

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
April 24, 2017 - 6:00 P.M.
City Commission Chambers, Room 330

Time & Place A regular City Commission meeting was held on Monday, April 24, 2017 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present Mayor Pro Tem Ellison indicated for the record that Commissioners Haladay, Noonan and Farris-Olsen were present. Mayor Smith was excused. City Manager Ron Alles, City Attorney Thomas Jodoin and City Clerk Debbie Havens were present. HCC Representative Gary Spaeth was also present.

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

Minutes The minutes of the Executive Session of April 3, 2017 and the regular City Commission meeting of April 10, 2017 and were approved as submitted.

Proclamation PROCLAMATION:
A. Arbor Day
Mayor Pro Tem Ellison read the Arbor Day Proclamation and presented it to Parks Maintenance Superintendent Craig Marr.
Superintendent Marr thanked Mayor Pro Tem Ellison for the proclamation and noted it is the City of Helena's 31st year of being a Tree City U.S.A. There will be an Arbor Day event on April 28, 2017 on the walking mall adjacent to the trolley. In partnership with Growing Friends, staff will be planting a tree adjacent to the trolley.

Board Appointments BOARD APPOINTMENTS:
A. Civic Center Board, Helena Open Lands Management Advisory Committee (HOLMAC)
Mayor Pro Tem Ellison indicated Mayor Smith has recommended the following appointments:
Civic Center Board – Appointment of Kacey Gollehon to the Civic Center Board. Term will begin upon appointment and expire March 2, 2019.
HOLMAC – Appointment of Karen Reese to an unexpired term on HOLMAC. Term will begin upon appointment and expire June 30, 2019.

Public Comment Mayor Pro Tem Ellison asked for public comment, none was received.

Motion Commissioner Haladay moved approval of the appointment of Kacey Gollehon to the Civic Center Board and Karen Reese to HOLMAC as outlined above. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Acceptance of Noxious Weed Trust Fund Grant # 2017-019 from the Montana Department of Agriculture to be used to treat noxious weeds on City and private property, and trail corridors of the South Hills trail system.
C. Archery Range Lease Agreement

City Manager Alles recommended approval of the claims.

Public comment	Mayor Pro Tem Ellison asked for public comment, none was received.
Motion	<u>Commissioner Noonan moved approval of items A-C on the consent agenda.</u> Commissioner Haladay seconded the motion. All voted aye, motion carried.
Communications From Commissioners	COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS There were no communications from the commission.
Report of the City Attorney	REPORT OF THE CITY ATTORNEY Attorney Jodoin reported the city's answer to the Central School lawsuit was due on Friday, April 21 st . However, the city requested and the court has granted an extension until May 31, 2017 to submit our response to the lawsuit.
Report of the City Manager	REPORT OF THE CITY MANAGER Manager Alles reported he will present the preliminary budget on May 8, 2017.
Report from the Helena Citizens	REPORT FROM THE HELENA CITIZENS COUNCIL HCC Chair Spaeth reported the HCC meeting is scheduled for April 26 th at 7:00 p.m.; they will be discussing the maintenance on the walking mall and the final report on the Civic Center. Chair Spaeth also reminded everyone the filing period for HCC members is currently open.
Regular Items	REGULAR ITEMS: A. CONSIDER FIRST PASSAGE OF AN ORDINANCE CLARIFYING COMMUNITY DECAY REGULATIONS BY AMENDING CHAPTER 11 OF TITLE 7 OF THE HELENA CITY CODE.
Staff Report	City Attorney Jodoin reported Chapter 11 of Title 7 of the Helena City Code currently contains the prohibition against the keeping of "community decay," as well as the notice and enforcement procedures for abating such community decay. The current language contains conflicting wording and a criminal prosecution procedure that makes enforcement problematic. The amendments can broadly be characterized into two categories. The first generally clarifies what the prohibited act is and the second decriminalizes the offense of having community decay on a person's property. In terms of the first substantive change, the definition of "community decay" is deleted and incorporated into the substantive prohibitions. Currently, the definition of "community decay" and the specific materials prohibited to be stored or accumulated on a property are inconsistent. Similarly, the term "public nuisance" is deleted and incorporated into a general "catch all" provision which prohibits conditions on a property that threaten or endanger the public health, welfare, and safety. Further, a section has been added to prohibit buildings that are dilapidated to such a degree as to endanger the public health, welfare, or safety. Screening of "community decay" is still permitted to preclude the view of the public however tarps and blankets are not permissible screening material. The second substantive change creates a civil enforcement procedure rather than prosecution of violations as a potential misdemeanor offense. Clarifying the prohibited conditions will improve the City's ability to respond to community decay complaints. A civil enforcement process eliminates the need to use the criminal justice system which is inefficient and aimed more at punishment rather than ameliorating the issue. This is especially critical because in most instances of community decay the owner is dealing with mental health issues. A civil enforcement process is much

better suited to resolve the problem and potentially assist the property owner with clean-up of the property through the involvement of local mental health service providers.

Attorney Jodoin recommended approval of first passage of an ordinance amending the City's community decay regulations by amending Chapter 11 of Title 7 of the Helena City Code, and set a public hearing date of May 8, 2017.

Discussion

Commissioner Haladay stated the current requirement is if a person files a complaint, they have to sign it for the community decay and snow removal ordinances. He asked why the city requires a signature when a complaint is filed. Attorney Jodoin stated it is mostly historical; however, when it is a criminal prosecution staff needs the information if the case proceeds to court and the complainant is called as a witness. It has been a city policy to require signatures; the commission could eliminate the requirement.

Commissioner Haladay stated so long as city staff could gather enough information to process the complaint, the requirement to have a signed complaint could be removed. Attorney Jodoin concurred; however, he thinks it is advisable to know who is complaining, so staff can work with them. Commissioner Haladay stated with any civil prosecution it has to be initiated by the city. Attorney Jodoin concurred.

Commissioner Haladay asked if staff is aware of any self-help remedies for citizens who do not believe their complaint has been resolved regarding a public nuisance. Attorney Jodoin stated there is a state law that addresses general and civil public nuisance and trespass issues. He stated he is not an expert on what remedies there are if someone is not satisfied on what the city would do.

Mayor Pro Tem Ellison noted this is first passage and the public hearing will be held on May 8, 2017.

Public Comment

Mayor Pro Tem Ellison asked for public comment.

HCC Chair Spaeth noted the HCC has reviewed this item and has prepared a resolution in support of the ordinance.

Motion

Commissioner Haladay moved approval of first passage of an ordinance amending the City's community decay regulations by amending Chapter 11 of Title 7 of the Helena City Code and set a public hearing date for May 8, 2017. Commissioner Noonan seconded the motion.

Discussion

Commissioner Haladay stated he would like the opportunity to have the discussion on anonymous complaints. Mayor Pro Tem Ellison asked that this be placed on the May 3rd administrative meeting agenda for further discussion.

Manager Alles concurred and noted staff will have prepared language for commission consideration.

Vote

All voted aye, motion carried. **Ordinance 3227**

B. CONSIDER A RESOLUTION OF INTENTION TO ANNEX LOT G1-A-1 OF THE AMENDED PLAT OF TRACT G1-A, MCHUGH SUBDIVISION NO. 2, COS#3284465, GENERALLY LOCATED NORTH OF ROADRUNNER STREET AND WEST OF MCHUGH LANE, IN LEWIS AND CLARK COUNTY, MONTANA, INTO THE CITY OF HELENA, MONTANA, THE ADJACENT COONEY DRIVE RIGHT-OF-WAY, AND ESTABLISH CONDITIONS FOR ANNEXATION.

Staff Report

Senior Planner Ramoie reported the applicant has requested the annexation of Lot G1-A-1 of the amended plat of Tract G1-A, McHugh Subdivision No. 2, COS #3284465 in Lewis and Clark County, Montana. The property is adjacent to the city of Helena and is 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 property is currently undeveloped and vacant. The applicant wishes to annex this property to attain all city services for development on the property. With annexation, extension of the water and wastewater service boundary will occur.

The subject property was pre-zoned to the B-2 (General Commercial) District on August 5, 2013.

Annexation of the subject property would allow for development of the property for any use allowed in the B-2 (General Commercial) district utilizing all city services. It would also require the dedication and installation of a much needed east/west connector road to help alleviate traffic congestion in the area, provide more access for emergency services, and fulfill the goals of both the City Growth Policy and the Long Range Transportation Plan.

Annexation of the subject property will allow for the property to be developed utilizing city water, wastewater, and other infrastructure which is

Senior Planner Ramoie recommended approval of a resolution of intention to annex property legally described as Lot G1-A-1 of the amended plat of Tract G1-A, McHugh Subdivision No. 2, COS#3284465, in Lewis and Clark County, Montana, into the city of Helena, Montana and, the adjacent Cooney Drive right-of-way, and establish the following conditions of annexation:

1. Infrastructure: The property owner must install all infrastructure improvements required by the City of Helena, to City standards, or enter into a development agreement acceptable to the City that defines responsibility for installation or deferment of the improvements, as shown below:

- a. Install a sanitary sewer main extension that lies within City right-of-way or in a City utility easement to serve any future development;
- b. Install a new lift station or acquire capacity from an existing lift station to serve any future development, prior to annexation (**this condition may not be deferred by a development agreement**);
- c. Install a looped water main from McHugh Lane to Cooney Drive within City right-of-way or in a City utility easement to serve any future development;
- d. Extend Roadrunner Street across the southern boundary of the property and dedicate it to the City (owner is responsible for costs of survey, installation, and dedication);
- e. Extend Cooney Drive across the western boundary of the property and dedicate fifty feet (50') to the City (owner is responsible for costs of survey, installation, and dedication);
- f. Install sidewalks in the McHugh Lane public right-of-way adjacent to the property; and
- g. Sign a waiver of right to protest an SID for future street improvements.

2. Review of New Construction: The property owner must submit plans for review by the City of Helena for compliance with City infrastructure, zoning, and other Code requirements, provide proof of compliance with all building and fire codes for all new construction or remodels subsequent to the adoption of this resolution and prior to annexation of the property, and pay all fees for such reviews in the same manner and on the same basis as do owners of properties already in the City.

3. Taxes and Assessments: Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.

4. Notice of Special Districts: The property owners must waive the right to notification and protest and consent to the alteration of the boundaries of the Urban Forest Maintenance District and the Landfill Monitoring District in order to include the property in said districts prior to annexation, pursuant to §7-11-1023, MCA.

5. Completion of Conditions: These annexation conditions must be completed within one (1) year of the date of approval of this resolution. The property owner must notify City Planning in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within that time frame, the City is under no obligation to annex the property and may discontinue any City services to the property, including water and sewer service.

Discussion

Commissioner Noonan asked if the applicant has indicated what type of development will be built. Senior Planner Ramoie deferred the question to the applicant.

Commissioner Haladay asked if the commission has considered a prior annexation resolution of intention for this property. Senior Planner Ramoie responded in 2013 there was a request to annex the entire 40-acres; subsequent to then a county subdivision was approved and the property was divided into two 20-acres parcels. The current applicant is requesting annexation of the southern 20-acres.

Commissioner Haladay asked if the conditions in the previous resolution of intention to annex required an east/west by-sector to go through the property. Senior Planner Ramoie stated he knows it was part of the discussion; however, he does not know if it was a condition.

Commissioner Haladay stated with not knowing what is going in, why don't we ask for additional east/west and north/south collectors regarding future dedicated right-of-way. Senior Planner Ramoie stated it is a single parcel of property and the current roads can serve the property. If in the future it is subdivided, then future right of way could be required. Commissioner Haladay stated when the commission sees these large parcels wanting to be annexed there seems to be two patterns; one is building something large with a lot of asphalt for a parking lot and other is avoiding the development of city required infrastructure, specifically streets.

Commissioner Haladay stated if the extra right of way is required and once the plans for property are known, the commission could always consider waiving certain conditions. Senior Planner Ramoie stated after review of the application, staff believes the condition for the extension of Cooney and Roadrunner are sufficient for the property being annexed.

Commissioner Haladay stated if he recalls correctly the prior resolution of annexation included a requirement of the east/west by-sector. Why at that time the commission wanted the road, why isn't it a condition with this applicant. Senior Planner Ramoie again stated staff believes Roadrunner will adequately serve the property being annexed; the north 20-acres is not part of the application and there is not an appropriate location to locate an east/west connector. There is potential development in the area that will allow the east/west connectors between McHugh, Cooney and Benton that will meet all of the requirements of the transportation plan and growth policy.

Commissioner Haladay again stated when you look at the top of the property, with the previous application there was a requirement for an east/west connector; however, it is not being required now. If the adjacent 20-acres is developed, is it staff's recommendation to add an

east/west connector. Senior Planner Ramoie stated it would depend on the type of development what connectivity would be required. He further explained when the east/west connectors could be required.

Commissioner Haladay asked how the commission would know what type of development will be on the northern lot; how does the next commission look at the plans and determine if an east/west connection is required. Commissioner Haladay stated the entire area has bad east/west connectors. There is a tremendous amount of money being spent to improve Custer Avenue, which is a direct result of not requiring east/west connectors. How do we avoid the same mistake with this development and possibly the adjacent 20-acres. Senior Planner Ramoie stated when the original 40-acres was considered, which is all zoned B-2, there was a specific requirement to put a condition for an east/west connection. There is criteria that has to be followed when requiring additional connecting roads. To serve this property, staff determined Roadrunner and Cooney would be adequate.

Commissioner Farris-Olsen asked with this annexation, will it create a wholly surrounded area adjacent to Cooney Drive. Senior Planner Ramoie noted there are waivers of annexation on properties on Cooney Drive and he believes this annexation will create a wholly surrounded area.

Public Comment

Mayor Pro Tem Ellison asked for public comment, none was received.

Motion

Commissioner Noonan moved approval of a resolution of intention to annex property legally described as Lot G1-A-1 of the amended plat of Tract G1-A, McHugh Subdivision No. 2, COS#3284465, in Lewis and Clark County, Montana, into the City of Helena, Montana and, the adjacent Cooney Drive right-of-way, and establish the conditions of annexation. Commissioner Haladay seconded the motion.

Discussion

Commissioner Noonan asked if there is a way to add an east/west connector further in the process; would this property owner be required to help build the road. Senior Planner Ramoie explained if an SID was created to build the road, the owner of this development would participate in it. If an SID is not created, then there is no requirement for them to participate.

Commissioner Noonan stated the waiver of protest for an SID leaves the door open for a potential east/west connector. Senior Planner Ramoie stated it leaves the funding of a road; however, it does not require the dedication of right-of-way. It would be dependent upon the future annexation of the northern parcel.

Mayor Pro Tem Ellison stated the owner of the northern parcel would have to dedicate right of way for the east/west connector; could the commission make it a condition of annexation. Senior Planner Ramoie stated a future commission could place a condition on the annexation of the north 20-acres to install an east/west connector.

Manager Alles stated the extension of Roadrunner is 100% the responsibility of the current property owner; the property owner will also be giving right of way dedication for 50 feet on Cooney Drive.

Commissioner Noonan stated if this goes onto further hearings, he would like to hear from the property owners on the plans for the property.

Commissioner Farris-Olsen stated he shares the concerns of Commissioner Haladay. The city just adopted the Downtown Master Plan and now is being asked to focus on development on the northern edge of Helena. He does not believe we should take away transportation funding from the downtown area and put it on the north side.

Attorney Jodoin asked if there is any desire to amend condition 1g to require an east/west connector along the northern property line, that a specific condition be added in lieu of amending 1g.

Commissioner Haladay stated if an east/west connector was added as a condition, it would not necessitate the commission to require the dedication of the property from this owner; it would require them to participate in the costs to build the road. Attorney Jodoin concurred.

Commissioner Haladay asked if the resolution of annexation will create a wholly surrounded parcel. Senior Planner Ramoie stated the annexation of the property will create a wholly surrounded area. Commissioner Haladay asked if the property just west of Colton Drive will be wholly surrounded. Senior Planner Ramoie showed the property that would not be annexed into the city.

Commissioner Haladay asked if the property adjacent to Custer Avenue that has storage units on it and was recently annexed is included in the wholly surrounded area. Senior Planner Ramoie stated yes. Commissioner Haladay asked if there has been any discussion on the wholly surrounded property regarding this specific property. Manager Alles stated there has been no discussions.

Commissioner Noonan stated he sees more clearly of Commissioner Farris-Olsen's concerns. He spoke of the transportation funds being used for the broader valley needs and not the interior streets of Helena. The commission needs to look at it in the long term.

Vote

Motion carried 3-1 with Commissioner Farris-Olsen voting no.

Resolution 20336

C. CONSIDER ADOPTION OF FINDINGS JUSTIFYING THE USE OF AN ALTERNATIVE PROJECT DELIVERY CONTRACT FOR THE REMODEL AND EXPANSION PROJECT OF THE BILL ROBERTS MUNICIPAL GOLF COURSE CLUBHOUSE/PRO SHOP.

Staff Report

Deputy City Attorney O'Connor The City wishes to remodel and expand the Bill Roberts Municipal Golf Course Clubhouse/Pro Shop. Traditionally, in order to complete this type of project, the City would first hire an architect to design the project. After the architect has completed the design, the project would then go out for bid and it would be awarded to the lowest responsible bidder. However, given the significant technical complexities associated with this project and cost savings that will result from shortening the duration of construction, an alternative project delivery contract is best suited to complete this project. The technical complexities arise from the fact that the Clubhouse/Pro Shop must continue to operate during the remodel and expansion project. In addition, based on the current project timeline projections, the majority of construction will take place when the outdoor golf facility cannot be used due to weather conditions. When the outdoor golf course is not in use, the City provides "winter golf" programming by utilizing the golf simulators located in the Pro Shop. The City will be able to significantly reduce its revenue losses if it is able to continue to operate the Clubhouse/Pro Shop for the duration of the remodel and expansion project. As such, significant benefits can be derived by using the alternative project delivery contract.

The process for utilizing an alternative project delivery contract is outlined in Title 18, Chapter 2, Part 5, of the Montana Code Annotated. Prior to being able to award an alternative project delivery contract, the City Commission must make detailed written findings justifying the use of that process as outlined in § 18-2-502, MCA. Specifically, the City Commission must determine that the proposal meets at least two of the three criteria listed in the statute. Once the detailed written findings are adopted by the City Commission, City staff will proceed with publishing a Request for

Qualifications ("RFQ") followed by a Request for Proposals ("RFP") to ultimately award a general contractor construction management ("GCCM") contract. The City successfully utilized this process for a project at the Missouri River Water Treatment Plant.

This process will minimize revenue loss and achieve cost savings by shortening the duration of construction by utilizing an alternative project delivery contract.

Deputy City Attorney O'Connor recommended adopting the detailed written findings, as presented, justifying the use of an alternative project delivery contract for the remodel and expansion project of the Bill Roberts Municipal Golf Course Clubhouse/Pro Shop in accordance with the requirements of § 18-2-502, MCA.

Public Comment

Mayor Pro Tem Ellison asked for public comment. None was received.

Motion

Commissioner Haladay moved approval for the adoption of the detailed written findings, as presented, justifying the use of an alternative project delivery contract for the remodel and expansion project of the Bill Roberts Municipal Golf Course Clubhouse/Pro Shop in accordance with the requirements of § 18-2-502, MCA. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION VACATING THE JACKSON STREET RIGHT-OF-WAY ADJACENT TO 27.18' OF LOT 13, THE NORTH HALF OF LOT 14 AND LOTS 15-16 IN BLOCK 13 OF THE CENTRAL ADDITION.

Staff Report

Engineer Leland reported the applicant wishes to vacate a portion of Jackson Street to create parking that will safely accommodate the elderly and disabled clients. The square footage of the portion of Jackson Street to be vacated is approximately 2099. The square foot value for the adjacent lots is \$5.45 per square foot for the RMDC portion with 1905 square feet for a total of \$10,384.96. REA investments Inc.'s portion has a total of 190 square feet at \$8.44 per square foot for a total of \$1624.50. The approximate total cost for the applicants is \$12,009.46. The final survey will determine the total square footage and final cost of the vacation. Rocky Mountain Development Council will be installing new sidewalks along the ROW which will include approximately 1050 square feet of new sidewalk and 195 feet of curb and gutter with two drive approaches. The estimate for the installation of sidewalks is \$8400.00. The estimate for the curb installation is approximately \$6400.00 for a total of \$14,800.00. In addition to the value of the improvements, there will still be an easement for the city water main that will limit what can be built on the property. Due to the cost of the sidewalk, curb, and the water main easement the applicant is requesting to waive the vacation fee.

Vacating the referenced right-of-way will provide safe parking for the elderly and disabled clients at the RMDC Inc. and the continuation of the sidewalk along Helena Avenue.

Engineer Leland recommended approval of the resolution vacating the Jackson Street right-of-way adjacent to 27.18' of Lot 13, the north half of Lot 14 and Lots 15-16 in Block 13 of the Central Addition.

Public Testimony

Mayor Pro Tem Ellison declared the public portion of the hearing opened and called anyone wishing to address the commission.

There being no persons wishing to address the commission, Mayor Pro Tem Ellison closed the public hearing.

Motion

Commissioner Farris-Olsen moved to approve a resolution vacating the Jackson Street right-of-way adjacent to 27.18' of Lot 13, the north half of Lot 14 and Lots 15-16 in Block 13 of the Central Addition and the waiver of the vacation fee. Commissioner Noonan seconded the motion. All voted aye, motion carried. **Resolution 20337**

Public Communications

PUBLIC COMMUNICATIONS
There were no public comments received.

Meetings of Interest

MEETINGS OF INTEREST
The next Administrative Meeting is May 3, 2017; Joint City-County Work Session, May 4, 2017 and the next Commission Meeting is May 8, 2017.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:15 p.m.

Mayor

ATTEST:

Clerk of the Commission