

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
December 4, 2017 - 6:00 P.M.
City Commission Chambers, Room 330

- Time & Place** A regular City Commission meeting was held on Monday, December 4, 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, and Noonan were present. City Manager Ron Alles, City Attorney Thomas Jodoin, City Clerk Debbie Havens, and Deputy City Clerk Katya Grover were present. Commissioner Haladay was excused.
- 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 meetings of September 11, 2017, and November 20, 2017, were approved as submitted.
- Board Appointments** BOARD APPOINTMENTS:
A. Helena Public Art Committee
- Public Art Committee Mayor Smith recommended the following appointments:
Appointment of Anastasia Burton to an unexpired term. Term will begin upon appointment and expire December 31, 2018.
- Reappointment of Susan Steffens and Mitch Carroll to second terms. Terms will begin upon appointment and expire December 31, 2020.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Farris-Olsen moved approval of the board appointment as outlined above.** Commissioner Noonan seconded the motion. All voted aye, motion carried.
- Consent Agenda** CONSENT AGENDA:
A. Claims
B. Resolution supporting dedicated federal funding to address deferred maintenance needs within the national park system. **Resolution 20420**
C. Acceptance of pledged collateral for City deposits at financial institutions.
D. A sidewalk variance for the property owned by the Helena Regional Airport Authority located on the southeast corner of Skyway Drive and Washington Street. This is the proposed building site for Fischer Physical Therapy.
- City Manager Alles recommended approval of the claims.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Ellison moved approval of Items A through D on the consent agenda.** Commissioner Noonan seconded the motion. All voted aye, motion carried.
- Discussion Commissioner Ellison noted that there were seven properties in Montana that are in the national park system and that there was a deferred maintenance backlog of about 250 million dollars. Deferred

maintenance is taking place during time of greatly increased visitation to those national parks. Commissioner Ellison said that the tourism industry in Montana brings a lot of people into the state and that's why he asked to put this on the agenda. Commissioner Ellison noted that Restore America's Parks initiative was a great thing.

***Communications
From Commissioners***

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith noted that Commissioner Ellison is serving this week on a committee for Senator Daines and reviewing applications to recommend appointments to the military service academies, and asked if he would share some thoughts about that experience. Commissioner Ellison stated that this year the senator's office received nearly 50 applications from 17 to 19-year-old students from across the state, and reviewing their records was a very challenging process. The academic, athletic, and community service accomplishments of the applicants was simply outstanding. He stated that it is a great honor to serve on this committee for a Montana senator, and interacting with the applicants renewed his optimism about education in the state and the type of young people Montana is producing.

Commissioner Noonan expressed his gratitude toward those who participated in working on lighting the Fire Tower, working on Parade of Lights and another event that took place downtown.

***Report of the City
Attorney***

REPORT OF THE CITY ATTORNEY

City Attorney Jodoin had nothing to report on.

***Report of the City
Manager***

REPORT OF THE CITY MANAGER

Manager Alles said that he was happy to be back in Helena and that he was not selected for the position of the City Administrator of Billings, for which he applied. Manager Alles explained that he applied for that position because he had family ties in that city: he was born and raised in Billings and his parents were still there. Manager Alles pointed out that, as he stated before, it had never been about him wanting to leave Helena, that he had always been excited to live in Helena and was looking forward to the next several years.

Mayor Smith thanked Manager Alles and noted that Helena was the beneficiary in this case and that Helena was very well served.

***Report from the
Helena Citizens
Report***

REPORT FROM THE HELENA CITIZENS COUNCIL

There was no report presented.

Regular Items

REGULAR ITEMS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE INCREASING THE SALARIES OF THE MEMBERS OF THE HELENA CITY COMMISSION AND OF THE MAYOR OF THE CITY OF HELENA.

Staff Report

City Attorney Thomas Jodoin reported the Helena City Commissioners are presently paid a salary of \$6,800 a year, plus an expense allowance of \$100.00 per month. The salary of the Mayor is \$8,500 annually, plus an expense allowance of \$150.00 per month. These salaries and expense allowances became effective in January of 2012.

The Charter of the City of Helena, Section 2.01(6), requires that salaries for commissioners and the mayor be set by ordinance. Further, the salaries may not become effective until the commencement of terms

of commission members elected at the next regular election following passage of the ordinance, provided such ordinance was adopted at least 6 months prior to the election. As a result, any ordinance adopted between now and May 2019 establishing salaries would not become effective until January of 2020.

Attorney Jodoin recommended approval of the first passage of an ordinance increasing the salaries of the Helena City Commission and of the Mayor of the City of Helena, and set a public hearing date of December 18, 2017.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved approval of the first passage of an ordinance increasing the salaries of the Helena City Commission and of the Mayor of the City of Helena, and set a public hearing date of December 18, 2017. Commissioner Noonan seconded the motion.

Discussion

Commissioner Ellison noted that for several reasons he had initiated the discussion about increasing the commission salaries. First was that if this increase passes, by the time it takes effect 10 years will have elapsed since the last increase. During that decade the costs for water, streets, open space, and many other services have increased along with the costs of most goods and services, and it is more than reasonable that mayor and commissioner salaries should also increase. He also noted that in addition, during his time on the commission the workload increased, and it is likely that in future years that work will continue to expand. Commissioner Ellison commended Commissioner Haladay for recusing himself when this item was discussed at the administrative meeting. Finally, Commissioner Ellison noted that this is a modest increase in compensation, and is in line with what the elected officials in Montana's other major cities receive, and he would very much like to see it pass.

Commissioner Noonan concurred with Commissioner Ellison and said that he would also vote in favor of the ordinance. Commissioner Noonan noted that higher compensation might encourage people to apply for City Commissioners positions.

Commissioner Farris-Olsen thanked Commissioner Ellison for bringing up this point and said that some people did not have jobs with high enough pay to support themselves in order to commit to work of a City Commissioner.

Vote

All voted aye, motion carried. **Ordinance 3234**

- B. CONSIDER FIRST PASSAGE OF AN ORDINANCE REPEALING CHAPTER 5 OF TITLE 5 OF THE HELENA CITY CODE TO ELIMINATE THE REQUIREMENTS TO HOLD UNCLAIMED PROPERTY IN THE POSSESSION OF THE HELENA POLICE DEPARTMENT (HPD) FOR SIX (6) MONTHS AND TO HOLD AN AUCTION TO DISPOSE OF SAID PROPERTY.
- C. CONSIDER A RESOLUTION ESTABLISHING A PROCEDURE FOR DISPOSITION OF UNCLAIMED TANGIBLE PERSONAL PROPERTY THAT COMES INTO THE POSSESSION OF THE HELENA POLICE DEPARTMENT (HPD).

Staff Report

Attorney Jodoin discussed Items B and C in one report. Attorney Jodoin reported, pursuant to Section 5-5-1 of the Helena City Code, unclaimed property in the possession of the HPD must be held for a period of six (6) months prior to being sold at auction following one public notice in a newspaper.

Section 7-8-105, MCA, now allows a local government to establish a process for the care, restitution, sale, donation, return, or destruction of unclaimed tangible personal property that may come into the possession of a local law enforcement agency. The process adopted by the local government must comply with that law. The local law enforcement agency need only hold the unclaimed property for a period of three (3) months before disposing of said property.

Concurrent with this ordinance repealing Chapter 5 of Title 5 of Helena City Code, the Commission is considering adoption of a resolution setting the process for disposal of unclaimed tangible personal property held by the HPD.

Repealing the requirements to hold unclaimed property for six (6) months and to dispose of such property by auction will permit the HPD to dispose of unclaimed found property sooner and through a more efficient process.

Attorney Jodoin recommended to approve first passage of an ordinance repealing Chapter 5 of Title 5 of the Helena City Code to eliminate the requirements to hold unclaimed property in the possession of the Helena Police Department for six (6) months and to hold an auction to dispose of said property, and set a public hearing date of December 18, 2017.

Likewise, adopting the proposed resolution would permit the HPD to dispose of unclaimed personal property in a more efficient manner.

Attorney Jodoin recommended to approve a resolution establishing a procedure for disposition of unclaimed tangible personal property that comes into the possession of the Helena Police Department.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Noonan moved to approve first passage of an ordinance repealing Chapter 5 of Title 5 of the Helena City Code to eliminate the requirements to hold unclaimed property in the possession of the Helena Police Department for six (6) months and to hold an auction to dispose of said property, and set a public hearing date of December 18, 2017. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ordinance 3235**

Motion

Commissioner Farris-Olsen moved to approve a resolution establishing a procedure for disposition of unclaimed tangible personal property that comes into the possession of the Helena Police Department. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Resolution 20421**

- D. CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN THE SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS TO RESOLVE THE WESTSIDE PHASE I ANNEXATION LAWSUIT AND FORMALLY INCORPORATING THE SAID AGREEMENT INTO THE PLAN FOR PROVISION OF WATER AND WASTEWATER SERVICES TO THE WESTSIDE PHASE I AREA.

Staff Report

Deputy City Attorney Iryna O'Connor reported the City Commission adopted Resolution No. 20243 annexing the wholly surrounded Westside Phase I Area on April 25, 2016. The Resolution was set to take effect on December 1, 2016. At the same time the City was in the process of developing a large scale infrastructure project to provide water and wastewater services to the annexed area. On May 23, 2016, several of the Westside Phase 1 Area residents filed a lawsuit against the City, in district court, challenging the City's annexation gesture and the City's plan for provision of water and wastewater services to the area following annexation. The Court also placed a Temporary Restraining Order on the City to prevent the annexation from taking effect until the residents' claims have been resolved. Since the annexation of the area was now in question, the City also stopped work on the infrastructure project for the area. However, the TSEP grant application was already submitted and the City was awarded \$750,000 grant to be used toward the infrastructure project.

The City now wishes to resolve the claims in the residents' lawsuit by entering into a Settlement Agreement and Release of Claims that was arrived to and agreed upon as part of a successful mediation session between the parties. Once this Agreement is approved by the City Commission, the residents will dismiss their lawsuit against the City and the Westside Phase 1 Area will become annexed into the City.

One of the provisions of the Agreement requires that the City Commission formally adopt and incorporate the Agreement into plan for provision of water and wastewater services to the Westside Phase I Area because the Agreement speaks to the cost sharing aspects, between the area's residents and the City, of the Westside Infrastructure project.

Resolving this lawsuit will end the time of uncertainty for the Westside Phase 1 Area residents with respect to when they would be considered annexed into the City and will allow the City to proceed with the design and development of the Westside Infrastructure project. If this Agreement is not approved by the City Commission, the City will proceed with litigation, and it will likely take several years before this dispute is resolved through the court process.

Deputy Attorney O'Connor recommended to authorize the City Manager to sign the Settlement Agreement and Release of Claims to resolve the Westside Phase I annexation lawsuit.

Deputy Attorney O'Connor also recommended to formally adopt and incorporate the contents of the Settlement Agreement and Release of Claims into the plan for provision of water and wastewater services to the Westside Phase I Area.

Discussion

Commissioner Farris-Olsen asked whether two motions have to be made or only one. Deputy Attorney said either way would work.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Ellison moved to authorize the City Manager to sign the Settlement Agreement and Release of Claims to resolve the Westside Phase I annexation lawsuit, as well to formally adopt and incorporate the contents of the Settlement Agreement and Release of Claims into the plan for provision of water and wastewater services to the Westside Phase I Area. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

Discussion

Commissioner Noonan said that he was very happy that the City reached this point; some of the issues about the costs and the burden that was put on people on the Westside had been addressed and everyone could move forward now.

Mayor Smith echoed comments from Commissioner Noonan. Mayor Smith also noted that it had been a long process, but he was pleased the City came to an agreed settlement that would be good for those in the West side and for Helena in general.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION TO REPEAL RESOLUTION NO. 10812 TO TERMINATE A TYPE B RESIDENTIAL PARKING DISTRICT IN THE 1100 BLOCK OF 12TH AVENUE.

- B. CONSIDER A RESOLUTION TO AMEND RESOLUTION NO. 20138 THAT AMENDED RESOLUTION NO. 20071 WHICH ESTABLISHED A CONSOLIDATED LISTING OF ALL CURRENT RESIDENTIAL PARKING DISTRICTS IN THE CITY OF HELENA.

Staff Report

Parking Director Dave Hewitt reported in accordance with Section 8-14-7 of the Helena City Code, the City Commission has created and designated numerous Residential Parking Districts over time, in each instance by separate resolution. As of January 2014, residents in these districts are expected to purchase permits for on-street parking each year at the annual rate of \$20 (two vehicle limit per property) and pay for guest permits at the rate of \$5 per permit (two permit limit per property) for use by friends, service providers, etc. The income from permit purchases recovers a small portion of the costs for patrolling and enforcing the parking restrictions. The Helena Parking Commission presently manages permit purchases and processes citations for violations of the parking restrictions.

Currently, only two properties are in the Residential Parking District for the 1100 block of 12th Avenue. Both properties have off-street parking and on-street parking is adequate. Neither of the owners wish to purchase vehicle permits or keep the district active.

Director Hewitt noted that this resolution allows for the following advantage: termination of this district will provide additional time for Parking Control Officers to concentrate on the core areas of the Parking Commission boundaries. There are no disadvantages noted.

Director Hewitt recommended to approve a resolution to repeal Resolution No. 10812 to terminate the Type B Residential Parking District in the 1100 block of 12th Avenue.

Director Hewitt also recommended to approve a resolution to amend Resolution No. 20138 that amended Resolution No. 20071 which established a consolidated listing of all current residential parking districts in the City of Helena.

Discussion

Mayor Smith asked Director Hewitt to confirm that if the Commission repealed Resolution 10812, the two-house parking district would be put back on 12th Ave. Director Hewitt said no, it would not recreate a two-house parking district.

Commissioner Ellison clarified by saying that what Mayor Smith referred to was the district on Benton Ave.

Public Testimony

Mayor Smith opened the public hearing and called for anyone wishing to address the commission. There being no persons wishing to address the commission, the public hearing was closed.

Motion

Commissioner Noonan moved to approve a resolution to repeal Resolution No. 10812 to terminate the Type B Residential Parking District in the 1100 block of 12th Avenue. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried. **Resolution 20422**

Motion

Commissioner Farris-Olsen moved to approve a resolution to amend Resolution No. 20138 that amended Resolution No. 20071 which established a consolidated listing of all current residential parking districts in the City of Helena. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Resolution 20423**

- C. CONSIDER A RESOLUTION DECLARING NINETY-SIX (96) ABANDONED BICYCLES HELD BY THE HELENA POLICE DEPARTMENT TO BE UNCLAIMED TANGIBLE PERSONAL PROPERTY, TO BE DISPOSED OF BY DONATION TO CAPITAL HIGH SCHOOL.

Before providing his report, Chief of Police Troy McGee noted that he knew that Manager Alles was disappointed that he didn't get Billings City Administrator position, but all Helena departments were relieved and they really enjoyed working with Manager Alles and were happy he was staying in Helena.

Staff Report

Chief of Police Troy McGee reported there is an excessive number of unclaimed/abandoned bicycles at the City of Helena impound lot, resulting in overcrowding of evidence items and space.

Providing the bicycles to local programs for the youth of Helena will free up space in overcrowded impound yard and will also provide a valuable service to the youth in Helena community.

The bicycles could be sold at auction; however, any revenue that may be generated from such a sale would be minimal and wouldn't cover the cost of the auction. Further, the HPD wouldn't be able to carry on its tradition of donating to local groups and various Helena organizations within the community.

Chief McGee pointed out that public hearing on this resolution was supposed to be advertised but staff of Independent Record contacted him last Friday and said that they forgot to do so and, thus, he recommended to table the resolution declaring ninety-six (96) abandoned bicycles to be unclaimed tangible personal property and disposed of by donation to Capital High School until December 18, 2017.

Mayor Smith noted that the Commission would hear this resolution on December 18, 2017, again.

Motion

Commissioner Ellison moved to table the resolution declaring ninety-six (96) abandoned bicycles to be unclaimed tangible personal property and disposed of by donation to Capital High School. Commissioner Noonan seconded the motion. All voted aye, motion carried.

Public Communications

PUBLIC COMMUNICATIONS
No comments received.

***Meetings of
Interest***

MEETINGS OF INTEREST

The City-County Joint Work Session is scheduled for December 7, 2017, the Administrative Meeting is scheduled for December 13, 2017, and the next Commission Meeting is December 18, 2017.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 6:33 p.m.

/S/ JAMES E. SMITH
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE COMMISSION