

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
December 18, 2017 - 6:00 P.M.
City Commission Chambers, Room 330

- Time & Place** A regular City Commission meeting was held on Monday, December 18, 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, City Clerk Debbie Havens, and Deputy City Clerk Katya Grover 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 Executive Session of December 4, 2017, and the regular City Commission meeting of December 4, 2017, were approved as submitted.
- Board Appointments** BOARD APPOINTMENTS:
A. Lewis & Clark City-County Library Board
- Library Board Mayor Smith recommended the following appointments:
Reappointment of Ron Waterman to the Lewis & Clark City-County Library Board to a first full term. Term will begin upon appointment and expire January 1, 2022.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Haladay moved approval of the board appointment as outlined above.** Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Consent Agenda** CONSENT AGENDA:
A. Claims
B. Acceptance of the 2017 Comprehensive Annual Financial Report (CAFR)
C. A Change Order for the Prospect Avenue Water Main Replacement Project No. 16-8.
- 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 C on the consent agenda.** Commissioner Noonan seconded the motion.
- Discussion Commissioner Ellison complimented City Administrative Services Department on the Comprehensive Annual Financial Report.
Commissioner Ellison made the following remarks:
Mayor Smith, Commissioner Farris-Olsen and Commissioner Ellison were on the Audit Commission this year. As has always been during Commissioner Ellison's service on the Commission, the audit was completed with no corrective actions, no material weaknesses, no concerns about internal control; it was a non-qualified audit, which is the best possible result for an audit. It meant that the City's finances are being well managed, that all of the proper controls are in place, and, considering the assets and the finances that the City engages in, it is

great news. Commissioner Ellison noted he was delighted to once again support Administrative Services Director Glenn Jorgenson and his staff for the work that they do with the financial management for the City of Helena.

Vote

All voted aye, motion carried.

Bid Award

BID AWARD:

Bill Roberts Golf Course Pro Shop and Clubhouse - Food Service Equipment Bid Award.

Staff Report

Parks & Recreation Director Amy Teegarden on November 7, 2017, the City requested bids for food service equipment as part of the Bill Roberts Golf Course Pro Shop and Clubhouse expansion project that is currently under construction. Food service equipment ranges from shelving units, work tables, to exhaust hoods, grills, fryers, as well as freezers and refrigerators to support a full service kitchen and bar.

The City's pre-bid estimates were \$150,000. A bid opening was held on November 30, 2017, and two bids were received. The high bid was submitted by Bar Green for a total of \$160,000. The low bid was submitted by J&V for a total of \$143,000. Both bids met specification requirements. City staff recommends awarding a contract to J&V, who had the lowest reasonable bid.

The purchase, delivery and installation of the kitchen equipment will support the year-round food and beverage operation of the club house.

Director Teegarden recommended awarding the bid to J&V for the purchase, delivery and installation of kitchen equipment (as identified in Food Service Equipment Project #PR7930) to be used at the Bill Roberts Clubhouse.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Noonan moved to approve awarding a contract to J&V for the purchase, delivery and installation of kitchen equipment (as identified in Food Service Equipment Project #PR7930) to be used at the Bill Roberts Clubhouse. Commissioner Haladay seconded the motion. All voted eye, motion carried.

**Communications
From Commissioners****COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS**

Commissioner Farris-Olsen expressed his gratitude to Mayor Smith and Commissioner Ellison for their service to the City of Helena. Commissioner Farris-Olsen said that he first heard of Mayor Smith when he was a senior in high school. Commissioner Farris-Olsen also said that it has been an honor to serve with Mayor Smith for the past two years and it had been great experience. In addition, Commissioner Farris-Olsen said that he and Commissioner Ellison didn't always agree on everything, but he appreciated that Commissioner Ellison taught him that even if there was disagreement, there could still be room for a conversation; there would be some motions that he would disagree with but they should be seconded so a discussion could take place. Commissioner Farris-Olsen concluded by saying that he appreciated the lessons that Commissioner Ellison had taught him and the service he provided to Helena, and wished him good luck in his retirement.

Mayor Smith thanked Commissioner Farris-Olsen and noted that Commissioner Farris-Olsen's words meant a lot to him.

Commissioner Ellison made a statement about his experience working with Mayor Smith. Commissioner Ellison said the following:

The collateral assignment for Mayor Pro Tem has but few responsibilities – unlike Vice Presidents who fly around in Air Force Two, or Lieutenant Governors who sometimes cast votes in the legislature. I've had the honor to stand in for the Mayor to chair a meeting or greet a visiting group. But tonight, I'm speaking to all Helena citizens about our Mayor who is stepping down after 16 years.

Mayor Smith has been our ambassador whose outreach has touched so many – from legislators to Special Olympians, and from new businesses to the crew of the USS Helena. He has been a fixture on the walking mall to share Halloween with hundreds of youngsters, and sat in with the Native American drummers last fall at a celebration to share their culture in Centennial Park. A couple of years before that he was at the podium for the First Special Force pass in review in Memorial Park.

My enduring image of our mayor was shaped when the commission considered a non-discrimination ordinance in 2012. We heard of the need to make Helena a tolerant and welcoming city. His actions then, and many times since showed his dedication to maintaining the highest level of tolerance in this community.

For those, and countless other acts of statesmanship, and for his remarkable standard of public service, I ask all of you assembled here tonight to please stand with me and salute America's Mayor, the Honorable Jim Smith.

Mayor Smith thanked Commissioner Ellison and said that it had been a great privilege to serve and lead people of Helena all these years. Mayor Smith encouraged others to consider running for public office and pointed out that it is not a thankless job as he heard others say sometimes, that in his experience, he had gotten much more positive reinforcement and feedback over the years than negative feedback. Mayor Smith said that he believed that it was primarily because of the good citizens of this fine community. Mayor Smith added that he was always going to be around and be part of this community and that he looked forward to it.

Mayor Smith pointed that he greatly enjoyed working with Commissioner Ellison for the past eight years; prior to that Commissioner Ellison did a fine, outstanding job as a member and chairman of the Helena Regional Airport Board of Authority; Commissioner Ellison had always been well prepared for meetings; he always offered good advice and insight into his position on issues that come before the Commission. Commissioner Ellison had been a strong voice for the city in the last eight years. Mayor Smith invited those present to stand and join him in thanking Commissioner Ellison for his service.

Mayor Smith said that the city, its administration and people will be in good hands with the incoming Mayor and the incoming Commission.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Jodoin said he had nothing to report on but thanked Mayor Smith and Commissioner Ellison for their leadership. Attorney Jodoin noted that he learned a lot during his eleven years with the City, and Mayor Smith especially. Attorney Jodoin said that the biggest lesson that he had taken away was how to run a good meeting and that he believed it is a very critical function. Attorney Jodoin thanked Commissioner Ellison for his support and integrative leadership.

Mayor Smith said that as he pointed out to a group at Hometown Helena last Thursday, the City had a very good year in the court system. There were three successful cases: the Central School demolition permit, the Westside Annexation law suit, and successful defense of City of Helena's water rights. Mayor Smith noted that all three cases were significant and the City's success in those three cases was going to lead to great long term benefits for the city and its people. Mayor Smith thanked Attorney Jodoin for his work this year.

Report of the City Manager

REPORT OF THE CITY MANAGER

Manager Alles reported that the City was a recipient of \$18,000 High Intensity Drug Task Force grant towards a new vehicle for the police force. Manager Alles also referred to a brochure for the bus service: new, ADA accessible, bus stops were added, which would be available starting on December 26th, 2017. Lastly, Manager Alles said that he would echo the pleasure and privilege working with Mayor Smith and Commissioner Ellison.

Report from the Helena Citizens Report

REPORT FROM THE HELENA CITIZENS COUNCIL

There was no report presented.

Mayor Smith pointed out that the motion on Item C under Regular Items would be to table.

Regular Items

REGULAR ITEMS:

- A. CONSIDER RESOLUTION AUTHORIZING THE CITY OF HELENA TO INTERVENE IN HOBAUGH, ET AL. VS. STATE OF MONTANA, CAUSE NO CDV-17-06-73, AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENTS AS NECESSARY TO APPOINT COUNSEL AND SHARE COSTS OF SUCH COUNSEL WITH OTHER MUNICIPAL OR GOVERNMENTAL INTERVENORS, AND ENCOURAGING THE MONTANA LEAGUE OF CITIES AND TOWNS TO INTERVENE.

Staff Report

City Attorney Thomas Jodoin reported the ACLU of Montana representing several transgendered individuals residing in Montana and the cities of Missoula and Bozeman has filed a complaint for declaratory and injunctive relief against the State of Montana to preclude the Montana Secretary of State from placing Initiative 183, known as "The Montana Locker Room Privacy Act," on the ballot.

The City Commission has expressed concerns with I-183 in that it would preclude the City from operating its facilities according to local desires, expose the City to unknown civil litigation and undetermined costs of compliance, as well as the effects of I-183 on transgendered individuals. The City Commission previously tabled a resolution on November 20, 2017, that would have authorized the City to participate in the lawsuit as a named plaintiff and appointed the ACLU of Montana as special counsel.

On December 8, 2017, the Montana League of Cities and Towns ("League") Board of Directors considered intervention. The Board did not approve intervention but instead instructed their general counsel to reach out to its member entities and other local government associations, such as Montana Association of Counties and school districts, to gauge the level of desire member entities may have for intervention by the League.

However, this afternoon Attorney Jodoin learned that the League affirmatively voted to intervene in the ACLU lawsuit.

Authorizing participation in the lawsuit as an intervenor would advance the interests of the City of Helena. Intervention by the City would permit it to raise additional legal challenges that are not presently alleged in the ACLU of Montana's lawsuit.

Attorney Jodoin pointed out that he provided a copy of the previous resolution and memo that would authorize the City of Helena to participate as a plaintiff and then have the ACLU as a special council for the city. However, at this point, the City could choose which council to go with. Now that both organizations were on board with intervening, it was Attorney Jodoin's recommendation to pursue that; it would not hurt the case to come at two different angles.

Attorney Jodoin recommended approval of a resolution authorizing the City of Helena to intervene in Hobaugh, et al. vs. State of Montana, Cause No CDV-17-06-73, authorizing the City Manager to enter into agreements as necessary to appoint counsel and share costs of such counsel with other municipal or governmental intervenors, and encouraging the Montana League of Cities and Towns to intervene.

Discussion

Commissioner Noonan asked whether any change of language was needed in the recommended motion because of the League's decision. Attorney Jodoin replied that no change of language was needed at this point. The city needed Commission's authorization for intervention as a party. Attorney Jodoin noted that his understanding was that if more cities join up to intervene, then the League in those cities and potentially other governmental associations, like MACo, would all join together and share the cost of hiring an attorney. Moreover, the resolution that was in the packet tonight would give the City Manager the flexibility to implement any contract and cost sharing agreement.

Commissioner Haladay asked whether the League has articulated any specific legal rationale that it intended to pursue. In reply, Attorney Jodoin noted that the unfunded mandate was at the top of League's priority. It wasn't clear that that point was one of the issues raised by the ACLU. Attorney Jodoin pointed out that his and Kelly Lynch's opinion was that that was an angle that the city could probably bolster and bring a stronger, or at least a complimentary, view of things alongside with the ACLU: unfunded mandate potentially looking at the same issue as Marsy's law, along with the due process analysis and what it means for the self-government powers of non-discrimination ordinances.

Mayor Smith pointed out that Attorney Jodoin provided an accurate summary of a call with the League that he also participated in.

Commissioner Haladay asked whether there has been any discussion of the city essentially making third party standing claims on behalf of citizens of the city in general. Commissioner Haladay explained that the reason he asked this question was because there were named individuals in this lawsuit who were residents of the city of Helena who, at least anecdotally, had faced a blowback for this choice to put their names on this proceeding. Commissioner Haladay also said that he wouldn't want the Commission's decision to go the League of Cities and Towns and insinuate in any way that the Commission was not supportive of these individuals. In reply, Attorney Jodoin said that he didn't think that there was intent to leave that part of the analysis: the effects on transgendered individuals, or citizens of Helena in general. Attorney Jodoin added that it was clear that it was a concern of the City

Commission, and in working with whomever the City would hire as council, he would make sure those arguments that the ACLU made would be bolstered.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Noonan moved to approve a resolution authorizing the City of Helena to intervene in Hobaugh, et al. vs. State of Montana, Cause No CDV-17-06-73, authorizing the City Manager to enter into agreements as necessary to appoint counsel and share costs of such counsel with other municipal or governmental intervenors, and encouraging the Montana League of Cities and Towns to intervene. Commissioner Ellison seconded the motion.

Discussion

Commissioner Noonan said that he had thought about this issue a lot and believed that coming at it from different directions and partner with this many communities in Montana was possible; he supported standing beside the ACLU and what they were doing. Commissioner Noonan noted that he was glad that Commissioner Haladay brought up clarity on the issue that this was about individuals. Commissioner Noonan also talked about the change in perception of how residents of Helena look at the matter of gay and transgendered people and expressed certainty that Attorney Jodoin would be making sure that this point was included as it is in deliberation.

Commissioner Farris-Olsen asked whether, with respect to intervention, the City would be named as an intervenor or whether only the League of Cities and Towns would be named as such. Attorney Jodoin replied that both would be named as intervenors.

Commissioner Farris-Olsen noted that his biggest concern was to make sure the citizens know that the City Commission supported them a hundred percent; thus, if that meant going thru intervention vs. hiring ACLU, that would be fine, especially in the light of Attorney Jodoin's pointing out that the City would make some of the similar arguments or bolstering arguments made by the ACLU to protect Helena's citizens.

Commissioner Haladay said that he was comfortable with the League at this point and that he was glad they were getting involved. Commissioner Haladay pointed out that he would echo Commissioner Farris-Olsen's and Commissioner Noonan's comments. Commissioner Haladay also stated the following:

It was of incredible value that the Commission commented not only on what its infringements were on cities and towns, but in charter powers, and self-government powers both constitutionally and statutorily. Because at some point, when those were eroded too far, it would render the constitutional grant of self-government meaningless. However, the Commission also needed to make sure that it wouldn't sterilize its opposition to this into just an objective status. The City Commission had multiple rounds of non-discrimination ordinance discussions for specific reasons, because it was still not clear whether certain individuals in local community were protected under state law. The Commission needed to continue to extend those protections to what were otherwise discriminated against classes. Commissioner Haladay concluded by saying that he would strongly encourage those discussions to make sure that the League understood that Commissioners expected those arguments that they made be expressed as well because they were equally as important.

Mayor Smith emphasized that in the two conference calls in which he had recently participated those thoughts were expressed as well by other members of the League's board coming from other cities. Mayor Smith noted that he felt very confident.

Vote

All voted aye, motion carried. **Resolution 20424**

- B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 4-2-11 OF THE HELENA CITY CODE TO INCREASE LIABILITY INSURANCE REQUIREMENTS FOR THE ISSUANCE OF ALCOHOL PERMITS TO CONSUME ALCOHOL IN PUBLIC PLACES.

Staff Report

Attorney Jodoin reported Section 4-2-11 of Helena City Code, which was adopted in April of 1987, prohibits the consumption of alcoholic beverages on public ways, streets, alleys, parks, and other places owned by the city unless a permit to do so is obtained from the city. The applicant for such a permit must provide the city with a liability insurance policy in the amount of \$500,000 for injury to one person and \$1 million for injury to two or more people. The insurance requirement covers claims against the city that it was responsible for injury or damage due to its permitting of an event where alcohol is consumed in a public place.

Further, the current language requires the city be named on the policy as "coinsureds." That term as well as the coverage amounts are out of date. The typical current requirement under city contracts is to require the contractor to provide commercial general liability insurance that names the City as an additional insured. Further, state law limits governmental liability for damages in tort to \$750,000 for each claim and \$1.5 million for each occurrence. Thus, the city should require liability insurance from contractors and permittees in sufficient amounts to cover those limitations. Because general commercial liability insurance is typically offered in \$1 million increments, the city attorney's office has required insurance in the amount of \$1 million for each claim and \$2 million aggregate.

The ordinance would also use a consistent term of "alcohol" to cover beer, wine, spirits, or any other intoxicating beverage rather than "liquor or beer."

Finally, the ordinance would require that requests for permits to consume alcohol in public places be submitted to the city at least 30 days prior to the start of the event.

Increased insurance requirements will provide sufficient coverage for the city in its permitting of alcohol to be consumed in public places; however, the cost to obtain such insurance will be higher to the permittee.

Attorney Jodoin recommended to approve first passage of an ordinance amending Section 4-2-11 of the Helena City Code to increase liability insurance requirements for the issuance of alcohol permits to consume alcohol in public places, and set a public hearing date of January 8, 2018.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Farris-Olsen moved to approve first passage of an ordinance amending Section 4-2-11 of the Helena City Code to increase liability insurance requirements for the issuance of alcohol permits to consume alcohol in public places, and set a public

hearing date of January 8, 2018. Commissioner Haladay seconded the motion. All voted aye, motion carried. **Ordinance 3236**

- C. CONSIDER FIRST PASSAGE OF AN ORDINANCE CLARIFYING PERMITTED VEHICLES ON THE PEDESTRIAN MALL AND PERMIT REQUIREMENTS FOR PARADES, SPECIAL EVENTS AND VENDORS.

Staff Report

Director Teegarden reported in an effort to better serve the public and provide coordination of events and activities that occur on the Pedestrian Mall, the City Manager directed city staff to develop a "one-stop" process for obtaining permits for use on the Pedestrian Mall. As a result, a Pedestrian Mall/Event Use Permit application and review process has been drafted for proposed implementation in 2018.

The application applies to all uses including: food and product sales, races, parades, events and the use of vehicles under 1 ton. The application is similar in approach and structure and fees for special events and park reservations. The application/permit process will be coordinated by the Parks & Recreation Department's administrative office.

This revision will result in enhanced customer service and coordination of events on the Pedestrian Mall.

Director Teegarden pointed out that as a result of the application, Parks and Recreation Department looked at the Pedestrian Mall Ordinance and realized that it needed to have some revisions to better fit with administrative process that was proposing one stop shopping for special uses and events. Those revisions were done in partnership with the City Attorney's office.

Director Teegarden recommended to approve first passage of an ordinance clarifying permitted vehicles on the Pedestrian Mall and permit requirements for parades, special events and vendors and set a public hearing date for January 22, 2018.

Discussion

Mayor Smith pointed out that the intent was that this ordinance was supposed to be tabled. Director Teegarden said that it was up for the Commission's discussion and discretion.

Manager Alles clarified that at the December 13th administrative meeting, the intent was to table it and develop language regarding some questions and that Director Teegarden was just following the procedure and offered the original recommendation that she made.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Farris-Olsen moved to table first passage of an ordinance clarifying permitted vehicles on the Pedestrian Mall and permit requirements for parades, special events and vendors.

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

- D. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING TITLE 8 OF THE HELENA CITY CODE BY REPEALING CHAPTERS 1, 3, 5, 7 THROUGH 10, 16, 17, AND 19 TO ELIMINATE OFFENSES THAT ARE REDUNDANT WITH OFFENSES CONTAINED IN TITLE 61 OF THE MONTANA CODE ANNOTATED.

Staff Report

Before providing his report, Attorney Jodoin said that he would discuss Items D and E together.

Attorney Jodoin reported Title 61 of the Montana Code Annotated (MCA) contains all state laws relating to operation of motor vehicles, including registration, licensing, and insurance requirements, as well as traffic regulations, accident reporting, vehicle equipment regulations, minors, arrest, white canes, and funeral processions.

Title 8, "Traffic Regulations," of Helena City Code contains the same provisions as Title 61, MCA. Specifically:

Chapter 1: Traffic Code, corresponds to Chapter 8 of Title 61, MCA.

Chapter 3: Certificates of Ownership, Registration and Taxation of Motor Vehicles, corresponds to Chapter 3 of Title 61, MCA.

Chapter 5: Drivers' Licenses, corresponds to Chapter 5 of Title 61, MCA.

Chapter 7: Accidents and Accident Reporting, corresponds to Chapter 7 of Title 61, MCA.

Chapter 8: Traffic Regulations, corresponds to Chapter 8 of Title 61, MCA.

Chapter 9: Vehicle Equipment corresponds to Chapter 9 of Title 61, MCA.

Chapter 10: Minors, corresponds to Chapter 5 of Title 61, MCA.

Chapter 16: Arrests, corresponds to Title 46, MCA.

Chapter 17: White Canes for Blind Persons, corresponds to Chapter 8 of Title 61, MCA.

Chapter 19: Funeral Processions, corresponds to Chapter 8 of Title 61, MCA.

HB133 (Chapter 321, Laws 2017) revised the sentencing for some of the offenses contained in Title 61, MCA. Helena City Code is now inconsistent with state law with respect to these duplicated offenses.

The Helena Police Department has not cited a municipal code violation where a state law applies since at least 1982.

Redundant and unnecessary City Code provisions will be eliminated, resulting in small cost savings in printing of the Helena City Code, and the Helena City Code will no longer be inconsistent with state law.

Attorney Jodoin recommended to approve first passage of an ordinance amending Title 8 of the Helena City Code by repealing Chapters 1, 3, 5, 7 through 10, 16, 17, and 19 to eliminate offenses that are redundant with offenses contained in Title 61 of the Montana Code Annotated, and set a public hearing date of January 8, 2018.

- E. **CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 5 OF THE HELENA CITY CODE TO ELIMINATE OFFENSES THAT ARE REDUNDANT WITH OFFENSES CONTAINED IN TITLE 45 OF THE MONTANA CODE ANNOTATED.**

Staff Report

Attorney Jodoin reported Title 45 of Montana Code Annotated (MCA) contains most of the state laws relating to criminal offenses.

Title 5, Chapter 1, "General Offenses" of the Helena City Code, provides for many offenses which are already prohibited by Title 45 of the MCA. HB133 (Chapter 321, Laws 2017) revised the sentencing for many of the offenses contained with Titles 45 and 61 of the MCA. Helena City Code is now inconsistent with state law with respect to these duplicated offenses.

The Helena Police Department has not cited a municipal code violation where a state law applies since at least 1982.

The only offenses which are unique to the Helena City Code are those relating to possession of intoxicating beverages, firearms in certain locations, smoking in certain locations, and the sale and lighting of fireworks.

Redundant and unnecessary city code provisions will be eliminated, resulting in small cost savings in printing the Helena City Code, and the Helena City Code will no longer be inconsistent with state law.

Attorney Jodoin recommended to approve first passage of an ordinance amending Chapter 1 of Title 5 of the Helena City Code to eliminate offenses that are redundant with offenses contained in Title 45 of the Montana Code Annotated, and set a public hearing date of January 8, 2018.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Haladay moved to approve first passage of an ordinance amending Title 8 of the Helena City Code by repealing Chapters 1, 3, 5, 7 through 10, 16, 17, and 19 to eliminate offenses that are redundant with offenses contained in Title 61 of the Montana Code Annotated, and set a public hearing date of January 8, 2018. Commissioner Ellison seconded the motion.

Discussion

Commissioner Noonan said that he would support the motion for the community's good.

Commissioner Haladay thanked Attorney Jodoin and Deputy Attorney O'Connor for undertaking this task and cleaning these chapters in the City Code.

Attorney Jodoin pointed out that the saving would be in reprinting as these chapters take a significant part of the Code. Attorney Jodoin also said that with respect to some of the Titles, mostly Title 45 but also Title 61, HB 133 that passed during the 65th Legislative Session changed the sentencing for many of the offenses so the City Code became inconsistent with MCA.

Mayor Smith thanked Commissioner Haladay and said that it was part of the ongoing effort to keep the City Code updated. Mayor Smith added that he was going to ask Attorney Jodoin whether this ordinance came as a result of the Criminal Justice Reform during the 65th Legislative Session.

Vote

All voted aye, motion carried. **Ordinance 3237**

Motion

Commissioner Ellison moved to approve first passage of an ordinance amending Chapter 1 of Title 5 of the Helena City Code to eliminate offenses that are redundant with offenses contained in Title 45 of the Montana Code Annotated, and set a public hearing date of January 8, 2018. Commissioner Noonan seconded the motion. All voted aye, motion carried. **Ordinance 3238**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FINAL PASSAGE OF ORDINANCE 3234 INCREASING THE SALARIES OF THE MEMBERS OF THE HELENA CITY COMMISSION AND OF THE MAYOR OF THE CITY OF HELENA.

Staff Report

Attorney 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.

First passage of this ordinance was passed on December 4, 2017.

Attorney Jodoin recommended to approve final passage of Ordinance 3234 increasing the salaries of the Helena City Commission and of the Mayor of the City of Helena.

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 Ellison moved to approve final passage of Ordinance 3234 increasing the salaries of the Helena City Commission and of the Mayor of the City of Helena. Commissioner Noonan seconded the motion.

Discussion

Commissioner Haladay said that he would abstain from voting.

Commissioner Ellison said that he thought it was an important matter and he had been working with the City Manager on this during the past year. It had been ten years since the salaries of City Commissioners had been raised and during that time period, the cost of most everything else has gone up. It was recognition of the work that the Commission did and was going to do on behalf of the citizens of Helena in the future. Commissioner Ellison concluded by saying that he was very supportive of seeing the salary increase.

Mayor Smith also spoke in support of increasing salaries of Commissioners and Mayor. Mayor Smith noted that during most of the time he served as a mayor, he was a small businessman, and a typical small business owner with less than five employees has no benefits. Thus being able to participate in the city's health insurance program was a tremendous motivation and benefit. Montana in general is not a high wage state; this benefit would help attract and retain people who would want to serve on this Commission.

Vote

All voted aye with Commissioner Haladay abstained, motion carried. **Ordinance 3234**

B. 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.

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 recommended to approve the resolution declaring ninety-six (96) abandoned bicycles to be unclaimed tangible personal property and disposed of by donation to Capital High School.

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 the resolution declaring ninety-six (96) abandoned bicycles to be unclaimed tangible personal property and disposed of by donation to Capital High School.
Commissioner Ellison seconded the motion. All voted aye, motion carried.
Resolution 20425

- C. CONSIDER FINAL PASSAGE OF ORDINANCE 3235 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.

Staff Report

Attorney Jodoin reported 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.

The Commission passed first reading of this ordinance on December 4, 2017.

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 manner.

Attorney Jodoin recommended to approve final 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 Helene Police Department for six (6) months and to hold an auction to dispose of said property

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 Haladay moved to approve final passage of Ordinance 3235 repealing Chapter 5 of Title 5 of the Helena City Code to eliminate the requirements to hold unclaimed property in the possession of the Helene Police Department for six (6) months and to hold an auction to dispose of said property. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ordinance 3235**

Public Communications

PUBLIC COMMUNICATIONS

Gus Byrom, Helena resident and former Planning Board member; expressed his deep gratitude to Mayor Smith for the outstanding years of service to the Helena community, as well as to all Commissioners. Mr. Byron especially thanked Mayor Smith and Commissioner Ellison for attention they paid to the Growth Policy and said that this was an example of the outstanding work that always had been done.

Meetings of Interest

MEETINGS OF INTEREST

The Administrative Meeting is scheduled for January 3, 2018, the City-County Joint Work Session is scheduled for January 4, 2018, and the next Commission Meeting is January 8, 2018.

City Manager reminded about the swearing in ceremony.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 6:57 p.m.

/S/ JAMES E. SMITH
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CLERK OF THE COMMISSION