

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
March 9, 2015
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, March 9, 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, Haque-Hausrath and Haladay were present. Acting City Manager Police Chief Troy McGee, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. City Manager Alles was excused. Others present were Dick Sloan 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 February 23, 2015 were approved as submitted.

Board Appointments BOARD APPOINTMENTS:
A. Helena Housing Authority, Non-Motorized Travel Advisory Council & Tourism Business Improvement District

Mayor Smith recommended approval of the following board appointments:

Helena Housing Authority - (HHA) Appointment of Bruce Hodess as a tenant representation on the Helena Housing Authority. Term will begin upon appointment and expire August 2, 2017.

Non-Motorized Transportation Advisory Council (NMTAC) - Reappointment of Robert Rasmussen to a 2nd term on NMTAC. Term will begin on April 1, 2015 and expire March 31, 2018.

Tourism Business Improvement District (TBID) Appointment of Tiffanie Zavarelli to a first term on the TBID. Term will begin April 21, 2015 and expired April 20, 2019.

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

Motion Commissioner Ellison moved approval of the board appointments to the HHA, NMTAC and TBID as listed above. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

A. Claims

Acting City Manager Chief McGee recommended approval of the claims on the consent agenda.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haladay moved approval of item A on the consent agenda. Commissioner Ellison seconded the motion. All voted aye, motion carried.

Bid Award

BID AWARD:

A. Fire Department- MSA Self Contained Breathing Apparatus (SCBA) and associated equipment

Staff Report

Fire Chief Sean Logan reported all Helena Fire Department (HFD) existing SCBA, purchased in 2001, will reach the end of their serviceable life at the end of this year. A committee comprised of members of the HFD and West Valley Fire Department worked on the development of the specifications and met with a variety of vendors to evaluate the latest SCBA on the market. All equipment evaluated met the latest industry standards. Concurrently, HFD staff applied for, and were awarded, \$98,400 in grant funding from Department of Homeland Security to help offset the impacts to the City of Helena's capital budget. Approximately, \$49,000 in state HAZMAT funds, saved over the course of the last eight years, will be used toward the purchase of 8 of the 44 SCBA to equip our local HAZMAT Technician level team. This will also help reduce the amount required of the city's capital budget to \$129,367.98.

Chief Logan recommended approval of the bid award as Self Contained Breathing Apparatus are an essential piece of mitigating a fire or other hazardous incident. Simply put, without this equipment, firefighters could not safely and effectively deal with the emergencies that they routinely face. The purchase of this equipment would replace airpacks which are at the end of their service life and no longer in compliance with modern industry standards.

Discussion

Commissioner Elsaesser commended HFD staff for their work on the thorough bid award. Commissioner Ellison echoed Commissioner Elsaesser's comments and spoke in support of the bid award as it results in the HFD being well equipped, as well as well led and well trained; this is essential equipment for the city's firefighters. He commended the use of grant funding to aid in the purchase of the apparatus.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Haque-Hausrath moved approval of the bid award for forty-four (44) MSA SCBA and associated equipment for the Helena Fire Department to Big Sky Fire Equipment in the amount of \$276,700.46. Commissioner Haladay seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser announced the City has openings for the following boards: ADA Compliance Committee, Zoning Commission, Non-Motorized Transit Advisory Council and Public Art Committee.

Mayor Smith listed the various ways the vacancies are advertised and advised interested citizens to contact the City Clerk's Office for more information.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

Acting Manager Chief McGee invited Mr. Sonny Stiger representing the Tri-County Fire Working Group and Disaster & Emergency Services Coordinator Paul Spengler to present the "Sonny Stiger Wildfire Fire Mitigation Award" to Fire Chief Sean Logan. Mr. Stiger stated Fire Chief Logan has stepped up to the plate, showing his ability to deal with the public, be a partner to Lewis & Clark County fire services, and worked diligently to reunite the emphasis on wildland fuel mitigation education in the City of Helena. He understands the need for it and the importance of safety measures for the city's firefighters. His leadership gives meaning to the phrase, "share the responsibility".

Chief Logan commented on what an absolute honor it is to receive the award, and spoke of what he has learned from Mr. Stiger and the Tri-County Fire Safe Working Group. He commended the program for its persistent work toward wildfire mitigation, firefighter safety, homeowner education, and efforts to address the serious risk of fire in the Helena area.

Mayor Smith, on behalf of the entire Commission, commended Chief Logan and stated the award is well deserved. Commissioner Haque-Hausrath expressed appreciation to Chief Logan for his service and congratulated him on receipt of the award. Commissioner Elsaesser spoke of the danger of fire in Helena from surrounding areas and commented on how important it is to be aware of dangers outside of our city limits.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Dick Sloan reported the HCC hopes to have its recycling recommendation completed by the first Administrative Meeting in April. Mayor Smith and Commissioner Elsaesser invited the HCC to attend the Special Administrative Meeting on March 16, 2015 where recycling and solid waste issues will be discussed.

Regular Items

REGULAR ITEMS:

A. CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES TO BE CHARGED FOR THE LAST CHANCE SPLASH WATERPARK AND POOL.

Staff Report

Recreation Manager Liz Jones reported at the end of every pool season, City staff evaluates areas where improvements to the aquatic's operations, programs and customer service can be made. As a result, changes are often proposed in the form of expanded programs and services or adjustments to fees.

During the 2014 season, the aquatics staff received numerous requests from the public for private swim lessons. Historically, private swim lessons were provided by swim instructors on their own time and paid directly from the person receiving the lesson. City staff believes private swim lessons should be a service that is provided as part of the City's overall swim lesson program and not by private individuals. As such, the public would be able to request a private swim lesson that is taught by a swim instructor employed by the City and revenues would be collected by the City.

In an effort to identify appropriate charges for private swim lessons, City staff made a comparison of the state and local market for private swim lesson fees. The proposed private lesson fees fall within the market range and allow for resident and non-resident differential. Private swim lessons are defined as one participant and one instructor unless a participant's sibling is of the same swimming ability or level. In that case, a private lesson for two participants is allowed and subject to proposed fees.

Changes to fees for other existing services are not proposed at this time. Ms. Jones recommended approval of the resolution of intention and requested the Commission set a public hearing date of March 23, 2015.

Discussion

Commissioner Haque-Hausrath thanked Parks Department staff for addressing issues related to providing private swim lessons in the proposed resolution for 2015.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Ellison moved approval of a resolution of intention to establish fees to be charged at the Last Chance Splash Waterpark and Pool and set a public hearing date for March 23, 2015. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20148**

B. CONSIDER A SIDEWALK VARIANCE FOR 43 SPENCER AVENUE. (RECONSIDERATION FROM THE CITY COMMISSION MEETING OF JANUARY 26TH, 2015)

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 a 16-foot wide paved street that looks more like an 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. This variance was first considered at the January 26, 2015 City Commission Meeting, and resulted in a tie vote of 2-2.

Discussion

Commissioner Ellison asked for the process to designate the street as an alley instead of a street. Engineer Leland stated he believes staff would need to go through the name-changing process, hire a

surveyor and redo the plat for the area. The amended plat would then come before the Commission for approval.

Public comment

Mayor Smith called for public comment.

Paul Cheetah, Building Committee Chairman for Habitat for Humanity; explained the reasoning behind their variance request. He noted Habitat for Humanity is not opposed to installing sidewalks; however, according to Engineering staff there is not a clear way to design and install them at this location that would yield safety and functionality.

Motion

Commissioner Elsaesser 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 Haque-Hausrath seconded the motion.

Comment

Commissioner Haque-Hausrath explained she would support the proposed variance, although she opposes most sidewalk variance requests. She feels this is a situation where the variance is appropriate, as the street is so narrow traffic only runs at approximately 10 mph. Cars, bikes and pedestrians all have to use the same lane of traffic but the narrowness of the street makes that safe enough to occur. She added she would not support renaming it as an alley since it is an actual street that people live on.

Commissioner Ellison concurred with Commissioner Haque-Hausrath's comments.

Friendly Amendment

*Commissioner Elsaesser offered a friendly amendment to insert the following language at the end of the motion: "**or sidewalks are installed by an adjoining property**". Commissioner Haque-Hausrath accepted the amendment.*

Commissioner Ellison indicated he would support the motion and the amendment.

Commissioner Haladay indicated he would vote against the variance for the same reasons he did in January. He noted the previous 2-2 vote on this issue provoked his recommendation to amend the Commission's by-laws regarding tie votes and announced he would bring said amendment forward at the March 23, 2015 Commission Meeting.

Vote

Motion carried 4-1 as amended, with Commissioner Haladay voting no.

C. CONSIDER ACCEPTANCE OF THE FY2016 HELENA AREA TRANSPORTATION ADVISORY COUNCIL (HATAC) COORDINATION PLAN.

Staff Report

HATS Superintendent Steve Larson reported coordination is a high priority at the Federal, State, and local level. Coordinated transportation services must be tailored based on each communities unique needs, skills, and **resources**. The local Transportation Advisory Committee (TAC) is charged with cooperatively assisting the City Commission (Lead Agency) with assessing and prioritizing local needs and in developing a local coordination plan. Each year the TAC develops

a coordination plan for the upcoming fiscal year. The local TAC body serves as an advisory group to the lead agency. While the lead agency is not able to change the TAC coordination plan except for the capital equipment ranking list, it is assumed that that both bodies share a common goal of providing an effective transportation system. If the lead agency is unable to commit to the entire coordination plan objects as listed, the commission in its acceptance motion can identify what it will attempt to accomplish during the upcoming fiscal year.

Under consideration tonight is for the City Commission to accept the HATAC's Coordination Plan for Fiscal Year 2016 (FY2016) and implement the plan as funding allows and to submit said plan to MDOT as required by MDOT's grant process. Based on direction from our regulators, the City Commission may wish to note that not all items in the Coordination Plan will be implemented in FY16 but should specifically state what is hoped to be accomplished in FY16.

Superintendent Larson recommended acceptance of the plan and noted by having a functional Transportation Advisory Committee made up of citizens, low income & minority groups, seniors, individuals with developmental disabilities as well as those organizations who support them, other community advocates, as well as local elected officials, the City Commission is able to receive a comprehensive view of the local transit system and its needs. A strong public transportation has shown that it is good for community and business development as well as improving the health of those who use the public transit system.

Discussion

Commissioner Haladay stated prior to his term the City Commission accepted a five-year (long range) draft transportation plan. He asked if accepting that plan, along with guidance given by the Commission since, has expressed intent to move towards additional fixed routes in Helena. Superintendent Larson agreed, noting increased fixed routes were the number one (No. 1) recommendation by the community in the Transit Development Plan (TDP). Commissioner Haladay stated approximately one year ago, while discussing the HATS budget, the Commission's goal was to find a way to move costs around in order to try to implement a Westside route or other fixed route by the end of 2014. Superintendent Larson concurred.

Commissioner Haladay stated in late summer/early fall of 2014, the Commission terminated curb-to-curb service for those that did not qualify under the Americans with Disabilities Act, primarily to free up resources in order to begin an additional fixed route. Superintendent Larson concurred.

Commissioner Haladay referred to the Coordination Plan and 5310 grant and the ranking of HATAC's prioritization versus the City's prioritization. He asked if by accepting the Coordination Plan on the agenda tonight, the Commission would be accepting the prioritization ranking as represented in the plan. Superintendent Larson explained this year there were two agencies that submitted capital funding requests; the City of Helena- HATS Program and the Montana Independent Living Project (MILP). Part of the charge of HATAC is to make recommendations on transit-related capital funding proposals. HATAC ranked MILP's capital request as No. 1, ahead of the HATS request. Superintendent Larson reported the City Commission may make a motion to change the ranking order of capital needs as it is currently listed in the plan.

Commissioner Haladay referred to a December 18, 2014 memo from HATAC that stated their No. 1 recommendation was to implement goals, service and improvements, which included: two increase fixed routes, preserve the East Valley Bus, and provide the required Federal Transit Administration required ADA para-transit service. Superintendent Larson stated he is familiar with those items and reported HATAC was asked on several occasions to rank those items and chose not to.

Commissioner Haladay referred to the current Coordination Plan's Action Item 1.1- Implement Local Service Improvement Strategy, which refers to the 2013 Transportation Plan, which has a recommendation to improve one year service changes and reads:...."improve on-time performance, offer services in a more cost-effective manner, improve the ratio of fixed route miles to curb-to-curb miles, focusing curb-to-curb on those who need it while expanding fixed routes to better serve the entire population". He asked Superintendent Larson if he is familiar with that language. Superintendent Larson indicated so. Commissioner Haladay referred to the current plan Action Item 1.4- Expand fixed route and ADA para-transit, but recommends it to 12 hours per weekday. Superintendent Larson agreed. Commissioner Haladay then referred to Action Item 1.6- Contracting out services and refers back to the Transportation Plan. Commissioner Haladay indicated he could not find the reference in the 2013 Plan and it's not in the 2015 Plan. Superintendent Larson commented it may be referencing the 2013 Coordination Plan versus the TDP, which was updated in 2013.

Commissioner Haladay stated the 2016 Coordination Plan references the TDP and the TDP does not have a section on contracting out services. He asked Superintendent Larson if he knew where Action Item 1.6 came from. Superintendent Larson stated there have been so many conversations about revamping the entire operation he cannot recall. He discussed many recommendations for improvements to the program, such as the additional fixed route and stated he researched and personally proposed using local taxi services to handle overflow of curb-to-curb usage. As far as Action Item 1.6, he could not provide a good timeline as to how that recommendation evolved into what it is as presently proposed in the FY2016 Coordination Plan.

Commissioner Haladay stated given that there is a City of Helena recommendation for a capital project, HATAC's recommendation of a prioritization, and Commission guidance provided over the past year, does staff have a recommendation for how the capital requests contained in the 5310 grant fit with the overall goal of implementing and expanding fixed route service in Helena. Superintendent Larson stated he could not provide a ranking; however, he learned through a pilot project with Capital Taxi that there is a great need for citizens with disabilities to have access to transit 24/7 and those services are very important. Superintendent Larson also gave an overview of the condition of the current HATS fleet and explained the replacement buses awarded by the state in FY2014 and FY2015 have still not arrived. He summarized replacement of the fleet is approximately two years behind schedule and maintenance costs have increased.

Commissioner Haque-Hausrath asked if it is likely that both MILP's van and the City's capital request could be awarded. Superintendent Larson stated he believes it is likely and told of a similar situation last year. Commissioner Haque-Hausrath asked if the Coordination Plan is accepted as is by the Commission, would the ranking also be submitted as currently written. Superintendent Larson

stated yes, the ranking will be submitted as presently written with MILP's request at No. 1 and the HATS request No. 2.

Commissioner Haladay referred to HATAC's ranking placing MILP's request above the City's for the 5310 grant and asked who is envisioned to pay costs associated with their vehicle. Superintendent Larson explained the organization requesting the equipment would provide all funding required; the City would not be involved with it unless they request the City's assistance. Commissioner Haladay asked if ranking MILP's proposal first means some of the city's requests would not be fulfilled. Superintendent Larson stated that is correct.

Public comment

Mayor Smith called for public comment.

Mike Hruska, Capital Taxi; indicated he was puzzled to be listed as a solution in the Coordination Plan although no one has discussed his involvement with him. He expressed concern over the amount of funding identified for curb-to-curb and/or para-transit service as it will not provide enough to fund service for a full year.

Motion

Commissioner Elsaesser moved approval for the acceptance of the FY2016 Coordination Plan, noting that all items in the plan will not be completed in FY2016 and authorized staff to submit the plan as part of the HATS FY2016 Section 5311 grant application. Commissioner Ellison seconded the motion.

Comment

Commissioner Elsaesser spoke to the ranking of MILP's request as priority No. 1 indicated for the record his desire to switch the order of the capital requests to list HATS as the No. 1 priority. He commented the HATS capital funding proposal will aid in the implementation of the new fixed route. Commissioner Ellison agreed with Commissioner Elsaesser, noting the bus will be vital to the Westside route per recommendations from staff.

Commissioner Haladay referred to LCC's commitment of \$37,500 to supplement a para-transit/curb to curb bus as it transitions to a fixed route and aid riders needing the services. He asked for confirmation that funding is not being used to change the para-transit service as it exists. Superintendent Larson stated that is correct. Commissioner Haladay indicated the Commission's goal is to get a third fixed route into place and he would support ranking the capital requests in alignment with the Commission's goals. Based on HATAC's own recommendations to the Commission, their current ranking is anomalous by listing the city's request as the No. 2 priority. He commented it makes sense to him to put the city's request ahead of MILP's to fulfill goals that have been identified.

Amendment

Commissioner Elsaesser moved to amend the original motion to add the following language after the word "application": "with City staff listing the HATS 5310 capital request first in the ranking". Commissioner Ellison seconded the motion.

Comment

Commissioner Haque-Hausrath stated she was torn by the ranking, as she believes both requests are important to improved services in the community. She indicated she would support moving the HATS capital request to priority No. 1 but is hopeful HATAC might be able to find a different funding source for the accessible van.

Commissioner Elsaesser expressed his support for increased and improved para-transit services in the community.

Vote on motion as amended

All voted aye, motion carried.

D. CONSIDER THE FINAL PLAT FOR THE REA MINOR SUBDIVISION CREATING FOUR LOTS FROM 415,771 SQUARE FEET, GENERALLY LOCATED WEST OF WASHINGTON STREET AND NORTH OF CUSTER AVENUE.

Staff Report

City Planner Dustin Ramoie reported on December 2, 2013, the Helena City Commission gave conditional preliminary plat approval for the Rea Minor Subdivision. The applicant is now requesting approval of the final plat. This final plat for Rea Minor Subdivision will create Lot 1 containing 64,405 square feet, Lot 2 containing 51,102 square feet, Lot 3 containing 53,070 square feet, and Lot 4 containing 227,667 square feet, all zoned B-2 (General Commercial) District.

Platting these lots results in splitting the existing Tract A-1 of COS#3101932 into four lots. Queen Anns Street, Rea Avenue, Custer Avenue, and Washington Street are pre-existing. Lot 1 is adjacent to Queen Anns Street and Washington Street. Lot 2 is adjacent to Rea Avenue and Queen Anns Street. Lot 3 is adjacent to Washington Street and Rea Avenue. Lot 4 is adjacent to Queen Anns Street, Rea Avenue, Custer Avenue, and Washington Street.

The approval of the preliminary plat was subject to the condition of the streets being named according to city policy and that a stormwater plan is in place, as stated in the Findings of Fact. Those conditions have been met. For reference, a list of the original subdivision conditions and their status was included in the Commission packet.

Planner Ramoie recommended approval of the final plat as it will allow the sale of the lots and future commercial development using all city services; which provides for more efficient development utilizing water, wastewater and all other services provided by the City of Helena.

Discussion

Commissioner Elsaesser asked if any opponents had commented on the proposal. Planner Ramoie stated staff has not received any negative comments related to the development.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Ellison moved approval of the final plat for the Rea Minor Subdivision. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

E. CONSIDER A RESOLUTION ANNEXING LOTS 17 THROUGH 21 IN BLOCK 172 AND LOTS 13 THROUGH 16 IN BLOCK 173 IN THE SYNDICATE ADDITION, LOT 9 IN BLOCK 6 IN THE BROADWATER SECOND ADDITION, AND THE PORTIONS OF LESLIE AVENUE AND LINDEN STREET ADJACENT THERETO, AND THE ALLEY RIGHT-OF-WAY IN BLOCK 172 OF THE SYNDICATE ADDITION, ALL LOCATED IN LEWIS AND CLARK COUNTY, INTO THE CITY OF HELENA, MONTANA.

Staff Report

Planner Ramoie reported the applicant has requested annexation into the city of Helena for future development of the subject properties. The Helena City Commission approved a Resolution of Intent to Annex #20076 on May 5, 2014 and set conditions. The applicant has met those conditions and now wishes to complete the annexation. The property was pre-zoned R-2 (Residential) District by the Helena City Commission on May 19, 2014 by the passage of Ordinance #3191.

The subject properties are in a wholly surrounded area; 1903 Leslie Avenue is now vacant and was previously served by city utilities, while 1904 Leslie Avenue has a single dwelling unit and is currently served by city utilities. Annexation will bring these properties into the city eliminating two properties in the county receiving city water and wastewater, allowing for redevelopment of the properties to city standards. Planner Ramoie recommended approval of the proposed annexation.

Public comment

Mayor Smith called for public comment.

Shannon Bell, applicant; thanked Mr. Ramoie for his assistance throughout the process for his request for annexation.

Motion

Commissioner Haladay moved approve a resolution annexing Lots 17 through 21 in Block 172 and Lots 13 through 16 in Block 173 in the Syndicate Addition, Lot 9 in Block 6 in the Broadwater Second Addition, and the portions of Leslie Avenue and Linden Street adjacent thereto, and the alley right-of-way in Block 172 of the Syndicate Addition, all located in Lewis and Clark County, into the City of Helena, Montana. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #20149**

F. CONSIDER A RESOLUTION ESTABLISHING A COST REIMBURSEMENT PROGRAM FOR WATER AND WASTEWATER INFRASTRUCTURE INSTALLED BY THE CITY OF HELENA OUTSIDE CITY LIMITS.

Staff Report

City Attorney Thomas Jodoin reported property that is outside but adjacent to city limits often cannot be developed without extension and connection to city water and wastewater systems. In these cases each individual property owner that desires to connect to city services is responsible for extending the mains for such service at their own costs. Such a piecemeal approach results in a less than ideal infrastructure system being developed at a much greater individual property owner cost. The city must then administer a "rebate" program for each individual extension of water or wastewater main to ensure that the property owner that installed the infrastructure is "rebated" a proportional share by future connections to that infrastructure.

Staff is recommending the creation and establishment of a program requiring property owners who connect to water or wastewater infrastructure installed by the city outside of city limits to pay a proportionate share of the overall costs of the design and installation of such infrastructure.

Attorney Jodoin noted the program would allow the City to ensure a more orderly and complete extension of city water and wastewater infrastructure outside of city limits and place the costs of such infrastructure extension on the property owners that benefit from the infrastructure. He recommended approval of the resolution.

Discussion

Commissioner Haladay asked if Attorney Jodoin is aware of any other cities/towns in Montana that offer a program similar to what is being proposed. Attorney Jodoin stated no. He reported the City of Whitefish told citizens living outside of the city limits but hooked into city water and sewer they would be disconnected if they did not annex. That was their plan to enforce annexation.

Commissioner Haladay spoke to Missoula's rebate term of ten years and Havre's of fifteen years to the private entity that originally installed the infrastructure. Attorney Jodoin noted Helena City Code requires a twenty-year payback program when property owners request connection to the City's system. The City then ensures the proportional share based on linear foot is paid back to the original developer.

Commissioner Haladay asked if the Commission were to table the rebate resolution, could the annexation proposal still move forward. Attorney Jodoin stated yes.

Commissioner Haladay asked if a home does not hook into the City system until 2034, would they also not pay anything until 2034. Attorney Jodoin stated that is correct.

Detailed discussion was held regarding costs associated with extending services to properties under various scenarios, including undeveloped lots, lots containing dwelling units, costs/charges per linear feet and per square feet, and cost and financial responsibility for rebuilding the streets following infrastructure installation.

Attorney Jodoin summarized the estimated costs are based on Stahly Engineering's 2003 study of the area; more specific costs will not be available until the project goes out to bid.

Engineer Leland gave a Powerpoint presentation related to reconstruction of the streets noting they will be re-constructed in the same fashion, regardless of whether they were initially a hard surface or not. Commissioner Haladay asked about reduced costs if a hard surface were not installed. Engineer Leland explained it is not a good idea to locate water mains into streets that will be left as dirt. He commented dirt roads cost more to maintain because of manholes, dust control and snow plowing issues. It is staff's preference to install a hard surface.

Commissioner Ellison pointed out the proposed resolution would apply city-wide, not just to the Westside. He asked what impact tabling the resolution would have on bid letting for the project. Attorney Jodoin stated if the rebate resolution is delayed, even if annexation is approved, there is concern that a construction season will be lost. He added there are properties that may attempt to connect to the City's system before the rebate resolution takes effect and that will result in increased proportional costs for the remaining property owners once the program does takes effect.

Commissioner Elsaesser asked for more information on the proposed resolution and recently annexed properties. Attorney Jodoin reiterated this program will go into affect city-wide, and commented there are different situations throughout the city's boundaries. There are different issues at the urban standards boundary, adjacent to the eastern limits of the city, and on the Westside because of failing septic systems.

Engineer Leland stated the location and size of the water and

sewer lines are according to a plan written by Anderson Montgomery Engineering in 2002. He noted the plan was paid for by both the City and Lewis & Clark County. The city is trying to avoid installing lines that are undersized and will pay for any upsizing.

Commissioner Haladay asked if the proposed resolution could be tabled to work with Westside citizens, as they have requested, to find a more palatable and/or equitable solution to the cost of this project, while the pre-zoning and resolution of intent to annex move forward. Attorney Jodoin stated yes.

Public comment

Mayor Smith called for public comment.

The following persons spoke in opposition to the proposed reimbursement program and requested the Commission table the resolution and work with the Westside residents to investigate alternative options for the reimbursement program:

Susan Good-Geise, Lewis & Clark County Commissioner; indicated she was attending as a lone Commissioner and her comments did not reflect the BoCC as a whole. (Her comments are also in written form and located in the Commission packet as part of the official record); Barb Marcoux, 2541 Stuart; (Her comments are also in written form and located in the Commission packet as part of the official record); Jim Howard, 2800 Park Drive; Shawn Cooke, 1802 University Street; Chucky Dolby, 2226 Choteau; Charlotte McCahon, 1931 Hauser Boulevard; Bruce Lauerman, 2690 Park Drive; Valerie Wilson, 1802 University Street; and Joan Rada, 1315 Knight Street.

Discussion

Commissioner Haladay asked if Phase 1 is being proposed for annexation first because it's a wholly surrounded area. Attorney Jodoin stated yes, for lack of a better term they are being forced to annex. He noted 90% of the properties in Phase 1 won't be allowed to replace their septic tanks by the Department of Environmental Quality. The other phases will be considered differently.

Commissioner Haladay asked if the other phases will have the option to vote on annexation, and if annexation would fail with a percentage of 50% +1. Attorney Jodoin stated yes. Commissioner Haladay asked if ultimately some of the other phases may not be annexed unless there is some kind of catastrophic failure of a broad amount of septic systems. Attorney Jodoin stated yes and explained how the other phases differ and will be implemented.

Discussion was held on formation of a Rural Improvement District (RID). Attorney Jodoin commented he had no experience with RIDs. It was noted if the city were able to obtain award of a TSEP grant, it would only be provided \$750,000 and construction would not start until 2018.

Commissioner Haladay asked for information on CDBG grants. Community Development Director Sharon Haugen explained the cost for the engineering study alone would be \$30,000 and ultimately the city would not qualify.

Commissioner Haque-Hausrath asked how a special district would function. Mr. Leland explained it could be set up to build their own water/wastewater treatment plants, which would not be feasible. As a special district they could find grants and fund the infrastructure improvements. They would then come to the city to ensure their plans are in compliance with city standards and could then give the funding to the City to construct the infrastructure or fund the installation privately

and deed it to the city. Mr. Leland stated he does not see that using a district would result in a different end product.

Commissioner Elsaesser asked if the 2002 study is still applicable to the area. Engineer Leland stated yes, the master plan is relevant and a good base to start with for what is needed; once the design is actually performed more will be known about the timeframe and cost.

Mayor Smith asked if there were any issues that precluded the county Westside residents from creating a rural improvement district. Engineer Leland noted after a district fails the residents must wait 2 years before attempting again.

Commissioner Haque-Hausrath asked if any ARRA funds were used in the area. Engineer Leland stated yes, a study was performed related to fire flows in the area. Looping was installed to improve fire flows and some infrastructure improvements were also performed. He added the city is in an agreement to provide fire services to the area.

Motion

Commissioner Haque-Hausrath moved to table a resolution establishing a cost reimbursement program for water and wastewater infrastructure installed by the City of Helena outside of the City limits. Commissioner Ellison seconded the motion.

Comment

Commissioner Haque-Hausrath explained a task force needs to be formed to work through issues between the city and residents; however, she does not want this program to die on the vine.

Commissioner Ellison noted he has received many comments on this proposal; some have been very self-serving and disingenuous, but many of the comments received tonight have been very thoughtful, respectful and well-spoken. He stated he would be very interested in learning more about the possibility of creating a RID and hopes the BoCC will work with the neighborhood on the idea. He expressed concern over septic tanks that may fail while this issue is being worked out and noted the costs to fix that will go far beyond what is offered in this resolution. Giving the residents a little more time to investigate alternatives to what is being proposed seems fair.

Commissioner Haladay indicated he would support tabling the resolution, but does not want it to linger for 2-3 years. He requested a 90-day time period for residents to work on a solution to this issue. He indicated he would support the resolution of intention to annex as it shows the city is intent on moving forward on this project.

Commissioner Elsaesser expressed concern for the Westside project as a whole. He feels it may be distracting to the city's wastewater capacity; is concerned as to how the resolution would work with development on the north side of the City at the urban standards boundary; and that it may create inequities between different developments.

Vote

Motion carried 4-1, with Mayor Smith voting no.

G. CONSIDER A RESOLUTION OF INTENTION TO ANNEX THE WHOLLY SURROUNDED AREA EAST OF JOSLYN STREET AND GENERALLY WEST OF THE EXISTING CITY LIMITS, ALL LOCATED IN LEWIS AND CLARK COUNTY, INTO THE CITY OF HELENA, MONTANA.

Staff Report

Planner Ramoie reported the City of Helena is considering the annexation of the wholly surrounded area generally described as Phase One of the Westside Infrastructure Extension project and all adjacent street and alley rights-of-way (see attached map). The properties are adjacent to and wholly surrounded by the city of Helena and are located within the "Urban Standards Boundary Area." It is in accordance with the 2011 Growth Policy to annex property that is adjacent to the city and within the defined "Urban Standards Boundary Area." The area is mixed between residential developments, some limited commercial development, and some vacant undeveloped land. Many of the properties in the area are receiving either city water and/or wastewater service at this time even though they are located in Lewis and Clark County. The city is proposing to upgrade and extend water and wastewater services to the entire phase one area. Once the full installation of the infrastructure is complete, it is anticipated that the city will annex this wholly surrounded area.

A portion of the subject property was recommended to be pre-zoned to the R-2 (Residential) District and B-2 (General Commercial) District by the Helena Zoning Commission on February 10, 2015. All of the subject property located south of Hauser Boulevard was pre-zoned to R-2 (Residential) District by the Helena City Commission on August 18, 2003.

Annexation of the wholly surrounded area, generally known as Phase 1 of the Westside Infrastructure Extension Project, will incorporate into the city many properties that are currently being served by city water and/or wastewater that are located in Lewis and Clark County. It will also facilitate the extension of water and wastewater mains to the rest of the area creating an opportunity for development of city services. Annexation will also eliminate jurisdictional issues for emergency services.

The proposal will also allow for redevelopment of existing properties, new development, and retrofitting existing properties onto the city water and wastewater mains that currently exist and those that are proposed to be provided with the infrastructure extension project. This should help eliminate individual well and septic in the area over time.

Planner Ramoie recommended approval of the resolution of intention to annex and requested the Commission set a public hearing date of April 6, 2015 for consideration of final approval of the proposed annexation.

Discussion

Commissioner Elsaesser asked who provides safety services in the subject area. Mr. Ramoie stated currently the Lewis & Clark County Sheriff's Office, once annexed it will be the Helena Police Department.

Public comment

Mayor Smith called for public comment.

Valerie Wilson, 1802 University; requested the Commission table the proposed resolution of intent to annex.

Charlotte McCahon, 1931 Hauser Boulevard, Helena; stated she would support annexation by vote and not by being a wholly surrounded area. She commented the residents were promised by the city when their properties were wholly surrounded by Joslyn Street that they would not/could not be forced to annex even though they were going to become a wholly surrounded area.

Joan Rada, 1315 Knight Street; spoke in opposition to the resolution of intent to annex.

Dan Elliot, 990 Elizabeth; requested the City create a task force and table resolution of intention to annex.

Joe Beneventi, 1000 Hiawatha Street; requested the Commission table the resolution of intention to annex.

Bruce Lauerman, 2690 Park Drive; spoke in opposition to the resolution of intention to annex.

Vicki Sandberg, Country Club Drive; spoke in opposition to the resolution of intention to annex and stated residents were told they would not be forced to annex even though they would become a wholly surrounded area due to the Kessler School septic system failure.

Motion

Commissioner Elsaesser moved to table a resolution of intention to annex property generally described as Phase 1 of the Westside Annexation Project to the call of the City Manager.

Commissioner Ellison seconded the motion.

Discussion

Commissioner Haque-Hausrath indicated she would support passage of the resolution with a delayed public hearing date of approximately 90 days.

Commissioner Haladay asked if the public hearing date of April 6th would also be the effective date. Attorney Jodoin explained the public hearing will be held on April 6th with the understanding that if the Commission were to approve the resolution of annexation on that date, the effective date would not be until sometime in the fall of 2015.

Attorney Jodoin announced state law requires the City Commission to hold a hearing to solicit public comment after 20 days. He would recommend holding the hearing on April 6th to fit within the confines of the law even if the Commission decides not to move forward.

Discussion was held on the annexation of wholly surrounded properties in Missoula.

Commissioner Elsaesser indicated he believes the entire project should be tabled due to zoning issues in the area.

Commissioner Ellison stated he would support the tabling motion as he does not believe the project is fully planned just yet. He noted it is important to apply City Subdivision Regulations and Engineering Standards to city property and compliance with such is not planned for, or going to be applied to this area.

Commissioner Ellison addressed the residents of the area and commented he knows they use city streets, parks, the civic center, and pool. He stated he will take them at their word that they will work on a solution to this proposal; if not he cautioned he would have a much different attitude towards this project at the end of 90 days.

Vote

Motion failed 2-3, with Mayor Smith and Commissioners Haque-Hausrath and Haladay voting no.

Motion

Commissioner Haladay moved to approve a resolution of intention to annex property as described in the staff report contained in the Commission packet and set a public hearing date of April 6, 2015. Commissioner Haque-Hausrath seconded the motion.

Comment

Commissioner Elsaesser stated he would resist the motion and discussed concerns he has over zoning for the neighborhood.

Commissioner Haladay stated for the record if the Westside residents work together and come back in 90 days ready to form an RID,

he would reconsider the proposed motion. He commented he feels this project needs to be hung over the City Commission's head as impetus.

Commissioner Haque-Hausrath concurred with Commissioner Haladay's comments; if the neighborhood really does work together she would be willing to vote against annexation.

Vote

Motion carried 3-2, with Commissioners Elsaesser and Ellison voting no. **Res #20150**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING WHOLLY SURROUNDED PROPERTY IN LEWIS AND CLARK COUNTY PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA.

Staff Report

Planner Ramoie continued his report on the property identified as Phase 1 of the Westside Annexation Project, and reported this is a City initiated proposal for pre-zoning and eventual annexation to provide all city services for existing and new development of the properties located within this area. City ordinance requires property to be pre-zoned prior to annexation. Current land use in the area includes but is not limited to single dwelling residential, multi-dwelling residential, and commercial. This pre-zoning would become effective upon annexation and would designate R-2 (Residential) and B-2 (General Commercial) Districts for all of the area identified as Phase One of the Westside Infrastructure Extension Project.

On February 10, 2015 the Helena Zoning Commission recommended approval for the pre-zoning to R-2 (Residential) and B-2 (General Commercial) for the subject properties by a 4-1 vote.

Planner Ramoie recommended approval and noted the area is wholly surrounded by the city and many of the subject properties have been in the past or are currently served by city water and wastewater and it is proposed that the City will be upgrading and extending water and wastewater mains to all properties in the area. Annexing the area will bring these properties into the city to receive full city services.

Discussion

Mayor Smith asked if three and four-plexes are permitted in the R-2 District. Mr. Ramoie stated no, nothing beyond a duplex is permitted. Mayor Smith expressed concern for CUPs in the area.

Public Testimony

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

Joan Rada, 1315 Knight Street; asked how citizens were notified of the Zoning Commission's hearing on this issue.

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

Motion

Commissioner Elsaesser moved to table of first passage of an ordinance pre-zoning wholly surrounded property in Lewis & Clark County prior to annexation. Commissioner Ellison seconded the motion.

Comment

Commissioner Elsaesser spoke of recent legislative decisions related to water that will have an impact on the scale of development and

the neighborhood. He spoke in support of transitional zoning for the area.

Commissioner Ellison noted he would resist the tabling motion and support approval of the zoning proposal as the Zoning Commission passed it 4-1 and no members of the public in attendance spoke in objection to the proposed zoning.

Commissioner Haladay indicated he would not support tabling the proposal. He spoke to concerns with the generally permissive status of CUPs and believes the pre-zoning being proposed will give the Commission the opportunity to tackle that issue.

Commissioner Haque-Hausrath indicated she would not vote in support of tabling the proposed ordinance and discussed interest in reviewing CUPs and how they impact neighborhoods. She commented the zoning proposal seems very appropriate for the area.

Mayor Smith indicated he would not support tabling the zoning proposal. He discussed CUPs and commented fundamentally he does not care for them. This pre-zoning presents the opportunity for denial if the use is not appropriate. Mayor Smith asked how residents were notified of the Zoning Commission hearing. Mr. Ramoie stated the same 180 property owners that were invited to the initial informational meeting regarding the Westside project were also invited to the Zoning Commission hearing.

Vote

Motion failed 1-4, with Mayor Smith and Commissioners Ellison, Haque-Hausrath and Haladay voting no.

Motion

Commissioner Haladay moved approval of first passage of an ordinance pre-zoning wholly surrounded property in Lewis & Clark County prior to annexation. Commissioner Ellison seconded the motion. Motion carried 4-1, Commissioner Elsaesser voting no. **Ord #3205**

- B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3200 AMENDING CHAPTER 3 OF TITLE 3 OF THE HELENA CITY CODE AND ADOPTING THE 2014 EDITION OF THE NATIONAL ELECTRICAL CODE (NEC).
- C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3201 AMENDING CHAPTER 4 OF TITLE 3 OF THE HELENA CITY CODE AND ADOPTING THE 2012 EDITION OF THE INTERNATIONAL MECHANICAL CODE (IMC).
- D. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3202 AMENDING CHAPTER 5 OF TITLE 3 OF THE HELENA CITY CODE AND ADOPTING THE 2012 EDITION OF THE INTERNATIONAL FUEL GAS CODE (IFGC).
- E. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3203 AMENDING CHAPTER 7 OF TITLE 3 OF THE HELENA CITY CODE AND ADOPTING THE 2012 EDITION OF THE UNIFORM PLUMBING CODE (UPC).
- F. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3204 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 received first passage of the 2014 National Electrical Code (NEC) from the City Commission at their meeting of January 26, 2015.

The public hearing was scheduled for March 9, 2015 to consider final passage of the 2014 National Electrical Code that was adopted the state of Montana Building Codes Bureau on November 6, 2014. Their adoption mandated the adoption of the code by all certified local jurisdictions within 90 days thereafter. The City Clerk's and Building Division offices have had the code in question on display as required for the 30 day examination period and have not received any inquiries as of yet.

The Building Division received first passage of the 2012 International Mechanical Code (IMC) from the City Commission at their meeting of January 26, 2015. A public hearing was scheduled for March 9, 2015 to consider final passage of the 2012 IMC that was adopted by the state of Montana Building Codes Bureau on November 6, 2014. Their adoption by the State mandated the adoption of the 2012 Mechanical Code by all certified local jurisdictions within 90 days thereafter. The City Clerk's and Building Division offices have had the code in question on display as required for the 30 day examination period and have not received any inquiries as of yet.

The Building Division received first passage of the 2012 Uniform Plumbing Code (UPC) from the City Commission at their meeting of January 26, 2015. A public hearing was scheduled for March 9, 2015 to consider final passage of the UPC which was adopted by the state of Montana Building Codes Bureau on November 6, 2014. All certified local jurisdictions are mandated to adopt this code within 90 days thereafter. The City Clerk's and Building Division offices have had the code in question on display as required for the 30 day examination period and have not received any inquiries as of yet.

The Building Division for the City of Helena received first passage of 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) from the City Commission at their meeting of January 26, 2015. The public hearing was scheduled for March 9, 2015 to consider final passage of the codes that became effective with the state of Montana Building Codes Bureau's adoption. State law mandates the adoption of the codes by all certified local jurisdictions within 90 days thereafter. The City Clerk's and Building Division offices have had the codes in question on display as required for the 30 day examination period and have not received any inquiries as of yet.

Final passage and adoption of the proposed Codes by the Commission enables the Building Division to comply with the state's directive to adopt the new editions of the above codes. In addition to keeping the city's certified enforcement program in good standing, updating to the new editions of the codes provides builders and the public with the opportunity to make use of newest technologies and materials that are authorized by the codes.

Chief Building Official (CBO) Pallister updated the Commission on the State of Montana's progress related to the inclusion of Wildland Urban Interface (WUI) in their codes; they are still reviewing WUI related issues and are anticipating a final draft of the code will be ready in September 2015.

Public Testimony

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

Jen, Helena; spoke in opposition to the adoption of International Building Codes.

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

Comment

Commissioner Elsasesser commended Jen for her testimony, specifically that international codes can limit the use of local materials and may be less applicable to regional hazards like earthquake and fire. Also that fundamental principals for a free society were at stake and her desire for the Commission to send a message by decertifying from the proposed codes.

Commissioner Haladay asked if any of the codes contain provisions for alternative methods and means of installation to be allowed under the discretion of the Helena Building Department as long as they comply with the letter and intent and of the code. CBO Pallister agreed, that is allowed under the Building Division's discretion.

Motion

Commissioner Ellison moved approval of final passage of Ordinance No. 3200 amending Chapter 3 of Title 3 adopting the 2014 edition of the National Electrical Code (NEC). Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3200**

Motion

Commissioner Ellison moved approval of final passage of Ordinance No. 3201 amending Chapter 4 of Title 3 adopting the 2012 edition of the International Mechanical Code (IMC). Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3201**

Motion

Commissioner Ellison moved approval of final passage of Ordinance No. 3202 amending Chapter 5 of Title 3 adopting the 2012 edition of the International Fuel Gas Code (IFGC). Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3202**

Motion

Commissioner Ellison moved approval of final passage of Ordinance No. 3203 amending Chapter 7 of Title 3 adopting the 2012 edition of the Uniform Plumbing Code (UPC). Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ord #3203**

Motion

Commissioner Ellison moved approval of final passage of Ordinance No. 3204 amending Chapter 2 of Title 3 of the 2012 editions of the International Building Code (IBC), International Residential Code (IRC), the International Energy Conservation Code (IECC), and the International Existing Building Code (IEBC). Commissioner Haladay 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 March 18, 2015 and the next Commission Meeting is March 23, 2015. An additional Administrative Meeting will be held on March 16th and a Joint City Commission and Zoning Commission Work Session will be held on March 19, 2015.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:31 p.m.

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

ATTEST:

/S/ Debbie Havens
Clerk of the Commission