

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 6, 2016
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, June 6, 2016 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, Noonan and Farris-Olsen were present. City Manager Ron Alles, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were Eric Kiltz representing the Helena Citizens Council.

Pledge of Allegiance Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance.

Minutes The minutes of the regular City Commission meeting of May 9 and May 23, 2016 were approved as submitted.

Board Appointments BOARD APPOINTMENTS:
A. Zoning Commission, Helena Open Lands Management Advisory Committee (HOLMAC) & Public Art Committee

Mayor Smith recommended approval of the following board appointments:

City Zoning Commission - Appointment of Jerin Borrego to a first term as the alternate member on the Zoning Commission; term will begin upon appointment and expire September 30, 2019.

Helena Open Lands Management Advisory Committee (HOLMAC) - Appointment of Jeff Shirley to a first term on HOLMAC; term will begin July 2, 2016 and expire June 30, 2019.
Reappointment of James R. Phillips to a second term on HOLMAC; Term will begin upon appointment and expire June 30, 2019

Public Art Committee - Appointment of Chris Riccardo to an unexpired term on the Public Art Committee; term will begin upon appointment and expire December 31, 2017.

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

Motion **Commissioner Ellison moved approval of the appointments to the Zoning Commission, HOLMAC and Public Art Committee as outlined above.** Commissioner Noonan seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
City Manager Ron Alles recommended approval of the claims.

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

- Motion** **Commissioner Haladay moved approval of item A on the consent agenda.** Commissioner Noonan seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Ellison noted today marked the 72nd anniversary of the D-Day invasion during the European War and recognized the hundreds of thousands of men who stormed the beaches that day for the benefit of the rest of us. Mayor Smith requested those in attendance take a moment to reflect on the significant and remarkable event in history.
- Report of the City Attorney** REPORT OF THE CITY ATTORNEY
City Attorney Jodoin reported a lawsuit has been filed, but not yet served, against the City of Helena, Lewis & Clark County (LCC) and the Missouri River Drug Task Force (MRDTF) alleging sexual misconduct by a former Helena Police Officer. He announced he would not provide additional comment on the suit given the confidential nature of the complaint. He added a copy of the complaint can and will be provided to the Commission even though the City has yet to be served.
- Report of the City Manager** REPORT OF THE CITY MANAGER
City Manager Alles announced the City of Helena has received its 28th consecutive Certificate of Achievement for Excellence in Financial Reporting (CAFR). He recognized the City's Administrative Services Department staff, specifically Director Glenn Jorgenson and Controller Liz Hirst for their extraordinary work year after year to ensure the City receives a clean audit.
Commissioner Ellison commented the citizens of Helena can be assured the City's finances are spent appropriately, monitored closely and accounted for properly.
Mayor Smith concurred with Commission Ellison's comments and thanked Director Jorgenson and Controller Hirst on behalf of the entire Commission for their dedication to the residents of Helena by ensuring the funds they contribute to the City's budget are managed accurately and correctly.
- Report from the Helena Citizens Council** REPORT FROM THE HELENA CITIZENS COUNCIL
HCC member Eric Kiltz reported a new HCC Coordinator has been hired and the Council looks forward to meeting and working with her.
He reported the HCC has agreed to examine a request from a group of concerned citizens desiring assistance in finding a solution to the recent access restrictions placed on the pet cemetery. The Council continues to work on the language for a resolution to be submitted to the City Commission regarding a local gas tax option. Mayor Smith noted it would be most appropriate to discuss such a resolution at a monthly Joint City/County Work Session.
- Regular Items** REGULAR ITEMS:
A. CONSIDER A RESOLUTION AUTHORIZING PARTICIPATION IN THE SHORT TERM INVESTMENTS POOL (STIP) PROGRAM THROUGH THE MONTANA BOARD OF INVESTMENTS.

Staff Report

Administrative Services Director Glenn Jorgenson reported for many years, the City has invested city funds in the STIP program. Beginning in 2016, local government governing bodies must complete a resolution authorizing participation in STIP. Currently, the City has \$32,988.871.77 in this investment pool.

In order to continue to invest funds in the program, the Commission must approve a resolution authorizing the City of Helena to continue participation in Montana Board of Investment's investment pool (STIP) and authorizing the execution and delivery of documents related thereto. Director Jorgenson recommended approval of the proposed resolution.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haladay moved approval for a resolution authorizing the City of Helena to participate in the Montana Board of Investment's Short Term Investment Pool and authorizing the execution and delivery of documents related thereto. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.
Res #20250

- B. CONSIDER A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND AMENDMENT TO LEASE-PURCHASE AGREEMENT BETWEEN THE CITY OF HELENA, MONTANA, AS LESSEE AND U.S. BANK NATIONAL ASSOCIATION, AS LESSOR, AND RELATED DOCUMENTS IN ORDER TO REFINANCE (I)THE ISSUER'S CERTIFICATES OF PARTICIPATION, SERIES 2009 AND (II) RELATED FINANCING COSTS; PROVIDING FOR THE ISSUANCE, SALE, AND DELIVERY OF CERTIFICATES OF PARTICIPATION, SERIES 2016, RELATING TO THE LEASE-PURCHASE AGREEMENT, AS AMENDED; AND TAKING CERTAIN OTHER ACTIONS RELATED TO THE LEASE-PURCHASE AGREEMENT, AS AMENDED, AND RELATED DOCUMENTS.

Staff Report

Director Jorgenson requested the Commission table the resolution described above to the call of the City Manager.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved to table a resolution authorizing the execution and delivery of a second amendment to lease-purchase agreement between the City of Helena, Montana, as lessee and U.S. Bank National Association, as lessor, and related documents in order to refinance (i) the issuer's Certificates of Participation, Series 2009 and (ii) related financing costs; providing for the issuance, sale, and delivery of Certificates of Participation, series 2016, relating to the lease-purchase agreement, as amended; and taking certain other actions related to the lease-purchase agreement, as amended, and related documents to the call of the City Manager. Commissioner Noonan seconded the motion. All voted aye, motion carried.

C. CONSIDER A RESOLUTION OF INTENTION TO SET FEES CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION FOR FISCAL YEAR 2017 (FY2017).

Staff Report

Public Works Director Randall Camp reported each year the City of Helena and Lewis & Clark County jointly analyze and consensually recommend come to consensus on a recommended tipping fee for the operation of the City Transfer Station and the Lewis & Clark County Landfill. The City is proposing to leave the Transfer Station tipping fee at \$30.75. The County Landfill is proposing lowering their tipping fee to \$30.00 (a decrease of \$1.25). The Public Works Department is recommending a total tipping fee of \$60.75 (a decrease of \$1.25 per ton) for FY2017.

Approval of the resolution of intention will allow for a public hearing to be held on the rates proposed for use by the Transfer Station Enterprise for FY2017. Director Camp recommended approval of the resolution of intention and the recommended rates.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haladay moved approval of a resolution of intention to set fees charged for disposal of garbage and refuse at the City of Helena Transfer Station for FY 2017 and set a public hearing date of June 20, 2016. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #20251**

D. CONSIDER A RESOLUTION OF INTENTION TO VACATE A PORTION OF CHARLIE RUSSELL DRIVE LOCATED IN THE SWANEY MINOR SUBDIVISION ADJACENT TO LOTS 2-4.

Staff Report

City Engineer Ryan Leland reported the City of Helena Parks Department, Applicant, is requesting a Resolution of Intention to vacate the cul-de-sac portion of Charlie Russell Drive located in Swaney Minor Subdivision adjacent to lots 2-4.

Vacate a portion of the platted Charlie Russell Drive as described above. The City of Helena intends to enter into an agreement with the property owners of Lot 3 to swap for Lot 4. The square footage of the street to be vacated is approximately 7800. The square foot value for the street is \$3.04 per square foot. Lots 2 & 3 which will become City of Helena open space with a total of 6305 square feet for a total cost of \$19,167.20. Lot 4 will be owned by Kenneth & Elizabeth Eden also has a total 1495 square feet for a total of \$4,544.80. The approximate total calculated value to vacate the portion of the streets \$23,685.82. The final survey will determine the total square footage and final cost of the vacation.

Engineer Leland recommended approval of the resolution of intention as the proposed vacation will allow the Parks Department to complete the last small section for the subject location contiguous with the adjacent open space land and eliminate the Swaney Minor Subdivision final plat conditions, which require improvement of cul-de-sac and extension of water, wastewater, and storm water infrastructure.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Noonan move to approve a resolution of intention to vacate a portion of Charlie Russell Drive located in the Swaney Minor Subdivision adjacent to Lots 2-4 and set a public hearing date of June 20th, 2016. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20252**

- E. CONSIDER EXCLUSIVE RIGHT-OF-WAY USE AGREEMENT WITH TEN MILE CREEK BREWERY (NEW YORK BLOCK BUILDING) FOR A SIDEWALK CAFE ON THE WALKING MALL.

Staff Report

Engineer Leland reported a new business, Ten Mile Creek Brewery, has opened their shop in the New York Block of the Walking Mall. The Brewery is located in the Original Helena Townsite in Block 30 Lot 77. The proposed patio design, the reason for applying for this permit, is pending approval by the building department with the understanding and agreement that it cannot be built without City Commission approval of an Exclusive Right of Way Use Permit. The railing will match size, color, and construction as the approved Hawthorne.

Engineer Leland noted the proposed Exclusive Right-of-Way Use Agreement is being requested by the applicant, Deem Investments LLC, the owner of the building, on behalf of the building's tenants.

Public comment

Mayor Smith called for public comment; none was received.

Discussion

Commissioner Noonan asked how many noise complaints had been received for the Walking Mall area this past spring. Chief McGee reported only a few complaints were received this spring, much fewer than in the past. He added the establishments and surrounding businesses have been working together to establish an acceptable noise level for all parties.

Commissioner Farris-Olsen expressed strong support for Helena's new, existing and future sidewalk cafés, and commented on the benefits they bring to the entire downtown area, not just to their specific location.

Motion

Commissioner Farris-Olsen moved approval for an Exclusive Right-of-Way Use Agreement with Deem Investments LLC for a Sidewalk Café for the Ten Mile Creek Brewery in front of the New York Building. Commissioner Ellison seconded the motion. All voted aye, motion carried.

- F. CONSIDER A RESOLUTION ANNEXING PROPERTY LEGALLY DESCRIBED AS LOT C, BLOCK 11 OF THE HIGHLAND PARK ADDITION, LEWIS AND CLARK COUNTY, MONTANA AND THE FULL WIDTH OF THE ADJACENT GRANITE AVENUE RIGHT-OF-WAY, INTO THE CITY OF HELENA, MONTANA.

Staff Report

Senior Planner Dustin Ramoie reported the applicant has notified the City in writing that they have completed the conditions required for annexation and has now requested the annexation of the subject property. The applicant wishes to annex the property to attain water, wastewater, and other city services and to utilize the property with an R-

2 (Residential) zoning designation for the current use on the property. At the May 9th, 2016 City Commission meeting resolution #20246 was passed unanimously (5-0).

The subject property was pre-zoned by ordinance #3219 to the R-2 (Residential) District by the Helena City Commission on May 9, 2016.

Planner Ramoie recommended approval of the proposal and stated annexation of the subject property will allow the applicant to utilize all city services which are more efficient than individual well and septic and to abandon the failed septic system on the property.

Discussion

Commissioner Haladay referred to prior discussion and his recommendation to add a condition of approval to all future requests for annexation that would require the applicant to have abandoned their septic system in compliance with DEQ and/or Lewis & Clark County Health Department regulations prior to approval of final annexation. Manager Alles agreed such a condition could be applied to future annexation requests and noted the language of the requirement might read better if it referred to proper decommission at the time of hook-up to City services. There was Commission consensus for the future inclusion of such language.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Ellison moved approval of a resolution annexing Lot C, Block 11 of the Highland Park Addition, Lewis and Clark County, Montana and the full width of the adjacent Granite Avenue right-of-way, into the City of Helena as legally described in the attached Resolution of Annexation. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Res #20253**

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION TO ESTABLISH A TYPE B RESIDENTIAL PARKING DISTRICT FOR THE 800 BLOCK OF JACKSON STREET AND HALF OF THE BLOCK ON THE NORTH SIDE OF 14TH STREET, FROM JACKSON STREET EAST TO THE ALLEY ADJACENT TO THE PROPERTY AT 801 NORTH JACKSON STREET IN HELENA, MONTANA.

Staff Report

Parking Commission Director Dave Hewitt reported several new businesses have opened, and other nearby businesses have expanded, in the area around the 800 block of Jackson, causing difficulty for residents of that block to find parking. Resolution 20071 describes the process for residents to follow to request establishment of a residential parking district. It also describes required criteria to establish the district. The proposed residential district is inside the Parking Commission's defined boundary and would include the 800 block of Jackson Street and half the block of the north side of 14th Street from Jackson Street east to the alley.

Director Hewitt commented parking will be less difficult for residents in the area if the district were established. However, It is difficult to place a dollar value on public right-of-way; allowing private use of public property must be thoughtfully considered. The parking control officers will need to include that area in enforcement of parking regulations, with periodic monitoring and ticketing.

Discussion was held on the requirements to create a residential parking district, including the criteria for and what areas are not available for inclusion.

Commissioner Haladay stated Resolution #20071, which governs residential parking districts and establishes criteria, does not allow for properties zoned B-2 to be included in such districts. Per the resolution, establishment of new Type B Residential Districts are not eligible to areas zoned B-2; those properties should not have been included in the initial proposal.

Public Testimony

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

Joe Filson, 811 N. Jackson, urged the Commission to approve the proposal.

Kelly Patzer, Empire Office Machines- located in the subject area; requested clarification on the amount of parking allowed for commercial lots. Residential property owners are allowed two spots and two guest passes; he feels businesses owners should be afforded the same amount. He discussed parking conditions in the neighborhood and spoke to his business' dedication to the Helena community, downtown area and being a good neighbor.

Audra Tracy, business owner at 808 N. Jackson; expressed concern for the proposal as it does not afford any provisions for the existing commercial properties.

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

Discussion

Commissioner Haladay asked for an explanation of how residential parking districts function for the affected homeowners. Director Hewitt explained the homeowner's responsibility to prove residency, and pay the identified fee before they are issued two permits and two guest permits.

Thorough discussion was held on the amount of parking allotted for commercial businesses; Manager Alles discussed Mr. Patzer's ongoing parking problems and the history of the denial of two CUP applications, requested by Mr. Patzer to be used for employee parking. Mr. Patzer testified the requirements and improvements that are now associated with creating a parking lot on his vacant lot are cost prohibitive.

Commissioner Noonan agreed with Mr. Patzer's concerns and spoke to the Commission's desire to find the appropriate balance between residential and business properties.

Motion

Commissioner Ellison move to approve a resolution to establish a Type B Residential Parking District along the north and south sides of the 800 block of Jackson Street, and including the north side of 14th Street adjacent to the 801 Jackson Street property, as defined on the map included in the June 6th Commission Meeting packet, and excluding the B-2 zoned properties at 830 and 836 Jackson Street as identified on the same map. Commissioner Haladay seconded the motion.

Amendment

Commissioner Noonan moved to amend the proposed district to allow two residential spots and two guest passes for use

by Empire Office Machines. Commissioner Haladay seconded the motion.

Comment

Commissioner Haladay indicated while he is generally unsupportive of residential parking districts; it does appear this is an 8:00am to 5:00pm problem and will continue if not addressed. He indicated he would vote in support of the district and amendment.

Commissioner Farris-Olsen noted this proposal brings forward the problems connected to walkability and non-motorized transportation downtown and will hopefully further encourage the issues to be addressed.

Mayor Smith concurred with Commissioner Farris-Olsen's comments and indicated he would vote for approval of the parking district and amendment.

Vote on resolution as amended

All voted aye, motion carried. **Res #20254**

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is June 15, 2016 and the next Commission Meeting is June 20, 2016.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:36 p.m.

/S/ James E. Smith

Mayor

ATTEST:

/S/ Debbie Havens

Clerk of the Commission