

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
August 10, 2015
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, August, 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 Ellison, Haladay and Haque-Hausrath were present. Commissioner Elsaesser was excused. City Manager Ron Alles, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were 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 July 27, 2015 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution declaring tangible personal property owned by the City of Helena to be surplus property (Fire Department Equipment- hose). **Res# 20191**
- C. Acceptance of American Heart Association Grant to supply two (2) Lifepak 15 defibrillators and associated data packages/modems.
- D. Acceptance of FEMA Firetruck Grant in the amount of \$409,091.
- E. Authorize staff to void stale dated checks
- F. Acceptance of pledged collateral for City deposits at financial institutions
- G. Resolution of intention to increase fares and charges for all customers of the City of Helena Transit System.
Res# 20192

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

Commissioner Haque-Hausrath requested item G be removed for discussion.

Public comment

Mayor Smith asked for public comment, none was received.

Comment

Commissioner Haque-Hausrath congratulated the Fire Department on securing a FEMA grant for a new fire truck (Consent Agenda Item D).

Motion

Commissioner Haque-Hausrath moved approval of items A through F on the consent agenda. Commissioner Haladay seconded the motion. All voted aye, motion carried.

Item G

- G. Resolution of intention to increase fares and charges for all customers of the City of Helena Transit System.

Commissioner Haque-Hausrath highlighted the fare changes contained in the resolution. A copy of the resolution identifying the

proposed changes is included in the Commission Meeting packet as part of the official record. Mayor Smith noted the resolution also contains language allowing for the negotiation of rates with large employers for use by their employees.

Commissioner Haladay asked for confirmation that notice of the public hearing for the resolution would be posted in the HATS buses. Manager Alles concurred.

Motion

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison spoke to Mayor Smith's recent attendance at the annual Bentonina block-party. He also congratulated Commissioner Elsaesser on being recognized as a "20 under 40" award recipient by the Independent Record.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Jodoin reported Commissioners Ellison, Elsaesser and Haladay, City Manager Alles, Public Works Director Randall Camp, and HATS Superintendent Steve Larson were all named in a human rights complaint by the Montana Independent Living Project and its Executive Director Bob Maffit, alleging retaliation by the Commission members and other named individuals.

He noted the procedural history seems to include a re-allegation of the complaint Mr. Maffit and MILP withdrew on July 30th and explained the City had already responded to that complaint. Attorney Jodoin pointed out City Manager Alles, Director Camp and Commissioner Haladay are not specifically identified in the complaint with any specific action they may have taken with respect to MILP or Mr. Maffit.

He reported he would be tendering the complaints to MMIA for a determination of coverage and discussion of how to address the complaint. Attorney Jodoin indicated there are no specific damages or remedies sought by MILP or Mr. Maffit listed in the complaint.

He commented it does not appear there are any specific actions by anyone against Mr. Maffit or MILP that is discrimination for filing their previous complaint. It appears there are a lot of bad feelings about some things that may or may not have been said; however, Commissioners have pretty broad leeway and right to voice their opinions as Commissioners. The only actual action that was taken was the Commission voted unanimously to reprioritize HTAC's recommendation related to HATS grant request and application for a van for MILP to provide after-hours transit services. It was a matter of prioritizing all of the needs of the community, that HTAC themselves identified.

Attorney Jodoin stated in the context of alleged retaliation, the City of Helena's HATS service provided no-charge bus rides to and from MILP's 25th anniversary ADA celebration at the Capitol complex. He noted he does not understand how the City could be creating a hostile environment and retaliating while working with Mr. Maffit and MILP to provide such services.

He reported the City's response is due by August 31, 2015. Mayor Smith requested the Commission be provided a copy when completed.

**Report of the City
Manager**

REPORT OF THE CITY MANAGER

City Manager Alles announced the City's patch truck is out and busy filling potholes and encouraged citizens to call the Street Department at 447-1566 to report potholes.

A. Certificate of Achievement for Excellence in Financial Reporting

City Manager Alles announced the City of Helena has received its 27th Certificate of Achievement for Excellence in Financial Reporting and praised Acting Administrative Services Director Glenn Jorgenson, Budget Manager Bob Ricker and Accounting Supervisor Liz Hirst for their consistently excellent work on the City's financial audit and thanked them for striving to achieve this award annually.

Acting Director Jorgenson spoke to the award and thanked Admin Services staff for their dedication to the City's annual audit. Accounting Supervisor Hirst and Budget Manager Ricker spoke of preparing the audit and the work that goes into it.

Mayor Smith and the Commission members expressed appreciation to Acting Director Jorgenson, Supervisor Hirst and Manager Ricker, in addition to the rest of the Administrative Services Department staff, for their diligent work ensuring the City receives a clean and accurate annual audit.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RESOLUTION OF INTENTION TO AMEND THE BOUNDARIES AND LEVY AN ASSESSMENT UPON ALL PROPERTY IN THE OPEN SPACE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2016 AND SET A PUBLIC HEARING DATE.

Staff Report

Budget Manager Robert Ricker 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.

After receiving public input, the Commission shall approve a resolution of intention amending the boundaries and levying an assessment to defray the costs of the district for fiscal year 2016. The annual assessment approved by the City Commission will be placed on the calendar year 2015 tax bills of the properties within the district.

The Commission will consider two options of assessment:

Option 1 is the current method of assessment which would charge each lot or parcel a minimum charge of \$20 plus \$0.00221 per square foot of impervious area in excess of 2,222 square feet.

Option 2 would decrease the minimum charge to \$14 and increase the impervious area charge to \$0.00381 per square foot of impervious area in excess of 2,222 square feet. This methodology would have the effect of shifting the assessment away from smaller lots or parcels with less impervious area – predominantly residential properties – to larger lots or parcels with more impervious area – predominantly commercial properties.

Either option chosen by the Commission will result in an overall revenue neutral change in the rate structure and will result in a total

estimated assessment of approximately \$343,000 for tax year 2015 (FY 2016). It is estimated that this change in assessment methodology will decrease the average residential assessment by about \$4.65 but increase the average commercial assessment by about \$29.00. There are approximately 10,600 residential properties and 1,700 commercial properties within the district.

Approval of the chosen option and related resolution of intention will allow the City to advertise the required notices and hold a public hearing to obtain public input on the Open Space Maintenance District assessment.

Budget Manager Ricker recommended approval of the resolution of intention to amend the boundaries and levy an assessment upon all property in the Open Space Maintenance District No. 1, either Option 1 or Option 2 for fiscal year 2016 and set a public hearing for Monday, August 24, 2015.

Discussion

Commissioner Haladay asked for confirmation of the approximate amount of Open Space funds held in reserve. Budget Manager Ricker stated approximately \$281,000.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Haladay moved to approval of a resolution of intention to amend the boundaries and levy and assessment upon all property in the Open Space Maintenance District No.1 to include Option 2 for fiscal year 2016 and set a public hearing date for August 24 2015. Commissioner Haque-Hausrath seconded the motion.

Discussion

Commissioner Haladay expressed concern over residential property owners bearing the most burden of funding the Open Space Maintenance District, noting commercial properties contain a larger impervious area for which the assessment has not increased.

He stated Option 2, in addition to his amendment listed below, would ultimately create realignment in funding for the district although it will initially result in an overall decrease to the amount of funds received for FY2016. He indicated the amount of funding held in reserve would be enough to make up this shortfall for one year.

Amendment

Commissioner Haladay moved approval of the Haladay amendment to section 4 as listed below (a copy of this amendment is included in packet as part of official record). Commissioner Haque-Hausrath seconded the motion.

Haladay amendment:

Section 4. To defray the costs of maintaining the district ~~the~~ during fiscal year 2016 it is the intent of the City Commission to consider ~~increasing the per square foot of impervious area portion of the charge on all lots or parcels within the district by up to seventy two and four tenths percent (72.40%) and~~ reducing the minimum charge on all lots or parcels within the district by up to thirty percent (30%) ~~which will result in no change in total assessment revenues for the district.~~ The assessment rates are to be computed as follows:

- \$ 14.00 minimum charge on all lots or parcels of land, plus;
- ~~\$0.00384~~ \$0.00221 per square foot of impervious area in excess of 2,222 square feet,

- with a 50% assessment reduction for lots or parcels of land which qualify for the State of Montana Property Tax Assistance Program under Title 15, Chapter 6, MCA.

Discussion

Commissioner Ellison commented in opposition of Option 2, as he cannot see the correlation between the Open Space District and the assessment on impervious area. He commented he was never comfortable with the alignment of the percentages on residential and commercial property owners from inception of the District. He indicated while he would support the reduction by \$6.00 per property contained in Option 2, he cannot support the increase based on the percentage of impervious area. He noted he would vote in support of Option 2, as long as he could be assured Commissioner Haladay's amendment would address his concerns.

Commissioner Haladay's confirmed his proposed amendment should have no effect whatsoever on any properties that are assessed per the amount of impervious area on their property. He indicated the same outcome could be reached by amending either Option 1 or Option 2.

Commissioner Haque-Hausrath spoke in support of the Option 2 and the proposed amendment, noting commercial properties also benefit from the district since their customers come to visit Helena for the Open Space system.

Vote on Amendment

All voted aye, motion carried.

Motion

Commissioner Haladay moved to approval of a resolution of intention to amend the boundaries and levy and assessment upon all property in the Open Space Maintenance District No.1 to include Option ? for fiscal year 2016 and set a public hearing date for August 24 2015, as amended. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Res# 20193**

- B. CONSIDER EXTENDING THE PRELIMINARY PLAT REVIEW PERIOD AND TABLING TO OCTOBER 5, 2015 REVIEW OF THE PRELIMINARY PLAT FOR A SUBSEQUENT MINOR SUBDIVISION CREATING THREE LOTS FORM LOT 1A-1E1C OF THE SHOPKI MINOR SUBDIVISION; GNERALLY LOCATED WEST OF SANDERS STREET AND NORTH OF MARKET AVENUE.

Staff Report

Planner Morell-Gengler reported the applicant submitted applications for a subsequent three-lot minor subdivision preliminary plat of the Shopko Minor Subdivision and a variance request from the wetlands buffer/setback requirements. State law requires the governing body to take action on minor subdivision preliminary plats within 35 working days of a determination that the application is sufficient for review. This Shopko application was determined sufficient on June 26, 2015; the review timeframe will expire on August 14, 2015 unless extended.

The applicant has indicated they would like more time to review the draft subdivision findings and conditions and to look at solutions to concerns identified in those findings. State law allows an extension of the review period provided the subdivider and the reviewing agent or agency agrees to an extension or suspension of the review period, not to exceed 1 year. The applicant is requesting an extension of the 35 working day

review period and to table consideration of the minor subdivision and variance request until October 5, 2015.

Extending the review time would allow the applicant more time to address impacts related to the subdivision.

Planner Morell-Gengler recommended approval of extending the preliminary plat review period and table to October 5, 2015 review of the preliminary plat for a subsequent minor subdivision creating three lots from Lot 1A-1E1C of the Shopko Minor Subdivision; generally located west of Sanders Street and north of Market Avenue.

Discussion

Commissioner Ellison referred to dead trees in the subdivision due to a broken sprinkler system. Planner Morell-Gengler explained repairs to the irrigation system are the property owner's responsibility.

Public Comment

Mayor Smith called for public comment.
Tim Bury, representing the applicant; stated for the record that the applicant requested the tabling of both items.

Commissioner Ellison asked Mr. Bury for more information on the broken sprinkler system and absence of repair. Mr. Bury explained the system was broken during extension of water mains, agreed it needs to be fixed and confirmed it will be resolved.

Motion

Commissioner Haladay moved to table and extend the preliminary plat review period to October 5, 2015, of the preliminary plat for a subsequent minor subdivision creating three lots from Lot 1A-1E1C of the Shopko Minor Subdivision; generally located west of Sanders Street and north of Market Avenue. Commissioner Ellison seconded the motion.

Comment

Commissioner Ellison indicated he would support the tabling motion; however, he expects the irrigation system to be fixed and the trees replaced prior to the October 5th hearing. He expressed concern over reducing the amount of wetlands and noted he will have several questions regarding the applicant's intentions related to the wetland requirement being replaced with a stormwater detention pond.

Commissioner Haladay reported the Parks Board is skeptical over the proposal to use the stormwater detention area to fulfill requirement and does not support reducing the dedicated wetlands in the subdivision. Commissioner Haque-Hausrath agreed with Commissioner Ellison and Haladay's skepticism over the applicant's proposal.

Vote

All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER TABLING TO OCTOBER 5, 2015 A REQUESTS FOR A VARIANCE FROM SECINO 12-4-11B-C OF CITY CODE TO REDUCE THE REQUIRED WETLANDS 50-FOOT VEGETATIVE BUFFER AREA TO 25-FEET AND TO ELIMINATE THE 100-FOOT IMPERVIOUS AREA RESTRICTION FOR PROPERTY LEGALLY DESCRIBED AS LOT 1A-1E1C OF THE SHOPKO MINOR SUBDIVISION; GENERALLY LOCATED WEST OF SANDERS STREET AND NORTH OF MARKET AVENUE.

Staff Report

Planner Morell-Gengler reported on May 1, 2015, applications were submitted to the city for a three-lot subsequent minor subdivision of

approximately 2.6 acres and a variance request from Section 12-4-11 B-C of the City Code to reduce the required wetlands buffers. The applicant is now requesting more time to address concerns raised in the subdivision Findings of Fact. The applicant has requested the 35 day review period be extended until October 5, 2015 so that some of the concerns can be addressed.

The City Commission must take action on the requested subdivision preliminary plat prior to considering the variance request. Therefore, a time extension for the subdivision review would also require extending the review period for the variance request. This variance request requires a public hearing which has been published in the Independent Record and so must appear on the August 10, 2015 City Commission agenda. Tabling this item to a date certain facilitates extending this public hearing.

Planner Morell-Gengler recommended approval to table to October 5, 2015 review of a variance from Section 12-4-11 B-C of the City Code to reduce the required wetlands fifty-foot (50') vegetative buffer to twenty-five feet (25') and eliminate the 100' restriction on impervious areas.

Public Testimony

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

Tim Bury, applicant; gave brief Powerpoint presentation on the issues associated with the wetland requirements.

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

Motion

Commissioner Ellison moved to table review of a variance from Section 12-4-11-B-C of the City Code to reduce the required wetlands fifty-foot (50') vegetative buffer to twenty-five feet (25') and eliminate the 100' restriction on impervious areas to October 5, 2015. Commissioner Haladay seconded the motion. All voted aye, motion carried.

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is August 19, 2015 and the next Commission Meeting is August 24, 2015.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:05 p.m.

/S/ JAMES E. SMITH
Mayor James E. Smith

ATTEST:

/S/ DEBBIE HAVENS
Clerk of the Commission