



**City of Helena**  
**City Commission Meeting**  
**October 18, 2021 – 6:00 PM**  
**Zoom Online Meeting; <https://zoom.us/j/99284391580>**  
**City County Building Commission Chambers, Room 330**

**Time & Place**

A regular City Commission meeting was held on Monday, October 18, 2021 at 6:00 p.m. via Zoom Online Meeting ID: <https://zoom.us/j/99284391580> and physically in the City County Building Commission Chambers, Room 330.

**Call to Order and Roll Call**

**(00:09:02)** The following responded present, either via zoom or in person:

City Attorney Jodoin  
City Manager Harlow-Schalk  
Commissioner Haladay  
Commissioner Dean  
Commissioner Logan  
Commissioner O’Loughlin  
Mayor Collins

**Pledge of Allegiance**

**(00:09:31)** Mayor Collins asked attendees to please stand and join in the Pledge of Allegiance.

**Proclamations**

**A.** Police Chief Steve Hagen Day

**(00:10:18)** Mayor Collins called for a moment of silence in honor of Late Assistant Chief Curt Stinson.

**(00:10:35)** Mayor Collins postponed Item A.

**Consent Agenda**

**A.** Claims

**(00:11:00)** Manager Harlow-Schalk recommended approval of Item A.

**(00:11:36)** There were no further comments or questions by the Commission and/or public.



**(00:11:43) Commissioner Logan made a motion to approve Consent Agenda Item A. Commissioner O’Laughlan seconded the motion.**

**(00:12:40)** Mayor Collins called for a vote.  
Commissioner Dean voted: **Aye**  
Commissioner Logan voted: **Aye**  
Commissioner Haladay voted: **Aye**  
Commissioner O’Loughlin voted: **Aye**  
Mayor Collins voted: **Aye**  
**The motion carried 5:0.**

**B. Acceptance of the 2021 State Homeland Security Program (SHSP) Hazmat Sustainment Grant**

**(00:13:00)** Manager Harlow-Schalk recommended approval of Item B.

**(00:13:40)** There were no further comments or questions by the Commission and/or public.

**(00:13:44) Commissioner Dean made a motion to approve Consent Agenda Item B. Commissioner Logan seconded the motion.**

**(00:14:00)** Mayor Collins called for a vote.  
Commissioner Dean voted: **Aye**  
Commissioner Logan voted: **Aye**  
Commissioner Haladay voted: **Aye**  
Commissioner O’Loughlin voted: **Aye**  
Mayor Collins voted: **Aye**  
**The motion carried 5:0.**

**Communications/Proposals from Commissioners**

**(00:14:20)** There were no communications from the Commissioners.

**Report of the City Attorney**

**(00:14:31)** City Attorney Jodoin had nothing to report.

**Report of the City Manager**

**(00:14:37)** City Manager Harlow-Schalk offered condolences to the family and friends of Assistant Chief Stinson, provided an update on the



position opening timeframe, marked one year as City Manager, and thanked the Commission, Staff, and Community.

### Communications from the Helena Citizens Council

- (00:25:16) HCC Representative John Andrew discussed recent and upcoming meeting agenda items.

### Regular Items

- A. Consider First Passage of An Ordinance Granting a Franchise to TDS Metrocom, LLC, and Allowing the Construction, Operation, Regulation, and Control of a Cable Communication System within the City of Helena, Montana.

(00:26:28) Manager Harlow-Schalk and Attorney Jodoin presented Item A.

(00:28:40) Commissioner Dean, Commissioner Haladay, Commissioner O'Loughlin, and Attorney Jodoin discuss negotiating franchise agreements to expire at the same time and condition recommendations.

(00:36:43) Mayor Collins supports tabling Item A.

(00:37:00) Attorney Jodoin a motion to approve tabling Item A.

(00:37:10) There were no further questions or comments by the Commission and/or public.

(00:37:58) **Commissioner O'Loughlin made a motion to table First Passage of An Ordinance Granting a Franchise to TDS Metrocom, LLC, and Allowing the Construction, Operation, Regulation, and Control of a Cable Communication System within the City of Helena, Montana. Commissioner Dean seconded the motion.**

(00:38:26) Mayor Collins called for a vote.

Commissioner Dean voted: **Aye**

Commissioner Logan voted: **No**

Commissioner Haladay voted: **Aye**

Commissioner O'Loughlin voted: **Aye**

Mayor Collins voted: **Aye**

**The motion carried 4:1.**

- B. Consider a Resolution of Intention to Establish the Application Fee for Cable and Telecommunications Franchises and Agreements To Use City Right-Of-Way or Other Property for the Installation of Telecommunications Facilities.



- (00:39:08) Manager Harlow-Schalk and Attorney Jodoin presented Item B.
- (00:42:09) Commissioner Dean asked Attorney Jodoin if Exhibit A was included.
- (00:42:35) Commissioner Haladay asked Attorney Jodoin about the difference between a cable franchise agreement and a telecommunications franchise agreement, and reimbursement fee justifications.
- (00:46:45) Commissioner Haladay asked Attorney Jodoin about right of way usage in relation to existing businesses.
- (00:48:50) Kev Hamm provided public comment via zoom, expressing support for broadband competition.
- (00:51:19) Commissioner O'Loughlin asked Attorney Jodoin about the costs incurred regarding TDS.
- (00:54:20) Commissioner Dean asked Attorney Jodoin about the funding for evaluation and how many companies are in line for review.
- (00:57:25) Mayor Collins asked Attorney Jodoin and Manager Harlow-Schalk about hiring outside council for each individual application.
- (00:59:27) Commissioner O'Loughlin, Commissioner Dean, Commissioner Haladay and Mayor Collins asked Attorney Jodoin and Manager Harlow-Schalk about how the fee compares to other municipalities.
- (01:08:08) Manager Harlow-Schalk expressed intent to assess fees.
- (01:08:48) **Commissioner Logan made a motion to approve a Resolution of Intention to Establish the Application Fee for Cable and Telecommunications Franchises and Agreements To Use City Right-Of-Way or Other Property for the Installation of Telecommunications Facilities and amend Resolution 20488 Exhibit A and set a Public Hearing for November 8, 2021. Commissioner O'Loughlin seconded the motion.**
- (01:09:30) Commissioner Haladay expressed support to regroup.
- (01:09:54) Mayor Collins called for a vote.
- Commissioner Dean voted: **Aye**
- Commissioner Logan voted: **Aye**
- Commissioner Haladay voted: **Aye**
- Commissioner O'Loughlin voted: **Aye**
- Mayor Collins voted: **Aye**
- The motion carried 5:0.**



- C. Consider an access across City Property, Perseverance Placer (MS 8212) and Bonanza Placer (MS9526), near Scott Reservoir to private property.
- (01:10:33) Manager Harlow-Schalk and Parks Director Leland presented Item C.
  - (01:14:32) Commissioner Haladay asked Director Leland about historic easements on the property.
  - (01:16:08) Mayor Collins asked Director Leland about contamination possibilities.
  - (01:17:35) Commissioner Dean asked Director Leland about access.
  - (01:18:15) Attorney Jodoin provided more context about historic easements.
  - (01:19:07) Commissioner Logan asked Attorney Jodoin about existing concerns regarding the road and easement access.
  - (01:20:18) Commissioner O'Loughlin asked Attorney Jodoin about the approval of a culvert permit.
  - (01:21:47) Commissioner Haladay asked Director Leland about public use and access to Banner Creek Road.
  - (01:23:03) Mayor Collins asked Director Leland about contamination rate near the road and the cost of the variance.
  - (01:24:41) Manager Harlow-Schalk recommended support for increased public access.
  - (01:25:28) Commissioner Dean and Commissioner Logan asked Director Leland about other options and the purpose of this proposal.
  - (01:27:03) Commissioner Haladay asked Attorney Jodoin about the future property implications of easements.
  - (01:28:56) Applicants Michael and Karen Latka provided public comment, supporting approval.
  - (01:37:36) Commissioner O'Loughlin asked the applicants about the reasoning behind easement needs and using previous access roads.
  - (01:41:46) Commissioner Dean asked Manager Harlow-Schalk and Director Leland about the precedent being set for the future of risk management.
  - (01:45:16) Mayor Collins asked the applicants about the out of pocket costs.
  - (01:46:06) Commissioner Dean asked the applicants about their relationship and the City's communications with the involved neighbors.
  - (01:48:02) Commissioner Logan expressed support for access.
  - (01:49:02) **Commissioner Logan made a motion to approve a 20 foot wide access across City Property, Perseverance Placer (MS 8212) and Bonanza Placer (MS9526), with the following conditions: exclusive easement only to the applicant for the single development, the access road will be gated and fenced across City property, no logging or mining trucks will be allowed without approval from the City Manager,**



**easement can be revoked if activity on the property jeopardizes the City of Helena’s drinking water source, the road is to be designed by a professional engineer licensed in the state of Montana and approved by City of Helena engineering staff. Commissioner Haladay seconded the motion.**

**(01:49:56)** Commissioner Dean asked if the applicants will be the only persons using the easement.

**(01:50:56)** Commissioner Dean, Attorney Jodoin and Mayor Collins discussed adding conditional language to the easement agreement.

**(01:51:45)** Consensus was reached for the amended language.

**(01:51:56)** Mayor Collins called for a vote.

Commissioner Dean voted: **Aye**

Commissioner Logan voted: **Aye**

Commissioner Haladay voted: **Aye**

Commissioner O’Loughlin voted: **Aye**

Mayor Collins voted: **Aye**

**The motion carried 5:0.**

**D.** Consider first passage of an Ordinance amending City of Helena Ordinance No. 3097 and amending the official zoning map for the City of Helena for a zone change from B-2 (General Commercial) District to CLM (Commercial Light Manufacturing) District for a property legally described as Tract A of the HRA Minor Subdivision as shown on Certificate of Survey No. 3034171, and generally located south of Canyon Ferry Road, west of Bompert Lane, East of Siebel Soccer Complex, and North of the Irrigation Canal, in the City of Helena, Montana..

**(01:53:40)** The application for Item D had been previously revoked by the applicant. There were no further comments or questions by the Commission and/or public.

**E.** Consider the dedication of Vandelay Avenue right-of-way (ROW) and Oakes Street ROW for property generally located south of Prospect Avenue, north of 11th Avenue, and east of North Sanders Street, in the City of Helena, Montana.

**(01:54:18)** Manager Harlow-Schalk, Transportation Systems Knoepke, Planner Ray, and Public Works Director Haugen presented Item E.

**(02:01:57)** Commissioner Logan informed the Commission of a meeting with interested parties, relaying concerns.

**(02:02:52)** Commissioner O’Loughlin, Commissioner Haladay, and Mayor Collins asked Planner Ray, Director Knoepke, and Director



Haugen and Attorney Jodoin for clarification of the recommended right of way plat items.

- (02:07:35)** Commissioner Haladay asked Director Knoepke about Vandelay project specifics.
- (02:14:48)** Mayor Collins asked Director Knoepke and Manager Harlow-Schalk about emergency access and adherence to city codes.
- (02:15:57)** Commissioner Logan informed the Commission of a meeting with interested parties, relaying concerns.
- (02:17:50)** Commissioner Dean expressed hesitation due to code reasonability.
- (02:20:15)** Applicant Greg Wirth provided public comment, addressing previous questions and requesting approval.
- (02:25:11)** Commissioner Logan and Commissioner O'Laughlan asked Director Haugen, Planner Ray, Manager Harlow-Schalk and Director Knoepke about how the fire code was missed in the application process.
- (02:30:29)** Commissioner Dean asked Director Knoepke and Greg Wirth about standards for aerial fire apparatus use and code restrictions relating to emergency vehicle use.
- (02:33:54)** Commissioner Haladay asked Manager Harlow-Schalk about emergency vehicle contingency plans.
- (02:37:50)** Commissioner Haladay asked Attorney Jodoin about the repercussions of not regulating codes.
- (02:40:55)** Commissioner O'Loughlin and Commissioner Dean asked Greg Worth, Manager Harlow-Schalk, Director Haugen and Director Knoepke about the shape of Vandelay Street and the design of the buildings in relation to parking and business use.
- (02:56:05)** Tyler Emmert of Opportunity Bank provided public comment, recommending approval.
- (02:58:49)** Applicant Mark Esponda provided public comment, offering more context and recommending approval.
- (03:02:54)** Mayor Collins asked Manager Harlow-Schalk about clarifying the expectations of code versus the application specifics.
- (03:05:50)** Commissioner Dean asked Mark Esponda and Manager Harlow-Schalk about the applicant's interest in meeting fire code regardless of previous agreements.
- (03:11:25)** Mayor Collins addressed Manager Harlow-Schalk requesting the presence of a Fire Chief or Fire Marshall to answer questions related to this discussion.
- (03:12:35)** Commissioner Haladay asked Manager Harlow-Schalk and Attorney Jodoin about the process and truth to the application claims and fire code revision.
- (03:17:44)** Commissioner Logan expressed hesitation for approval.
- (03:18:07)** Commissioner Dean asked Mayor Collins and Attorney Jodoin about the possibility of only approving part of the application.



- (03:19:40) Commissioner Dean expressed hesitation for approval and asked Attorney Jodoin if tabling the item is a possibility.
- (03:20:50) **Commissioner Dean made a motion to table the dedication of Vandelay Avenue right-of-way (ROW) and Oakes Street ROW for property generally located south of Prospect Avenue, north of 11th Avenue, and east of North Sanders Street, in the City of Helena, Montana. Commissioner Logan seconded the motion.**
- (03:21:40) Commissioner O'Loughlin and Commissioner Haladay asked about the process of tabling the discussion, expressing favor for voting.
- (03:23:50) Commissioner Dean expressed discomfort with approving the application as is, but continued the motion to table.
- (03:25:12) Mayor Collins called for a vote.
- Commissioner Dean voted: **Aye**  
Commissioner Logan voted: **Aye**  
Commissioner Haladay voted: **No**  
Commissioner O'Loughlin voted: **No**  
Mayor Collins voted: **No**
- The motion to table failed 3:2.**
- (03:26:06) **Commissioner O'Loughlin made a motion to deny the dedication of Vandelay Avenue right-of-way (ROW) and Oakes Street ROW for property generally located south of Prospect Avenue, north of 11th Avenue, and east of North Sanders Street, in the City of Helena, Montana. Commissioner Dean seconded the motion.**
- (03:26:53) Commissioner O'Loughlin expressed need for more information from Fire Officials and more thought before approval.
- (03:28:51) Commissioner Haladay expressed need for more information from Fire Officials and intent to vote no.
- (03:31:29) Mayor Collins expressed need for more information from Fire Officials.
- (03:32:53) Mark Runkle provided written public comment via zoom, read aloud by Clerk Clayborn, asking about where the Fire Marshal is and asking which part of the fire code this violates.
- (03:33:10) Mayor Collins called for a vote.
- Commissioner Dean voted: **Aye**  
Commissioner Logan voted: **Aye**  
Commissioner Haladay voted: **No**





Commissioner O'Loughlin voted: **Aye**

Mayor Collins voted: **Aye**

**The motion to deny carried 4:1.**

### **Public Communications – Item moved up on agenda during meeting**

- (03:34:38)** Tyler Emmert provided public comment, welcoming Five Star.
- (03:35:43)** Attorney Jodoin asked Mayor Collins about the order of the agenda.
- (03:36:07)** Commissioner O'Loughlin asked Mayor Collins for clarification about pushing further items to another meeting agenda.

### **Public Hearings**

**A.** Consider Enlargement of Sanitary Sewer Service Boundary for a new single-family dwelling located at 215 Alfalfa Road

- (03:37:12)** Manager Harlow-Schalk and Director Leland presented Item A.
- (03:41:55)** Commissioner Dean asked Director Leland for clarification in building classification.
- (03:43:00)** Commissioner Haladay asked Director Haugen and Director Leland about the timelines and plans in place per the Engineer.
- (03:44:35)** Commissioner Haladay asked Director Leland about previous Commission decisions related to similar requests and general standards of practice.
- (03:46:56)** Manager Harlow-Schalk invited Attorney Jodoin to speak to City Code related to Commissioner Haladay's question.
- (03:47:55)** Mayor Collins asked Attorney Jodoin Director Leland about the property's proximity to the water service line.
- (03:49:17)** Brad Kuhn of Triple Tree Construction provided public comment, offering more context and recommending approval.
- (03:51:02)** **Commissioner Logan made a motion to approve Enlargement of Sanitary Sewer Service Boundary for a new single-family dwelling located at 215 Alfalfa Road with the following conditions as spelled out in City Code 6-5-4: sewer capacity for the proposed residence in the Stonemeadows Pump Station in the amount of \$112,056. Commissioner Dean seconded the motion.**
- (03:51:35)** Commissioner Haladay expressed inability to support approval.
- (03:53:22)** Commissioner Dean asked Manager Harlow-Schalk about the environmental impacts.
- (03:54:54)** Mayor Collins called for a vote.



Commissioner Dean voted: **No**  
Commissioner Logan voted: **Aye**  
Commissioner Haladay voted: **No**  
Commissioner O'Loughlin voted: **Aye**  
Mayor Collins voted: **No**  
**The motion failed 3:2.**

**B.** Consider approval of final passage of an ordinance creating the Affordable Housing Trust Fund Advisory Board by amending Section 2-6-3, existing boards, of Helena city code.

**(03:55:50)** Manager Harlow-Schalk presented Item B.

**(03:56:25)** Commissioner Dean and Commissioner O'Loughlin thanked Coordinator Kara Snyder for the work on the Item.

**(03:58:00)** There were no further questions or comments by the Commission and/or public.

**(03:58:22)** **Commissioner Haladay made a motion to approve approval of final passage of an ordinance creating the Affordable Housing Trust Fund Advisory Board by amending Section 2-6-3, existing boards, of Helena city code. Commissioner O'Loughlin seconded the motion.**

**(03:58:42)** Commissioner Haladay expressed interest in the future of this Board.

**(03:59:08)** Mayor Collins called for a vote.

Commissioner Dean voted: **Aye**  
Commissioner Logan voted: **Aye**  
Commissioner Haladay voted: **Aye**  
Commissioner O'Loughlin voted: **Aye**  
Mayor Collins voted: **Aye**

**The motion carried 5:0.**

**C.** Consider final passage of an Ordinance Amending Title 7, Chapter 13 of the Helena City Code by Enacting New 7-13-6, Which Requires an Application Fee and Cost Reimbursement for Cable and Telecommunications Franchises and Agreements to Use City Right-Of-Way or Other Property for the Installation of Telecommunications Facilities.

**(04:00:00)** Manager Harlow-Schalk presented Item C.

**(04:41:05)** There were no further questions or comments by the Commission and/or public.



# City of Helena

(04:01:00) Commissioner O'Loughlin made a motion to approve final passage of an Ordinance Amending Title 7, Chapter 13 of the Helena City Code by Enacting New 7-13-6, Which Requires an Application Fee and Cost Reimbursement for Cable and Telecommunications Franchises and Agreements to Use City Right-Of-Way or Other Property for the Installation of Telecommunications Facilities. Commissioner Dean seconded the motion.

(04:01:30) Mayor Collins called for a vote.  
Commissioner Dean voted: **Aye**  
Commissioner Logan voted: **Aye**  
Commissioner Haladay voted: **Aye**  
Commissioner O'Loughlin voted: **Aye**  
Mayor Collins voted: **Aye**  
**The motion failed 5:0.**

## Public Communications

(04:01:58) There were no public comments.

## Adjournment

(04:02:34) There being no further business before the Commission, the meeting adjourned at 09:53pm.



CLERK OF THE CITY COMMISSION

MAYOR