission tabled final passage. Following additional stakeholder meetings and reviews, additional input from Growing Friends of Helena was incorporated into the standards and staff amendments.

Staff is recommending the following changes:

1. Revise Title 7, Chapter 10 of the Helena City Code to consolidate and clarify responsibilities for boulevard landscaping and public trees. The revised 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. Adoption of the Helena Arboricultural Standards as a companion document to the Boulevard Landscaping and Public Tree Ordinance that can be frequently updated and revised as necessary.

Assuming the proposed revisions are adopted, 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.

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; thanked Parks Department staff for working with Growing Friends to address their concerns and spoke in support of the adoption of the proposed ordinance and standards manual.

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

Motion

Commissioner Elsaesser moved approval of final passage of Ordinance No. 3194 four boulevard landscaping and public trees by amending Chapter 10 of Title 7 of the Helena City Code.

Commissioner Ellison seconded the motion.

Amendment

Commissioner Elsaesser moved approval of Elsaesser Amendment #1, regarding fruit trees. Commissioner Haque-Hausrath seconded the motion. Motion carried 4-1, with Mayor Smith voting no.

Amendment

Commissioner Haque-Hausrath moved approval of Haque-Hausrath Amendment #1, regarding tree spacing. Commissioner Ellison seconded the motion. Motion carried 4-1, with Mayor Smith voting no.

Amendment

Commissioner Elsaesser moved approval of Elsaesser Amendment #2, related to permeable pavers and storm water collection systems. Commissioner Haque-Hausrath seconded the motion.

Comment

Commissioner Elsaesser gave the rationale behind the Elsaesser Amendment #2. A written summary of his amendment proposal is included in the Commission Meeting packet as part of the official record.

Mayor Smith asked for costs anticipated to be associated with the proposal. Commissioner Elsaesser stated he was unsure of any specific costs but believes they could be justified when looking at the cost to divert stormwater and the City's MS4 Permit. Mayor Smith disagreed with using the city's permit as justification as he has a different understanding of the regulatory environment the city is in with regards to stormwater.

Commissioner Haladay asked who is responsible for watering boulevard trees. Manager Alles stated currently the city and the property owner share the responsibility, unless the trees surround City parks.

Discussion was held regarding the approval process for installation of the pavers and who would be responsible for maintenance. Commissioner Elsaesser commented the language in his amendment discussing Public Work's Department approval is to ensure such systems function once installed. Attorney Hindoien explained the intent of the language is to ensure the systems function as proposed, noting it's been discovered the pavers aren't working well in northern climates because the cycle of freezing and thawing results damage and can exacerbate the very stormwater issues they have been installed to assist with. Manager Alles added staff has discussed who would be financially responsible for repair and maintenance and no clear decision has been made. He echoed Attorney Hindoien's comments regarding issues associated with using the pavers in northern climates. Commissioner Haladay asked if maintenance could be paid for out of the street utility fund. Manager Alles answered he does not believe so; it would more than likely fall under the stormwater utility.

Commissioner Haladay asked Commissioner Elsaesser if he foresees the program as "opt in" choice by an adjacent homeowner to work through the various struggles that could be associated with it. Commissioner Elsaesser concurred noting he wants to ensure this kind of technology is allowed, although he views this as an entirely permissive amendment.

Amendment

Commissioner Elsaesser moved to amend Elsaesser Amendment #2 to insert the following language after *Public Works Department*: "for the infrastructure and maintenance of the features, the cost of which may be required to be of the adjacent property owner". Commissioner Haque-Hausrath seconded the motion. Motion carried 4-1, with Mayor Smith voting no.

Amendment

Commissioner Haque-Hausrath moved approval of the staff amendments. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Motion

Commissioner Elsaesser moved approval of final passage of Ordinance No. 3194 for boulevard landscaping and public trees by amending Chapter 10 of Title 7 of the Helena City Code, as amended. Commissioner Ellison seconded the motion. Motion carried 4-1, with Mayor Smith voting no.

Motion

Commissioner Ellison moved approval of the adoption of the 2014 Helena Arboricultural Standards. Commissioner Haladay seconded the motion. All voted aye, motion carried.

D. 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

City Attorney 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 Commission is concurrently considering the second and final passage of 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 to repeal the current boulevard landscaping standards in HCC § 7-4-2(F) in conjunction with the adoption of the proposed changes 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 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. 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.

Attorney Hindoien recommended approval of final passage of Ordinance No. 3193 to eliminate the potential for any redundancy and/or inconsistency in the municipal regulation of trees and landscaping.

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 approval of final passage of Ordinance No. 3193 repealing the boulevard landscaping standards presently contained in Helena City Code, Section 7-4-2(F).

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3193**

E. CONSIDER A RESOLUTION LEVYING AN ASSESSMENT
UPON ALL PROPERTY IN THE LANDFILL MONITORING AND
MAINTENANCE DISTRICT FOR FISCAL YEAR 2015 (FY2015).

Staff Report

Administrative Services Director Tim Magee reported each year the City Commission must levy and assess an annual assessment on the Landfill Monitoring and Maintenance District in order for the assessment to be placed on the upcoming tax bills.

The annual assessment approved by the City Commission will be placed on the calendar year 2014 tax bills of the properties within the district. The City proposes no change in the amount of the annual assessment for FY2015.

Director Magee recommended approval of the resolution to allow the City to defray the cost of operations for the district.

Discussion Commissioner Elsaesser spoke of the importance of the district.

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 Elsaesser moved approval of a resolution specifying the assessment option for the special Landfill Monitoring and Maintenance District for fiscal year 2015 and levying and assessing all property within the district. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Res #20113**

F. CONSIDER A RESOLUTION TO LEVY AN ASSESSMENT UPON ALL PROPERTY IN THE URBAN FOREST MANAGEMENT DISTRICT FOR FISCAL YEAR 2015.

Staff Report Director Magee reported each year the City Commission must levy and assess an annual assessment on the Urban Forest Management District in order for the assessment to be placed on the upcoming tax bills.

The annual assessment approved by the City Commission will be placed on the calendar year 2014 tax bills of the properties within the district. The City proposes no change in the amount of the assessment for FY2015.

Director Magee recommended approval of the resolution to allow the City to defray the cost of operations for the district.

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 approval of a resolution to specify the assessment method option for the Urban Forest Management District for FY2015 and levying and assessing all property within the district. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20114**

G. CONSIDER A RESOLUTION SPECIFYING THE ASSESSMENT OPTION, AMENDING THE BOUNDARIES AND LEVYING AND ASSESSING THE ANNUAL CHARGE FOR STREET MAINTENANCE DISTRICT #1 FOR FISCAL YEAR 2015.

Staff Report Director Magee reported each year the City Commission must levy and assess an annual charge and amend the boundaries for Street Maintenance District #1 in order for the assessment to be placed on the upcoming tax bills.

The annual assessment approved by the City Commission will be placed on the calendar year 2014 tax bills of the properties within the district. A rate increase of up to 1% for FY2015 is proposed.

Director Magee recommended approval of the resolution to allow the City to defray the cost of operations for the district.

Discussion

Commissioner Haladay noted he would support the proposed increase; however, he invited the Commission to consider adjusting the method by which the rate is increased to reduce the burden of the proportional increase on residences. The vehicles that travel on the City's roadways don't tend to increase to residences the way they do to commercial properties so an equal increase on the district results in a disproportionate increase to the residential and mobile home owner.

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 Elsaesser moved approval of a resolution specifying the assessment option for Street Maintenance District No. 1 for fiscal year 2015, levying and assessing all property within the district, and amending the boundaries of the district.

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20115**

H. CONSIDER A RESOLUTION LEVYING AN ASSESSMENT UPON ALL PROPERTIES IN THE SPECIAL STREET LIGHTING DISTRICTS FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported each year the City Commission must levy an assessment on the Special Street Lighting Districts in order for the assessments to be placed on the upcoming tax bills.

The annual assessment approved by the City Commission will be placed on the calendar year 2014 tax bills of the properties within the district.

Director Magee recommended approval of the resolution to allow the City to levy an assessment on all properties within the Street Lighting Districts to defray the cost in those districts.

Public Testimony

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

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

Motion

Commissioner Ellison moved approval of a resolution levying an assessment upon all property in Special Street Lighting Districts to defray the cost of installing and maintaining improvements in said districts for FY2015.

Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20116**

I. CONSIDER A RESOLUTION AMENDING THE BOUNDARIES AND LEVYING AN ASSESSMENT UPON ALL PROPERTY IN THE STORM WATER UTILITY DISTRICT FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported each year the City Commission must amend the boundaries and levy an assessment on the Storm Water

Utility District in order for the assessment to be placed on the upcoming tax bills.

The annual assessment approved by the City Commission will be placed on the calendar year 2014 tax bills of the properties within the district. A rate increase of up to 3% for FY2015 is proposed.

Director Magee recommended approval of the resolution to allow the City to defray the cost of operations for the district.

Discussion

Commissioner Elsaesser spoke in support of the proposed increase in order to fund a new staff person and comply with new regulatory requirements.

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 Elsaesser moved approval of a resolution amending the boundaries and levying an assessment with a rate increase of 3% upon all property in the Storm Water Utility District to defray the cost of maintaining services in the District for FY2015.

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20117**

J. CONSIDER A RESOLUTION LEVYING AND ASSESSING A TAX ON ALL PROPERTIES IN THE SPECIAL IMPROVEMENT DISTRICTS TO DEFRAY THE COST OF MAINTAINING IMPROVEMENTS FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported each year the City Commission must levy and assess an annual tax on the Special Improvement Districts in order for the charge to be placed on the upcoming tax bills.

The annual tax approved by the Commission will be placed on the calendar year 2014 tax bills of the properties within those districts.

Director Magee recommended approval of the resolution to allow the City to defray the cost of maintaining improvements in the districts.

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 Haque-Hausrath moved approval of a resolution levying and assessing a tax upon all property in special water, sewer and paving districts to defray the cost of maintaining improvements in said Special Improvement Districts for FY2015.

Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20118**

K. CONSIDER A RESOLUTION LEVYING ASSESSMENTS FOR FISCAL YEAR 2015 FOR IMPROVEMENTS MADE TO PROPERTIES IN THE SIDEWALK IMPROVEMENT DISTRICTS.

Staff Report

Director Magee reported each year the City Commission must levy assessments on the Sidewalk Improvement Districts in order for the charge to be placed on the upcoming tax bills.

The annual assessments approved by the Commission will be placed on the calendar year 2014 tax bills of the properties within each district.

Director Magee recommended approval of the resolution to allow the City to defray the costs of improvements in the Sidewalk Improvement Districts.

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 approval of the resolution levying assessments for improvements of sidewalks, curbs, gutters and alley approaches in the City of Helena. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.
Res #20119

- L. CONSIDER A RESOLUTION AMENDING THE BOUNDARIES AND LEVYING AN ASSESSMENT UPON ALL PROPERTY IN THE OPEN SPACE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported each year the City Commission must levy and assess an annual charge on the Open Space Maintenance District in order for the charge to be placed on the upcoming tax bills.

The annual assessment approved by the City Commission will be placed on the calendar year 2014 tax bills of the properties within the district. A levy increase of up to 3% per square foot of the impervious area portion of the charge on all lots or parcels for FY2015 is proposed.

Director Magee recommended approval of the resolution to allow the City to defray the cost of operations for the district.

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 Haque-Hausrath moved approval of a resolution amending the boundaries and levying an assessment of 3% upon all property in the Open Space Maintenance District No. 1 to defray maintenance costs in the district for FY2015.

Commissioner Haladay seconded the motion.

Comment

Commissioner Ellison noted he would not support the increase as the assessment is disproportionate because it is based on impervious area, thus affecting facilities such as the Helena Regional Airport, Carroll College, local schools and St. Peter's Hospital in a way that is not in the best interest of the community. Mayor Smith concurred with Commissioner Ellison's comments.

Commissioners Elsaesser, Haque-Hausrath and Haladay spoke in support of the methodology for the district, as they feel the residential

property owner has unfairly bore the brunt of paying the largest amount into the district since its inception.

Vote

Motion carried 3-2, with Mayor Smith and Commissioner Ellison voting no. **Res #20120**

M. CONSIDER A RESOLUTION APPROVING THE PROPOSED WORK PLAN AND BUDGET OF THE BUSINESS IMPROVEMENT DISTRICT (BID) FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported on August 9, 2010, the City Commission adopted a resolution creating the BID for a period of ten years pursuant to 7-12-1101, MCA. State law (7-12-1132) requires the BID to submit its budget and work plan to the City Commission for approval and to recommend a method of levying an assessment on the property within the district to defray the cost of the work plan and budget.

Director Magee recommended approval of the resolution.

Public Testimony

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

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

Motion

Commissioner Ellison moved approval of a resolution approving the work plan and budget for the Business Improvement District for FY2015. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #20123**

N. CONSIDER A RESOLUTION LEVYING AN ASSESSMENT FOR THE BUSINESS IMPROVEMENT DISTRICT (BID) FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported the BID is not requesting any change to the assessment methodology. The complete methodology is outlined in the resolution and is in accordance with the prescribed methodologies allowed by state law (7-12-1133, MCA). The BID's proposal is, after receiving public comment, the City Commission approve the resolution levying an assessment to defray the costs of the budget and work plan for fiscal year 2015 as submitted.

Director Magee noted approval of the resolution would allow for the assessment to be placed on the 2014 tax bills of the properties within the district and would fund the BID's operations for FY2015.

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 approval of a resolution levying an assessment for the BID for FY2015. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20124**

- O. CONSIDER A RESOLUTION APPROVING THE PROPOSED WORK PLAN AND BUDGET OF THE TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID) FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported on April 20, 2009 the City Commission passed Resolution #19644 which created the TBID for a period of ten years pursuant to 7-12-1101, MCA. State law (7-12-1132) requires the TBID to submit its annual budget and work plan to the City Commission for approval and to recommend a method of levying an assessment on the property within the district to defray the cost of the work plan and budget.

Director Magee recommended approval of the resolution.

Public Testimony

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

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

Motion

Commissioner HH moved approval of a resolution approving the work plan and budget for the TBID for FY2015.

Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20121**

- P. CONSIDER A RESOLUTION LEVYING AN ASSESSMENT FOR THE TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID) FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported no change is being requested to the methodology or assessment amount for the TBID for FY2015. The TBID is requesting the City Commission approve the proposed resolution levying an assessment to defray the costs of the budget and work plan for fiscal year 2015 as submitted.

Director Magee noted approval of the resolution would allow for the assessment to be placed on the 2014 tax bills of the properties within the district and will fund the TBID's operation for FY2015.

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 Elsaesser moved approval of a resolution levying an assessment for the TBID for FY2015. Commissioner

Ellison seconded the motion. All voted aye, motion carried. **Res #20122**

- Q. CONSIDER A RESOLUTION ESTABLISHING CHARGES FOR COLLECTION AND DISPOSAL OF RESIDENTIAL GARBAGE AND REFUSE IN THE CITY OF HELENA, MONTANA, FOR FISCAL YEAR 2015.

Staff Report

Director Magee reported the City's financial planning policy resolution calls for funding of essential services, including: providing timely funding of regularly recurring Comprehensive Capital Improvement Program (CCIP) components; annually reviewing rates to ensure adequate funding of operations, maintenance and debt; address

capital project priorities; consider the impact of inflation; and make incremental rate changes that are regular and predictable for citizens.

The annual charges approved by the City Commission for residential solid waste services will be placed on the calendar year 2014 property tax bills and fund the operating and capital system. An increase in charges of up to 1.5% has been proposed.

Director Magee recommended approval of the resolution in order to establish charges and fund the residential solid waste operation and capital needs for FY2015.

Discussion

Commissioner Elsaesser discussed how a recent study of the city's solid waste services could result in major changes to its operation. He stated an increase at the rate of inflation seems reasonable given that discussions on those changes are just beginning. Commissioner Haladay concurred with Commissioner Elsaesser and stated he is interested to see how the Public Works Department will implement some of the cost savings identified in the study.

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 Elsaesser moved approval of a resolution establishing charges for collection and disposal of residential garbage and refuse at an increase of 1.5% in the City of Helena, Montana for FY2015. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20125**

R. CONSIDER A RESOLUTION SETTING WATER CHARGES FOR ALL CUSTOMERS.

Staff Report

Director Magee reported each year the Commission may adjust water charges for services or equipment and the charges include recommended increases to cover the costs of providing such to customers.

He recommended approval of the proposed resolution in order to set charges to defray the costs of providing water services and equipment to customers.

Public Testimony

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

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

Motion

Commissioner Ellison moved approval of a resolution setting charges for all customers of the City of Helena water system. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #20126**

S. CONSIDER A RESOLUTION INCREASING WATER RATES UP TO 2.0% FOR ALL CUSTOMERS.

Staff Report

Director Magee reported the City's financial planning policy resolution calls for funding of essential services, including: providing timely funding of regularly recurring Comprehensive Capital Improvement Program (CCIP) components; annually reviewing rates to ensure adequate funding of operations, maintenance and debt; address capital project priorities; consider the impact of inflation; and make incremental rate changes that are regular and predictable for citizens.

The water rates approved by the City Commission fund the City's water system operations and capital. An increase of up to 2% has been proposed.

Director Magee recommended approval of the resolution in order to establish rates to defray the cost of the water operating and capital systems for FY2015.

Discussion

Commissioner Elsaesser stated he is willing to increase water rates slightly over the rate of inflation because it will fund expansion of infrastructure within the Urban Standards Boundary, allowing the city to be prepared for future development.

Commissioner Ellison indicated he would support the proposed increase and commented he would support raising water rates higher than 2% since water is one of the most precious resources.

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 Elsaesser moved approval of a resolution setting water rates at an increase of 2% for all customers of the City of Helena water system. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20127**

T. CONSIDER A RESOLUTION SETTING WASTEWATER CHARGES FOR ALL CUSTOMERS.

Staff Report

Director Magee reported each year the Commission may adjust wastewater charges for services or equipment and the charges include recommended increases to cover the costs of providing such to customers.

He recommended approval of the proposed resolution in order to set charges to defray the costs of providing wastewater services and equipment to customers.

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 approval of a resolution setting wastewater charges for all customers of the City of Helena wastewater system. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20128**

U. CONSIDER A RESOLUTION INCREASING WASTEWATER RATES UP TO 2.5% FOR ALL CUSTOMERS.

Staff Report

Director Magee reported the City's financial planning policy resolution calls for funding of essential services, including: providing timely funding of regularly recurring Comprehensive Capital Improvement Program (CCIP) components; annually reviewing rates to ensure adequate funding of operations, maintenance and debt; address capital project priorities; consider the impact of inflation; and make incremental rate changes that are regular and predictable for citizens.

The wastewater rates approved by the City Commission fund the City's wastewater system operations and capital. An increase of up to 2.5% has been proposed.

Director Magee recommended approval of the resolution in order to establish rates to defray the cost of the wastewater operating and capital systems for FY2015.

Public Testimony

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

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

Motion

Commissioner Ellison moved approval of a resolution setting wastewater rates at an increase of 2.5% for all customers of the City of Helena wastewater system. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20129**

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is September 10, 2014 and the next Commission Meeting is September 15, 2014. The Joint Work Session will be held September 4, 2014 and the annual City/ County Volunteer Appreciation Dinner will immediately follow.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:52 p.m.

/S/ James E. Smith
MAYOR

ATTEST:

/S/ Debbie Havens
CLERK OF THE COMMISSION