

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 26, 2015
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, January 26, 2015 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 was excused. City Manager Ron Alles, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were Sumner Sharpe 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 January 12, 2015 were approved as submitted.

State of the City

STATE OF THE CITY ADDRESS:

Mayor Smith presented the annual State of the City Address for 2015. A copy of the address is included in the Commission packet as part of the official record.

Board Appointment

BOARD APPOINTMENTS:

A. Business Improvement District/Helena Parking Commission, Lewis & Clark City-County Library Board and Public Art Committee

Mayor Smith recommended the following appointments:

Business Improvement District/ Helena Parking Commission- Appointment of Mark Roylance to the BID/HPC; first term will begin upon appointment and expire October 31, 2018.

Lewis & Clark City-County Library Board- Reappointment of Jesse Franzen as the joint member on the Library Board; second term will begin upon appointment and expire January 1, 2020.

Public Art Committee- Appointment of Bart Campbell and Susan Raucy-Steffens to the Public Art Committee; terms will begin upon appointment and expire December 31, 2017.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haladay moved approval of the board appointments to the BID/HPC, Lewis & Clark Library Board and Public Art Committee as listed above. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of said property (fifty-seven (57) Glock Generation 3 handguns). **Res #20146**
- C. Final passage of Ordinance #3199 amending the Official Zoning Map for a zone change from an R-O (Residential Office) District to a B-2 (General Commercial) District; for property legally described per COS #3261382; Lots 20 through 36 in the south half of Block 20, Lockey Addition, Helena; Lewis and Clark County, Montana; generally located north of Livingston Avenue and west of North Montana Avenue. **Ord #3199**

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison spoke to the airplane crash within the city limits that occurred on Tuesday, January 20th. He commended all of the first responders that attended to the crash- the Helena Police Department, Lewis & Clark County Sheriff's Department, Montana Highway Patrol, Helena Fire Department, the Helena Regional Airport, and Lewis & Clark County Volunteer Fire Departments for their response to the unusual emergency. He noted the residents of Helena should be grateful and proud of the professionalism and knowledge shown by the agencies' reaction to the incident.

Commissioner Elsaesser congratulated Mayor Smith on his 14th State of the City Address. He commented he has been pleased to hear positive feedback on the Legislative/Capitol Shuttle and he is excited to see fixed routes come to fruition in July 2015.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Jodoin referred to a lawsuit against the City of Helena involving alleged mistreatment of an inmate at the Lewis & Clark County Detention Center. He announced the case was dismissed outright by Judge Christenson since the City of Helena does not operate or maintain the Detention Center.

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 member Sumner Sharpe updated the Commission on a recent survey taken by council members in order to better serve Helena's citizens, increase participation and the value of the HCC, and possibly aid in the update of the City's Growth Policy. Council member

Sharpe provided the Commission with a written report detailing the HCC member's responses to the survey.

He also spoke to the proposal related to closing Roberts Street, noting the HCC would be involved in gauging citizen opinion on the issue.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A SIDEWALK VARIANCE FOR 43 SPENCER AVENUE.

Staff Report

City Engineer Ryan Leland reported the property at 43 Spencer Avenue is currently being developed by Helena Habitat for Humanity. The building is complete and ready to be occupied except that the sidewalks, which are required per the approved building plans, have not been installed. Spencer Avenue is not built to current City Standards and is more like a paved alley. There are currently no sidewalks, curb and gutter in this section of Spencer Avenue.

The owner of the property at 43 Spencer Avenue is requesting a sidewalk variance to defer the installation of sidewalks, drive approaches, curb and gutter until Spencer Avenue is constructed to City Standards.

Engineer Leland noted staff had no recommendation on the proposal.

Discussion

Commissioner Haladay asked for the effect of the city paving the street at a later date. Engineer Leland stated there would be no effect; the city would pave, install curb, gutter and sidewalk and try to match any existing sidewalk as best it could. Commissioner Haladay asked for more information on the sidewalk location and the neighboring fence. Engineer Leland explained if the sidewalk were installed as proposed it would end at the adjacent property's fence.

Commissioner Elsaesser asked if the sidewalks would be boulevard or curbside. Engineer Leland stated due to the extremely narrow right-of-way (ROW) any sidewalks installed would be curbside.

Mayor Smith asked if there are many other streets as narrow as Spencer. Engineer Leland commented Miller Street is also very narrow, but he believes Spencer is most likely the narrowest within the City. Mayor Smith commented Spencer Street's layout creates a unique situation.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Ellison moved to approve deferring the installation of sidewalks, drive approaches, curbs and gutters for the property at 43 Spencer Avenue until such time the streets are constructed to City Standards. Commissioner Elsaesser seconded the motion.

Comment

Commissioner Ellison noted he does not believe there is a narrower street than Spencer. He does not feel there would be wide enough width for two-way traffic if sidewalks were installed on each side of the street; it almost does not allow for two-way traffic and is difficult to drive on in its current condition. If sidewalks were installed, Spencer Street may need to be turned into a one-way street. He summarized he

would support the deferment as he does not feel Spencer would remain a viable thoroughfare if sidewalks were installed.

Commissioner Elsaesser concurred with Commissioner Ellison's concerns; however, he does not feel that sidewalks couldn't be installed on at least one side of the street and be beneficial to the area. He proposed that if any adjoining sidewalks are installed the deferral shall be voided and the issue revisited.

Friendly Amendment

Commissioner Elsaesser moved to amend the motion to add the following language: "or if sidewalks are installed by an adjacent property" after "City Standards". Commissioner Ellison accepted the amendment.

Comment

Commissioner Haladay spoke in support of the amendment. He often walks on Spencer Street and believes it would be made less dangerous if there was sidewalk on one side of the street. He commented this variance is a tough decision and while he would be voting in support of the amendment, he would not vote in support of the variance.

Mayor Smith asked City Attorney Jodoin if the amendment is appropriate. Attorney Jodoin stated it is an appropriate amendment. He noted practically, any property owner re-constructing a residence along Spencer would apply for the same variance from the Commission.

Vote on amendment

All voted aye, motion carried.

Commissioner Elsaesser asked if Spencer would need to be turned into a one-way street if sidewalk were installed. Engineer Leland reiterated Spencer is extremely narrow and if were to be developed to city standards there would be many variables to be considered.

Commissioner Elsaesser noted he would not support the variance as he believes sidewalks should be installed on at least one side of the street.

Vote on variance as amended

Motion failed 2-2, with Commissioners Elsaesser and Haladay voting no.

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 3 AND ADOPTING THE 2014 EDITION OF THE NATIONAL ELECTRICAL CODE (NEC).

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 3 AND ADOPTING THE 2012 EDITION OF THE INTERNATIONAL MECHANICAL CODE (IMC).

D. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 3 AND ADOPTING THE 2012 EDITION OF THE INTERNATIONAL FUEL GAS CODE (IFGC).

E. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 7 OF TITLE 3 AND ADOPTING THE 2012 EDITION OF THE UNIFORM PLUMBING CODE (UPC).

F. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 3 OF THE HELENA CITY CODE AND ADOPTING THE 2012 EDITIONS OF THE INTERNATIONAL

BUILDING CODE (IBC), THE INTERNATIONAL RESIDENTIAL CODE (IRC), THE INTERNATIONAL ENERGY CONSERVATION CODE (IECC) AND THE INTERNATIONAL EXISTING BUILDING CODE (IEBC).

Staff Report

Chief Building Official Jon Pallister reported the Building Division for the city of Helena is enforcing the 2011 edition of the NEC. Effective November 6, 2014, the State of Montana Building Codes Bureau adopted new Administrative Rules implementing the use of the above listed codes and mandating their adoption by all certified local jurisdictions within 90 days thereafter.

First passage by the Commission sets the course for the city Building Division to comply with the state's directive to adopt the new code additions. This also keeps the city's certified enforcement program in good standing. Updating to the new code editions provides builders and the public with the opportunity to make use of newest technologies and materials that are authorized in the codes to provide for good sound energy efficient buildings.

Discussion

Commissioner Haladay referred to the city's adoption of the International Fire Code; adoption of the provisions in the code set standards the City could not deviate from. He asked if adoption of these codes would result in the same situation, or if the City would have room to deviate from the code slightly or not adopt portions of the codes. Mr. Pallister stated the City is required by the Administrative Rules of the State of Montana to adopt the building codes that are adopted by the State of Montana Building Code Bureau.

Commissioner Haladay asked if that which the state has adopted sets the floor and the City can't deviate any lower than what state has adopted. Mr. Pallister stated yes. Manager Alles noted the codes adopted by the state set the floor and ceiling; the City cannot make the requirements any stricter.

Commissioner Elsaesser asked when these codes would take effect. Mr. Pallister explained the new codes would not take effect until 30 days after final passage- April 9th, 2015. Until adopted all permit applications will be considered under the existing code.

Mayor Smith asked if all five codes on the agenda tonight are what is referred to as the "state building codes". Mr. Pallister said yes. Mayor Smith asked if the state has dealt with the cedar shake shingle issue and/or Wildland Urban Interface. Mr. Pallister stated no, the state has not dealt with the issue and the City is not allowed to require them.

Commissioner Ellison asked what would happen if the City chose not to adopt the state's building codes. Attorney Jodoin explained the City would lose its designation as a Certified City and would not have the authority to enforce building codes within the City. Commissioner Haladay asked who would be responsible for inspecting construction if the City were not considered "certified". Attorney Jodoin explained there not be anyone inspecting construction because building permits would not longer be required for any construction within the city; it would be the same process as construction outside of the city limits- kind of an honor system to build in compliance with the state building codes but no one will enforce it. Commissioner Haladay asked if the City could adopt a parallel code and still be considered "certified". Attorney Jodoin stated no, the City does not have that authority.

Mayor Smith expressed frustration that the state will not address the cedar shake shingles issue.

Commissioner Elsaesser concurred with Mayor Smith. He invited any interested public to review the proposed codes and submit comment to the City.

Commissioner Haladay expressed disappointment and frustration over the constraint set by the state in not allowing the City to deviate from the state code on items that may work better for the Helena community. He commented other cities are allowed this provision.

Public comment

Mayor Smith called for public comment.

Jen, Helena; asked for clarification on the process for final adoption of the proposed ordinances.

Motion

Commissioner Ellison moved approval of first passage an ordinance amending Chapter 3 of Title 3 and adopting the 2014 edition of the National Electrical Code (NEC) and set a public hearing date of March 9, 2015. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3200**

Motion

Commissioner Haladay moved approval of first passage an ordinance amending Chapter 4 of Title 3 and adopting the 2012 edition of the International Mechanical Code (IMC) and set a public hearing date of March 9, 2015. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3201**

Motion

Commissioner Elsaesser moved approval of first passage of an ordinance amending Chapter 5 of Title 3 and adopting the 2012 edition of the International Fuel Gas Code (IFGC) and set a public hearing date of March 9, 2015. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3202**

Motion

Commissioner Ellison moved approval of first passage of an ordinance amending Chapter 7 of Title 3 and adopting the 2012 edition of the Uniform Plumbing Code (UPC) and set a public hearing date of March 9, 2015. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3203**

Motion

Commissioner Haladay moved approval of first passage of an ordinance amending Chapter 2 of Title 3 of Helena City Code and adopting the 2012 editions of the International Building Code (IBC), the International Residential Code (IRC), the International Existing Building Code (IEBC), and the International Energy Conservation Code (IECC) and set a public hearing date of March 9, 2015. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3204**

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is February 4, 2015 and the next Commission Meeting is February 9, 2015. The City/County Joint Work Session will be held on February 5, 2015.

Adjournment

There being no further business to come before the Commission,
the meeting was adjourned at 7:27 p.m.

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

ATTEST:

/S/ Debbie Havens
Clerk of the Commission