

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**May 8, 2017 - 6:00 P.M.**  
**City Commission Chambers, Room 330**

- Time & Place*** A regular City Commission meeting was held on Monday, May 8, 2017 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 City Clerk Debbie Havens were present.  
HCC Representative Gary Spaeth was also present.
- 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 April 24, 2017 and were approved as submitted.
- Proclamation*** PROCLAMATION:  
A. Buddy Poppy Day  
Mayor Smith read the Buddy Poppy Day Proclamation and presented it to Tom and Shirley Pouliot.  
Mr. Pouliot thanked Mayor Smith for the proclamation and spoke of the importance of Buddy Poppy Day and where the donated funds are allocated.
- Consent Agenda*** CONSENT AGENDA:  
A. Claims  
City Manager 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 Ellison seconded the motion. All voted aye, motion carried.
- Bid Award*** BID AWARD:  
A. Printing and mailing of utility bills with IDS West of Helena.
- Staff Report*** Administrative Services Director Jorgenson reported the city currently outsources the printing and mailing of monthly utility bill statements to IDS West of Helena. The current contract is due to end July 31, 2017. Staff issued an RFP and received 8 proposals. Staff analyzed the proposals and determined IDS West was the lowest responsible bidder. Their bid is estimated to be \$227,157 for three years, or \$75,719 each year. The City currently issues approximately 12,300 bills per month. Prices for the printing and mailing are guaranteed other than postage. The actual cost will vary depending on the number of utility bills each month.  
The amounts guaranteed are \$0.13 per mailed package, use of the best postage bulk mailing capabilities (currently results in a \$0.373 per package postage rate for 80% of our bills), and \$0.005 per additional insert (average 2 per month). These are shown in the Scope of Services, attached, that will be part of the contract. Another advantage that influenced the decision was IDS West guaranteed the cost of the paper goods for the first three years.

Director Jorgenson recommended approval to allow the City Manager to negotiate a contract for printing utility bills with IDS West of Helena based on the amounts shown in the attached Scope of Services for the period August 1, 2017 through July 31, 2020, with the option to renew at the City Manager's sole discretion for an additional two years dependent on successful negotiations.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Ellison moved approval to allow the City Manager to negotiate a contract for printing utility bills with IDS West of Helena based on the amounts shown in the attached Scope of Services for the period August 1, 2017 through July 31, 2020, with the option to renew at the City Manager's sole discretion for an additional two years dependent on successful negotiations.**

Commissioner Noonan seconded the motion. All voted aye, motion carried.

B. 2017 ADA Improvements Overlay Project #17-5

Staff Report

City Engineer Leland reported the City of Helena Public Works Department was notified by The State of Montana that for any mill and overlay road maintenance project, all existing adjacent ADA ramps are to be updated to current ADA standards. The project will update a total of 77 ADA ramps to current standards generally located east of Montana to Interstate 15 and south of Cedar to Phoenix.

The City received four bids for the project. The apparent low bidder was Tabbert Construction with a bid price of \$210,987.50. However, while evaluating the bid sheets it was discovered that there was a math error and Tabbert Construction's actual correct bid price, using unit prices was \$271,535.00. The error caused a change in the low bidder, which is now Northside Welding & Fabrication, Inc. of Helena with a bid of \$254,676.85.

With the award of this bid, 77 ADA ramps will be upgraded to current standards. This will also allow the City Streets Division to continue the mill/overlay project.

Engineer Leland recommended awarding the 2017 ADA Improvements Overlay Project #17-5 to the lowest responsible bidder Northside Welding & Fabrication, Inc. in the amount of \$254,676.85.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Haladay moved to award the 2017 ADA Improvements Overlay Project #17-5 to the lowest responsible bidder Northside Welding & Fabrication, Inc. in the amount of \$254,676.85.** Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

**Communications  
From Commissioners**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Noonan mentioned the Helena Sun Run scheduled for September; this event raises money for solar panels and this year the panels will be installed at Carroll College.

Commissioner Ellison recognized Zach Slattery as dispatcher of the year and thanked him for his service.

**Report of the City  
Attorney**

REPORT OF THE CITY ATTORNEY

No items to report on.

Commissioner Farris-Olsen asked for a copy of the suit filed by the parents to intervene with the lawsuit of Alan and Nancy Nicholson on the demolition permit for Central School. Attorney Jodoin noted he will get a copy to the commission as soon as he receives one.

Commissioner Farris-Olsen stated once a copy is received, he is recommending an executive session be scheduled to discuss litigation strategy.

**Report of the City Manager**

REPORT OF THE CITY MANAGER

City Manager reported last week Municipal Court scheduled 73 individual cases set for some form of hearing and received 132 new citations filed with the Court; the Tenmile plant continues to be the primary source of water for the city operating at 4.5 million gallons/day; Friday, May 12 is Vigilante Day and street sweeping continues. Manager Alles encouraged citizens to report potholes by going to <https://lchelenamt.seamlessdocs.com/f/StreetRequest>.

- A. Presentation of FY2018 Preliminary Budget  
Manager Alles presented the FY2018 Preliminary Budget.

Discussion

Commissioner Haladay referenced the \$646,450 increase in personnel services and asked if that is for the general fund employees or all funds. Manager Alles noted it is all funds and includes position adjustments, new positions, union contracts, and insurance increase. Commissioner Haladay asked if it includes the proposed 2.5% COLA. Manager stated it does not include the 2.5% COLA. The COLA increase is approximately \$170,000 for the general fund employees, excluding the fire and police departments. Commissioner Haladay clarified the total amount for the 2.5 COLA would be \$379,000. Manager Alles concurred.

Mayor Smith referenced the golf course expansion and water transmission line and asked if these are one time expenditures. Manager Alles noted both of these projects are heavy maintenance and will eventually have to be replaced.

Commissioner Haladay asked that the commission receive a copy of the Excel spreadsheet that shows the projects that have been removed from the FY18 budget. Manager Alles will forward the information to the commission.

Mayor Smith commented he is looking forward to the May 23<sup>rd</sup> budget work session. He and Manager Alles has talked about doing a public outreach to assure the citizens are aware of the work session.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Ellison moved to accept the FY2018 Preliminary Budget.** Commissioner Noonan seconded the motion. All voted aye, motion carried.

**Report from the Helena Citizens**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chair Spaeth reported there will be HCC members attending the May 23<sup>rd</sup> budget work session. The HCC will meet on June 7<sup>th</sup> to prepare their budget recommendations.

The HCC has requested the downtown maintenance proposal be placed on an upcoming administrative meeting agenda. The current HCC members are actively encouraging people to run for the HCC and they are still planning for neighborhood socials over the coming summer months.

**Regular Items**

REGULAR ITEMS:

- A. CONSIDER THE RELEASE OF EXISTING CITY OF HELENA UTILITY EASEMENTS LOCATED WITHIN THE AMENDED SLEEPING GIANT ADDITION; BLOCK 4, LOTS 6-A1, COS#617408 AND LOTS 7-8, BLOCK 4 LOCATED IN COS#352290.

Staff Report

Engineer Leland reported James Stanger, President of Helena Honda, has submitted a request to the City of Helena to release an easement that was created when the Sleeping Giant Subdivision was established. The 20-foot easement to be released is located within the existing lot line between Lots 6A-1 and Lots 7-8. The second 20-foot easement is located along the property line between existing Lots 7-8. There are currently no utilities in either of the easements. (See exhibit A). Currently a portion of the commercial building and car port lie within the existing easement.

Release of the unused city utility easement will allow the owner to clean up the plat and eliminate the unused easements.

Engineer Leland recommended approval of the release of existing City of Helena utility easements located within the amended Sleeping Giant Addition; Block 4, Lots 6-A1, COS#617408 & Lots 7-8, Block 4 located in COS#352290.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Noonan moved approval of the release of existing City of Helena utility easements located within the amended Sleeping Giant Addition; Block 4, Lots 6-A1, COS#617408 & Lots 7-8, Block 4 located in COS#352290.** Commissioner Haladay seconded the motion. All voted aye, motion carried.

- B. CONSIDER A VARIANCE FROM SECTION 12-2-18(C) OF CITY CODE TO CREATE A LOT FOR UTILITY PURPOSES THAT IS NOT SERVED BY WATER AND WASTEWATER MAINS IN ADJACENT PUBLIC RIGHT-OF-WAY (ROW) OR CITY-HELD EASEMENTS FOR PROPOSED LOT 2A, BLOCK 7, HERSHFIELD ADDITION, WITH A PROPERTY ADDRESS OF 1414 ORANAGE AVENUE.

Staff Report

Planner Ray reported an amended plat for a boundary line relocation between Lots 1 and 2, Block 7, of the Hershfield Addition, creating Lot 1A, and Lot 2A, was submitted to the City for review. Lot 1A will contain 11,669 square feet and Lot 2A will contain 3,000 sf. The property is zoned Commercial Light Manufacturing (CLM) District, and contains a communication tower and related building. According to the applicant, new Lot 2A would be designed to accommodate the existing communication tower easement agreement boundary. Although proposed Lot 2A would be adjacent to an alley, there are no water or waste water mains in that alley. Water and wastewater mains are located in Orange Avenue, and a water main is located in Sanders Street. As proposed, Lot 2A would not have direct access to Orange Avenue or Sanders Street.

The variance would allow for infill development within city limits that conforms to the uses permitted in the CLM District. Infill development within the city limits may produce lower resource(s) and infrastructural impacts.

Planner Ray recommended the commission conditionally approve, table or deny a variance from Section 12-2-18(C) of City Code to create a lot without access to water and wastewater mains in adjacent public right-of-way (ROW) or city-held easements for proposed Lot 2A, Block 7, Hershfield Addition, with a property address of 1414 Orange.

Planner Ray recommended the following condition: The applicant will revise the COS stating that Lot 2A remain an unbuildable utility lot until municipal water and wastewater services are installed in accordance with city engineering standards and city code

Discussion

Commissioner Farris-Olsen referenced the Variance Criteria, B2 "Literal enforcement of the provisions of these regulations will result in unnecessary hardship due to particular physical surroundings, shape, or topographical conditions that are unique to the specific property involved and that cannot be reasonably resolve ty redesigning the subdivision proposal;" and asked what the hardship is.

Commissioner Haladay asked if this variance has the same elements considered by the Board of Adjustment. Attorney Jodoin stated no; but does have the same as the zoning review.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

**Commissioner Ellison moved to conditionally approve a variance from Section 12-2-18(C) of City Code to create a lot without access to water and wastewater mains in adjacent public right-of-way (ROW) or city-held easements for proposed Lot 2A, Block 7, Hershfield Addition, with a property address of 1414 Orange with the condition the applicant revise the COS stating that Lot 2A remain an unbuildable utility lot until municipal water and wastewater services are installed in accordance with city engineering standards and city code.** Commissioner Noonan seconded the motion.

Discussion

Commissioner Haladay stated as a policy point he could not establish the literal enforcement language regarding this property and how it creates the hardship. He likes the idea of expanding the property; however, he is struggling with the enforcement language. He does not currently see it.

Commissioner Farris-Olsen stated he does not believe this creates a hardship.

Commissioner Ellison stated he shares the concerns of Commissioners Haladay and Farris-Olsen; however, splitting the lots will create infill development.

Mayor Smith concurred with Commissioner Ellison. He noted if in the future the owner tries to develop Lot 2A they would have to bring in city services to the lot through Lot 1A.

Commissioner Noonan asked what logistical problem would there be in the future if the variance is not approved. Attorney Jodoin stated the lot could not be developed until water and sewer were installed. The ultimate concern is the cell tower goes away and the lot is sold; however, this lot would have the restriction on the plat and require water and sewer be installed. The variance is for a lot to be created that will not have water or sewer.

Vote

**Motion carried 4-1 with Commissioners Haladay voting no.**

- B. CONSIDER ACCEPTANCE OF DEDICATION AND DONATION OF 5.20 ACRE PARCEL OF REAL PROPEERTY FOR PUBLIC PARK USE FORM D&M DEVELOPMENT, LLC.
  
- D. CONSIDER AN AMENDED PLAT SHOWING THE AGGREGATION OF DONATION PROPERTY INTO THE CITY OF HELENA CENTENNIAL PARK CREATING LOT 2 OF THE AMENDED PLAT OF A PORTION OF BLOCK 55 CENTRAL ADDITION NO. 3; GENERALLY LOCATED NORTH OF LYNDALE AVENUE AND WEST OF NORTH LAST CHANCE GULCH WITH A PROPERTY ADDRESS OF 1200 N. LAST CHANCE GULCH.

Staff Report

Attorney Jodoin reported D&M Development, LLC ("D&M") recently acquired the "Armory" property from the State of Montana. A portion of that property was developed as the southern part of Centennial Park pursuant to a lease between the state and the city. An amended plat/certificate of survey has been prepared to aggregate existing city Centennial Park property with the 5.20 acre donated parcel.

As part of the dedication and donation of the parcel the City and D&M will enter into a Use Agreement wherein the City agrees to continue to permit Carroll College to reserve and use the donated property through the City's normal park use reservation and agreement process.

For informational purposes, D&M is also granting the city utility wastewater and methane extraction infrastructure easements; and an easement for public access and parking across the Armory property in order to utilize Centennial Park.

With the acceptance of this dedication and donation, the city would have full ownership of this property which has, in recent history, been used as a public park.

Attorney Jodion recommended approval to accept the dedication and donation of the 5.20 acre parcel of real property as described in the attached warranty deed.

D & M Development, LLC ("D&M") recently acquired the "Armory" property from the State of Montana. A 5.2 acre portion of that property is developed as the southern part of Centennial Park. Previously the State had leased that portion of the property to the City for use as a public park. D&M desires to donate that 5.2 acre portion of the "Armory" property to the city to continue the existing park use on the property.

The subject amended plat/certificate of survey would aggregate the donated property into existing city owned Centennial Park property by relocating the common boundary line. This process does not increase the number of lots therefore it is exempt from survey review. City Commission review and approval is required since the plat impacts city owned property.

The subject plat creates Lot 1A containing 4.28 acres and Lot 2 containing 20.02 acres. Proposed Lot 1A is developed with a vacant building (the Armory building) and proposed Lot 2 is city park and the YMCA. Both properties are zoned PLI (Public Lands and Institutions) District. The property is adjacent to Lyndale Avenue and North Last Chance Gulch; water and waste water mains are located in those streets.

D & M Development is also granting easements to the city on Lot 1A for public motorized and non-motorized access/parking and utility access and maintenance for wastewater and methane extraction infrastructure and appurtenances.

Approval of the amended plat will facilitate the transfer of donated property which has been developed as a city park to city ownership.

Attorney Jodoin recommended approval of an amended plat showing the aggregation of donation property into the City of Helena Centennial Park creating Lot 2 of the Amended Plat of a portion of Block 55 Central Addition No. 3; generally located north of Lyndale Avenue and west of North Last Chance Gulch with a property address of 1200 N Last Chance Gulch in the City of Helena, Montana.

Discussion

Commissioner Ellison referenced the light blue arch on the map and asked who owns the adjacent property. Attorney Jodoin stated it is city owned property.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

**Commissioner Farris-Olsen moved to accept the dedication and donation of the 5.20 acre parcel of real property as described in the attached warranty deed.** Commissioner Haladay seconded the motion. All voted aye, motion carried.

Motion

**Commissioner Farris-Olsen moved approval of an amended plat showing the aggregation of donation property into the City of Helena Centennial Park creating Lot 2 of the Amended Plat of a portion of Block 55 Central Addition No. 3; generally located north of Lyndale Avenue and west of North Last Chance Gulch with a property address of 1200 N Last Chance Gulch in the City of Helena, Montana.** Commissioner Ellison seconded the motion. All voted aye, motion carried.

**Public Hearings**

PUBLIC HEARINGS:

- A. CONSIDER FINAL PASSAGE OF ORDINANCE 3227 CLARIFYING COMMUNITY DECAY REGULATIONS BY AMENIDNG 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 final passage of Ordinance 3227 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.

Public Testimony

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

Brian McCullough asked if this ordinance addresses snow removal and community decay; if not when will an amendment to the snow removal ordinance be considered. Mayor Smith stated the commission will consider amending the snow removal ordinance at a later meeting.

HCC Chair Spaeth read a resolution in support of the final passage of Ordinance 3227. They also support the complaint not having to be signed.

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

Motion

**Commissioner Ellison moved approval of final passage of Ordinance 3227 clarifying community decay regulations by amending Chapter 11 of Title 7 of the Helena City Code.**

Commissioner Haladay seconded the motion.

Amendment

**Commissioner Haladay moved approval of the following amendment: 7-11-56: ABATEMENT AND MITIGATION:** The ~~abatement or mitigation of the above prohibited conditions which constitute a public nuisance prohibited by this chapter shall be accomplished under the provisions of this section. Where an established use results in the storage of material otherwise prohibited in this chapter within public view due to an elevated public right of way or other circumstance beyond the control of the property owner, the condition shall be mitigated in accordance with the provisions of this section.~~

A. ~~Initiation: Abatement or mitigation shall be initiated by the designated department.~~

B. ~~Inspection: Within thirty (30) ten (10) days of receiving a signed, written complaint that a prohibited condition of community decay exists, the designated Community Development department shall conduct an inspection of the property alleged to be in violation of this chapter to determine whether there is, in fact, a violation.~~

Commissioner Farris-Olsen seconded the motion.

Discussion

Commissioner Haladay noted he has heard from a number of citizens that they do not like having to sign a complaint. The community decay and snow removal ordinances are both city ordinances and the city should be enforcing them. The amendment does not prohibit people from signing the complaint if they choose to do so.

Mayor Smith stated if this amendment is adopted tonight, the commission will consider a similar amendment for the snow removal ordinance.

Commissioner Ellison stated he would prefer to have people sign the complaints; however, he has been on the other side when he has made a complaint and was approached by the neighbor.

Mayor Smith stated his concern is this would increase the volume of complaints. However, he is willing to give it a try.

Commissioner Noonan noted once a complaint is filed, city staff will investigate the complaint. Therefore, he will support the amendment.

**Vote on Amendment**

**All voted aye, motion carried.**

**Vote on Ordinance  
As amended.**

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

***Public  
Communications***

**PUBLIC COMMUNICATIONS**

Ray Linder, Woodbridge Drive, stated the commission just amended a law that does not require a signature, however, he has to give his name at the podium. Mr. Linder noted he removes snow from his rentals and does not believe the tenants should be able to complain without identifying themselves.

***Meetings of  
Interest***

**MEETINGS OF INTEREST**

The next Administrative Meeting is May 17, 2017; the next Commission Meeting is May 22, 2017 and the Budget Work Session is May 23, 2017.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:35 p.m.

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Mayor

ATTEST:

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Clerk of the Commission