

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

- Time & Place** A regular City Commission meeting was held on Monday, November 6, 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, Farris-Olsen, Haladay and Noonan were present. City Manager Ron Alles, City Attorney Thomas Jodoin and City Clerk Debbie Havens were 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 October 30, 2017, were approved as submitted.
- Board Appointments** BOARD APPOINTMENTS:
A. TIF Advisory Board – (Railroad District)
- Mayor Smith recommended the appointment of Bruce Day, Executive Director of Food Share to the TIF Advisory Board, representing a non-profit. Term will begin upon appointment.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Ellison moved approval of the board appointment as outlined above.** Commissioner Haladay seconded the motion. All voted aye, motion carried.
- Consent Agenda** CONSENT AGENDA:
A. Claims
B. Accepting the fiscal year 2017 annual report for the Railroad Urban Renewal District.
- 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 Items A and B on the consent agenda.** Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Communications From Commissioners** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Noonan announced the freshman classes at Carroll College are having a food drive, November 6-8. People can call Carroll College at 447-5167 and the students would pick up the food.
Commissioner Ellison reminded people to get out to vote by 8:00 p.m. on November 7th.
Mayor Smith asked Manager Alles for an update on the quiet zone project, specifically on Benton Avenue. Manager Alles stated the project is 95% complete; one item left is getting the electrical conduit installed. The sidewalk on Benton Avenue is closed; the permanent fix will be completed next spring. However, a temporary fix will be installed in the next week or so.
Manager Alles gave an update on the recent snow storm; he encouraged all citizens if they have a snow complaint to call the street

department at 447-1566 between 8:00 a.m. and 5:00 p.m. and 442-3233 after hours. They can also submit a complaint electronically; the form is available on the city of Helena website. Staff has been busy trying to get the streets plowed and with the first storm, there was a lot of slush that turned into ice. Manager Alles gave an overview of the snow removal process and again encouraged anyone with concerns to call the Street Division.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Jodoin reported the city will enter into mediation with representatives from the Westside. The goal is to resolve the issues in order to move forward with the project and save the TSEP funding. There are property owners who want to annex and install water and sewer infrastructure.

Attorney Jodoin also reported the Montana Supreme Court overturned Marcy's Law.

Report of the City Manager

REPORT OF THE CITY MANAGER

Manager Alles had no further items to report on.

Report from the Helena Citizens Report

REPORT FROM THE HELENA CITIZENS COUNCIL

No report from the HCC.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES TO BE CHARGED FOR THE BILL ROBERTS MUNICIPAL GOLF COURSE (BRGC), 2018 SEASON.

Staff Report

Parks & Recreation Director Amy Teegarden reported staff reviews the golf operations, maintenance and concessions budget annually to ensure revenue projects are aligned with expenses. As part of this review, golf fees are reviewed and discussed with the Golf Advisory Board (GAB). At the October 2017 meeting, the GAB voted to support the recommended rate adjustments for the 2018 golf season. These adjustments are identified in the attached ROI. City staff's recommendations are outlined in the attached October 2, 2017.

Based on a review of 2017 revenue reports, golf rounds and the recommendations from the NGF feasibility study, City staff is recommending limited increases for the 2018 season for the "restricted season passes" fee category. Currently restricted season passes have a higher than national average discount. The trend is to have these passes priced approximately \$100 less than unrestricted season passes.

Director Teegarden recommended approval of the Resolution of Intention to establish fees to be charged for the Bill Roberts Golf Municipal Course for the 2018 Season, and set a public hearing date for November 20, 2017.

Discussion

Mayor Smith noted there were fewer single rounds played last season and asked if the smoke affected the numbers. Director Teegarden concurred and noted the weather also affected the numbers.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haladay moved approval of a resolution of intention to establish fees to be charged for the Bill Roberts Golf Municipal Course for the 2018 Season and set a public hearing date

for November 20, 2017. Commissioner Noonan seconded the motion. All voted aye, motion carried. **Resolution 20412**

B. CONSIDER A RESOLUTION OF INTENTION TO VACATE NORTH SANDERS STREET RIGHT-OF-WAY BETWEEN BLOCKS 31 AND 44 OF THE NORTHERN PACIFIC ADDITION AND THE CONRAD-STANFORD ADDITION SOUTH OF THE EAST-WEST ALLEY IN BLOCK 44 OF THE NORTHERN PACIFIC ADDITION AND CONRAD-STANFORD ADDITION TO LIVINGSTON AVENUE AND THE EAST-WEST ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-4 IN BLOCK 44 OF THE NORTHERN PACIFIC ADDITION, LOCATED ADJACENT TO HELENA SCHOOL DISTRICT PROPERTY.

Staff Report

City Engineer Ryan Leland reported Helena School District #1, has submitted an application at the City of Helena's request to vacate the following streets and alleys adjacent to its property located on Boulder Avenue and Livingston Avenue to the south. The applicant intends to install a bridge over the vacated right of way to allow the students to travel safely from building to building and will allow the safe construction of the new Bryant School. The descriptions of the proposed vacation are as shown:

- Proposed vacation of 70-foot Sanders Street right-of-way located between Blocks 31 and 44 of the Northern Pacific Addition and the Conrad-Stanford Addition to Livingston Avenue. Total area to be vacated is **10,107 square feet**, more or less. Adjacent market value square foot price averaged at \$6.90.
- Proposed vacation, a 20-foot east-west alley right-of-way in Block 44 of the Northern Pacific Addition. Total area to be vacated is **3,717 square feet**, more or less. Adjacent market value square foot price averaged at \$5.36.

The applicant desires to vacate the rights-of-way described above to provide a safe travel path between buildings after the construction of the new Bryant School. The total area of the requested vacation for Sanders Street at \$6.87 per square foot equals \$69,738.30. The total area of the requested vacation of the east-west alley at \$5.36 per square foot equals \$19,923.12. The total amounts to \$89,661.42. The final amount will be determined with the survey to amend the plat.

The School District has provided letters that the School District would enter into an agreement to replace both the sewer and storm water mains in the vacated portion of the ROW and pay for any additional costs if the mains need to be dug up or replaced.

Engineer Leland recommended approval of a resolution of intention to vacate a portion of Sanders Street and an alley located in the Northern Pacific Addition adjacent to Helena School District #1 property and set a public hearing on November 20, 2017.

City staff recommends the following conditions of approval:

- The School District will enter into an agreement that the School District will replace both the sewer and storm mains between Livingston Avenue and Boulder Avenue, including relocating Storm Manhole DG-2-22 north out of the proposed school common area.
- The School District will enter into an agreement with the City that the School District will pay any additional cost above and beyond a normal street repair due to maintenance/repair or replacement of the sewer and/or storm mains in the vacated portion of Sanders Street.
- Provide a final plan for parent parking and bus parking
 - At the last meeting the locations had not been finalized.

- School District was also informed that there is no specific parking restriction to allow parent parking only.
- Provide final parking/street plan that meets the City of Helena Complete Streets Policy. If the proposed plan does not meet the City of Helena Engineering Standards or City Code then the School District will have to apply for a deviation or variance request.
- All proposed work within the City of Helena Rights-of-Way must meet the City of Helena Engineering Standards, City Code or the applicable State or Federal standards.

Discussion

Commissioner Ellison asked if the School District has seen the conditions and if they are in agreement with them. Engineer Leland noted the School District offered the two agreements and concurs with the other conditions.

Mayor Smith asked if three houses shown on the site plan will be torn down. Engineer Leland concurred.

Public Comment

Mayor Smith called for public comment.

Ben Tintinger with Mosaic Architects, showed two slides on why the proposed bridge is necessary. Mr. Tintinger spoke of the planning sessions for the new school and noted the students, teachers and principle have been great to work with. The school when completed will hold 350 kids.

The design challenge is to keep the kids in the school during the construction of the new school; that is why the bridge is necessary. The new school will be the 4th edition of Bryant School on this site.

Motion

Commissioner Noonan moved approval of a resolution of intention to vacate a portion of Sanders Street and an alley located in the Northern Pacific Addition adjacent to Helena School District #1 property and set a public hearing on November 20, 2017, subject to the conditions outlined above. Commissioner Haladay seconded the motion.

Commissioner Ellison referred to the design on Sanders Street and asked how utility vehicles would enter the property if there is an issue. Engineer Leland noted that is the concerns of staff, the School District has offered the two agreements outlined above and a driveway would be installed that could access the utility. Engineer Leland noted the proposal is not as nice as having a street, but that is the School District's solution.

Mayor Smith noted the design shows Livingston Street being opened. Engineer Leland noted this portion of Livingston Street is open and is closed adjacent to Helena High School.

Commissioner Haladay thanked staff for working on this with the School District and coming up with the conditions.

Vote

All voted aye, motion carried. **Resolution 20413**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER THE GRANTING OF A DEMOLITION PERMIT FOR A SINGLEFAMILY RESIDENT AT 125 HOWIE STREET, HELENA, MONTANA.

Staff Report

Community Development Director Sharon Haugen reported he owners of the property located at 125 Howie Street, Robert Frantz and Todd Ott, have applied for a building permit to demolish the residence at

that location. Because the property is a contributing property in an historic district, the owners must comply with the requirements of Title 3, Chapter 15 of Helena City Code.

On October 17, 2017, the Helena/Lewis and Clark County Heritage Preservation Tourism Council (HTC) held a public hearing and recommended approval of the demolition of the building with the following condition: Approval be contingent upon receipt of and review by the HTC of all exterior façade elevation drawings of the new proposed construction so that the Helena/Lewis and Clark County Heritage Tourism Council may determine the design's impact on the historic district and neighborhood. The drawings will be submitted within two (2) months of the date the City Commission approves the demolition application.

Director Haugen clarified when you apply for a demolition permit from the city of Helena, you do not have to show a plan at that time. All you have to do is show the location the actual building part of the demolition permit, where the current utilities are located and whether or not they will be capped.

Director Haugen stated city staff has concerns about the standards to which that condition will be determined to be met. At this time, the city does not have any standards for historic districts. She then referenced the applicable language from #9 of the Secretary of the Interior's Standards for Rehabilitation is guidance: "The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."

Director Haugen also noted the Guidelines for New Construction in Historic Districts indicates there is no pat answer to new infill construction in an historic district, because good design will vary according to its setting.

The purpose of the applicant is to gain approval for the demolition of the building.

The advantage of the demolition is that a structure that is substandard and beyond repair will be replaced by a structure meeting current building codes and standards. Any new structure will meet all new applicable building and energy codes. The disadvantage is the loss of a structure that is considered a contributing structure to one of Helena's historic district.

Director Haugen recommended approval to the granting of a demolition permit for the structure at 125 Howie Street, Helena, Montana.

Discussion

Commissioner Haladay stated under state law there is a tax credit for rehabilitation of historic properties to spend the money to make a property work within the historic district or fixing up a property. He asked how it is determined on a state level how the property qualifies for the tax credit. Director Haugen stated in terms of the historic tax abatement, they follow the Department of Interior's guidelines. She noted that is her recollection as she did not check the statute.

Commissioner Haladay clarified he meant tax abatement and then noted someone has to make a subjective call on whether the property is meeting the letter of those design guidelines. Director Haugen concurred and noted an additional criteria is it has to increase the taxable value of the property.

Manager Alles stated any application for a tax abatement on a historical structure would rest with the city commission.

Public Testimony

Mayor Smith opened the public hearing and called for anyone wishing to address the commission.

Alice Liebel, 128 S. Howie, spoke of the traffic on Howie Street, water pressure and the impact a multiple housing development would have on the neighborhood.

Kermit Liebel, 128 S. Howie stated his concerns are with the water line and water pressure in the area and fire flows. He also addressed the increase in traffic.

Marty Lewis, 128 S. Howie, objected to the demolition permit noting the concern with water pressure, fire protection and traffic. Total amount of units being proposed is too many.

Bill Lewis, 128 S. Howie, also spoke against the proposed demolition permit. Mr. Lewis asked the commission to postpone a decision until further investigation into the proposed development. He also asked how the commission feels about preserving the historical parts of Helena.

Bob Frantz, co-applicant, stated the existing structure would be extremely hard to salvage because the foundation is eroding into the soil. Saving the structure would be impractical.

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

Motion

Commissioner Ellison moved approval to the granting of a demolition permit for the structure at 125 Howie Street, Helena, Montana. Commissioner Haladay seconded the motion.

Discussion

Commissioner Ellison thanked the residents that testified. He then stated the issue before the commission is strictly the demolition permit; the other concerns will be addressed at a later date. With the recommendation from the Heritage Preservation Commission and staff, he supports moving forward with the demolition permit.

Commissioner Farris-Olsen noted he has hired Bob Frantz as an expert witness. Commissioner Farris-Olsen asked if this is approved and construction is allowed is there sufficient water supply. Attorney Jodoin noted that will be determined during the building review process. If it is determined there isn't fire flows, one option to mitigate the concerns would be installing sprinklers in the new structures.

Commissioner Farris-Olsen asked how the city will ensure the owners will take precautions to prevent the concerns with fire protection. Attorney Jodoin noted any new structure will have to meet the current building and fire codes.

Commissioner Noonan stated he appreciates hearing the history of the building; there are a lot of questions that will need to be addressed. However, It doesn't sound like the structure can be sustained; therefore, he will support the demolition permit. He then assured those who testified, their concerns will be addressed in the future.

Commissioner Haladay stated the motion being considered is not the same as recommended by the Heritage Preservation Commission. Director Haugen concurred the motion recommended by staff does not include the condition. Commissioner Haladay stated if the setbacks do not comply with the R-3 Zone the applicant would have to apply for a variance through the Board of Adjustment. Directors Haugen stated anytime a building plan is submitted, it is reviewed to meet all zoning, building and fire codes. If the setback requirements are not met, the applicant has two options to either redesign the plans or apply for a variance through the Board of Adjustment.

Commissioner Haladay acknowledged the traffic issues and asked is there anything going forward that would require the traffic impact be reviewed. Director Haugen stated unless there is a subdivision review, traffic impacts will not be looked at as the property is already zoned R-3.

Commissioner Haladay referred to the minutes from the Heritage Preservation Commission's public hearing where Mr. Ott concurred with the recommended condition. He then asked Mr. Frantz if he and Mr. Ott continue to agree with the condition. Mr. Frantz stated they remain comfortable with the condition.

Amendment

Commissioner Noonan moved to amend the motion to include the following language: The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment. Motion dies for a lack of a second.

Discussion

Mayor Smith asked what is meant by the exterior elevations of the proposed structure. Director Haugen explained the exterior elevation is the design of the outside of the building.

Mayor Smith clarified that staff's definition of exterior elevation is a drawing of what the outside of the new structure will look like. Director Haugen concurred. Mayor Smith commented the condition being recommended by the Heritage Preservation Commission is above and beyond the demolition permit application. Director Haugen commented the Heritage Preservation Commission, with their recommended condition, wants an additional review process beyond the granting of the demolition permit.

Mayor Smith referred to the minutes of the Heritage Preservation Commission and their recommendation of approval of the application for a demolition permit. Director Haugen stated until the applicant submits the plans, staff would not know what the elevation would look like.

Mayor Smith thanked those who testified tonight and recognized there is a lot of history in the neighborhood.

Commissioner Farris-Olsen also thanked everyone who testified and if there are issues as the process moves forward, please contact the city. He would support including the condition in the motion since both applicant's agree to it.

Amendment

Commissioner Farris-Olsen moved to amend the motion to add the following condition as recommended by the Heritage Preservation Commission: Approval be contingent upon receipt of and review by the HTC of all exterior façade elevation drawings of the new proposed construction so that the Helena/Lewis and Clark County Heritage Tourism Council may determine the design's impact on the historic district and neighborhood. The drawings will be submitted within two (2) months of the date the City Commission approves the demolition application. Commissioner Noonan seconded the motion.

Discussion

Commissioner Ellison stated it is good to hear the applicants concur with the recommended condition. However, if the condition is adopted, the city commission is changing the nature of the Heritage Preservation Commission from an advisory body to a policy making group and he is uncomfortable with that. Commissioner Ellison stated he will oppose the amendment.

Commissioner Haladay asked Heritage Preservation Officer Attardo in regards to the condition recommended by the Heritage Preservation, is it intended to be the final step of the process or act as a second hearing in the process and move it forward to the city commission. Heritage Preservation Officer Attardo recognized the Heritage Preservation Commission does not make the final decision; it is always made by the city commission. She commented if the Heritage Preservation Commission determined the design was not sufficient, the city commission would have to approve any final

changes. Ms. Attardo also noted since 1992 all applicants have submitted drawing of the exterior elevations; the exception would be Central School.

Commissioner Haladay asked Mr. Frantz if he understands the condition and any final decision would be made by the city commission. Mr. Frantz concurred.

Mayor Smith agreed with Commission Ellison and stated he is not comfortable supporting the amendment. The city commission will be looking at the Historical Preservation ordinance with an eye toward revising it.

Commissioner Haladay stated with the applicants being in agreement with the condition, he would support including it in the motion.

Commissioner Ellison commented he is in 99% agreement with Commissioner Haladay's comments. With the applicants agreeing to the condition, why would the commission need to approve it.

Commissioner Haladay stated by including the condition in the motion, it is on record on what has been agreed on. This builds in one more level of redundancy to assure the historical nature of the neighborhood is kept.

Commissioner Noonan commented by adopting the condition, the commission is not giving the Heritage Preservation Commission more power; as they recognize the final decision would be made by the city commission.

Mayor Smith asked are we going to revise the historical preservation ordinance. Manager Alles stated yes; he is working with the county. Mayor Smith then spoke on what issues should be addressed during the review of the ordinance, including the definition of a site plan.

Attorney Jodoin referenced the design standards for the historical districts and noted there are no standards in place at this time to determine how it protects the historical district. The design standards would also include new construction in a historical district.

Attorney Jodoin asked for clarification on the motion, it is his understanding the applicants will submit the elevation design to the Heritage Preservation Commission, who will make a recommendation and forward it to the city commission for approval or denial prior to issuing the building and demolition permits. Commissioner Farris-Olsen concurred.

Mayor Smith stated he appreciates Attorney Jodoin's comments of having no standards to review and elevate the submitted plans. Mayor Smith then stated based on the discussion, he will support the amendment.

Vote on Amendment

Motion carried 4-1 with Commissioner Ellison voting no.

Vote on amended motion

All voted aye, motion carried.

Public Communications

PUBLIC COMMUNICATIONS
No comments received.

Meetings of Interest

MEETINGS OF INTEREST
The Administrative Meeting scheduled for November 15, 2017 and the next Commission Meeting is November 20, 2017.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:50 p.m.

/S/ JAMES E. SMITH
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE COMMISSION