CITY OF HELENA
REGULAR CITY COMMISSION MEETING
November 4, 2019 - 6:00 P.M.
City Commission Chambers, Room 330

Time & Place A regular City Commission meeting was held on Monday, November 4, 2019 at 6:00 p.m., in the City Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present Mayor Collins requested Interim City Clerk Clayborn call roll call: City Attorney Jodoin, City Manager Cortez, Commissioner Haladay, Commissioner Wicks, Commissioner Noonan, and Commissioner O'Loughlin, all responded present.

Pledge of Allegiance Mayor Collins asked those persons present to please stand and join him in the pledge of allegiance.

Minutes The minutes of the October 21, 2019 Regular City Commission meeting were approved as submitted.

Consent Agenda CONSENT AGENDA:

A. Claims
B. First passage of an ordinance amending industrial wastewater regulations by amending Title 6, Chapter 4 of the Helena City Code **Ordinance 3265**

Discussion City Manager Cortez recommended approval of the consent agenda, items A – B.

Public Comment Mayor Collins asked for public comment, on items A - B. None was received.

Motion **Commissioner Noonan moved to approve the claims and consent agenda items, A - B.** Commissioner Wicks seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye and Mayor Collins voted aye. **The motion carried, 5-0.**

Communications from City Commissioners COMMUNICATIONS/PROPOSALS FROM CITY COMMISSIONERS
No communications.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
City Attorney Jodoin stated there was nothing to report.

Litigation Strategy LITIGATION STRATEGY
City Attorney Jodoin stated representatives from the Lewis and Clark County Attorney office were present and wished to address the Commission regarding a legal discussion involving the County and several other local governments and interested parties. Possible litigation with Montana Public Employees Retirement Association (MPERA) was being discussed if a settlement could not be reached in the dispute. Deputy County Attorney Charles Lane wished to inform the City Commission of the general scope of the dispute and explained the impact the action could have on other governmental bodies.

Discussion Commissioner Noonan asked if there was a justification for the amount which MPERA was applying to the litigation. Mr. Lane stated the

actuarial values were complex, but there did not seem to be justification through precedence for the amount.

Commissioner O'Loughlin asked for clarification on the matter asking if there was something unique about the City of Helena which would make this action specific to Helena. Mr. Lane stated there was nothing unique about the City of Helena, and it would be applicable to any local government.

Commissioner Noonan asked if this matter was a policy that MPERA would take with the County and were they expecting it.

Commissioner Wicks asked if there was a deadline regarding the matter, asking why the item was brought outside the normal channels and placed on the agenda for this meeting at the last minute. Mr. Lane stated there was a deadline for a response to MPERA from the County, but there was no deadline for the response by the City.

Commissioner Haladay asked if this situation was being treated different from a RIF. Mr. Lane responded no, there have many instances of reduction in workforce, including separations of healthcare agencies and counties; and MPERA has not applied this position until now.

Commissioner Haladay asked for clarification from CAO Baltz as to why the item was being brought forward this evening, without being brought forward through the normal process. The Commission was lacking materials in order to make an informed decision regarding the matter. CAO Baltz responded the League of Cities and Towns asked the County to bring the item one of their member cities, in this case Helena, prior to their involvement; however, materials could be provided in the days to follow to the Commission to further inform them on the situation.

Commissioner Noonan asked when the deadline would be for the separation between the County. CAO Baltz stated there was a March 1st deadline. CAO Baltz stated this was a departure from past practices and this should be of interest to all employers within the MPERA system moving forward.

Commissioner O'Loughlin asked if MACO was engaged in the matter with the County. CAO Baltz stated yes MACO was involved and had scheduled meetings with MPERA. However, this would be a matter for further discussion and would apply to all public entities.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Cortez reported there would be a series of activities scheduled surrounding the transfer of the Christmas Tree to downtown.

Interim Fire Chief Ken Wood stated a contract was secured with the State of Montana Military Affairs Department to provide Fire and Emergency Services to the Fort Harrison facilities. Keith Simedinger has organized EMAC (Emergency Mutual Aid Contract). It benefits the state and City to assist in the wildfires in California. There are currently City of Helena firefighters two wildland type 6 engines with a crew of 3 each to assist in California. Fire Chief Wood thanked the Mayor, Commission, and City Manager Cortez for their support and approval of the program.

Discussion

Commissioner Wicks thanked the Fire Chief Wood for his and the Fire Department's efforts in these matters.

Commissioner Noonan thanked the Chief and department and he hoped all those involved returned safely.

Report from the HCC

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chair Sumner Sharpe stated the Beattie Street report was developed by members and the report was submitted to the Commissioner for their consideration. A motion was called to submit the report, as follows: 9 in favor; 4 opposed and 2 abstention, one of which was Mr. Sharpe as the facilitator of the item. Growing Friends will be presenting at the next HCC meeting, a neighborhood group from the Benton area, and City Engineer Leland would be updating the HCC on agenda

Regular Items

REGULAR ITEMS

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE BOUNDARIES OF THE DOWNTOWN URBAN RENEWAL DISTRICT AND THE DOWNTOWN URBAN RENEWAL DISTRICT PLAN TO INCLUDE THE RODNEY STREET STUDY AREA, INCLUDING A TAX INCREMENT PROVISION PURSUANT TO TITLE 7, CHAPTER 15, PARTS 42 AND 43, MONTANA CODE ANNOTATED; AND SET A PUBLIC HEARING DATE FOR NOVEMBER 18, 2019.

Staff Report

Community Development Director Sharon Haugen reported on August 26, 2019, the Helena City Commission adopted a Resolution of Necessity that included a Statement of Blight for the proposed Rodney Street Extension to the Downtown Urban Renewal District. The resolution, in part, declared the area a blighted area and directed that its rehabilitation and redevelopment was necessary for the interest of the City of Helena residents. The resolution also called for the completion of an amendment to the DURD. The City hired WGM, Inc. to assist in the development of the Plan. Several stakeholder interviews, public meetings, and review of the Downtown Neighborhood Plan, the Downtown URD Plan and other related documents relating to the Rodney Street area resulted in the Plan currently under consideration. The goals stated in the Plan are the result of these meetings and a review of the 2011 Helena Growth Policy.

Under MCA Section 7-15-4213, the Consolidated Planning Board is required to review the Urban Renewal Plan and recommend as to whether the Urban Renewal Plan amendment conforms to the 2011 Growth Policy. On October 15, 2019, the Planning Board heard a presentation regarding the Plan amendment and the goals identified in the Plan. At that meeting, the goals of the Plan amendment were evaluated to determine if they were in conformance with the City's current Growth Policy and the Downtown Neighborhood Plan. The Planning Board made its final recommendation that the Rodney Street Amendment to Downtown Urban Renewal Plan conformed with the 2011 Growth Policy as amended by the Downtown Neighborhood Plan.

Before the adoption of this ordinance, a public hearing must be held. That hearing is scheduled for November 18, 2019. The public process includes a notice of the hearing sent to all property owners whose names appear on the county treasurer's tax rolls. A copy of the draft plan can be found at this link:

https://www.helenamt.gov/cd/planning-division/current-projects/downtownurban.html

A hard copy of the Plan can be obtained by contacting the Community Development Department located at 316 N. Park, Helena, Montana. The purpose is to grant the first passage and schedule a public

hearing on the merits of amending the Downtown Urban Renewal District to include the Rodney Street Amendment and to potentially use tax increment financing to make necessary improvements in the district. The amendment to the district will result in opportunities associated with tax increment financing and other mechanisms, as identified in the Plan. Tax increment financing would assist in projects that would improve the area's infrastructure, encourage the revitalization and redevelopment of the neighborhood, and help to preserve the historic nature of the district. This area has been identified in the 2011 Helena Growth Policy as an area with potential for redevelopment and infill. The Rodney Street amendment set out goals on how the neighborhood could be further redeveloped and what actions are needed to further the goals. The Future Land Use Map in the 2011 Growth Policy designates this neighborhood as both mixed-use and urban areas. The creation of an Urban Renewal District and the potential use of tax increment financing will provide opportunities for the City to meet those goals.

The Plan amendment is a combination of the results of several studies, stakeholder meetings, and other public outreach, and represents the results of these efforts. The goals of preserving the historic nature of the district, enhancing the motorized and non-motorized infrastructure, and encouraging greater diversity in the area are goals that were identified by many of these groups' efforts. The Plan amendment may lead to better public-private partnerships in the neighborhood.

Redevelopment of the Downtown is a more efficient use of existing infrastructure. The use of tax increment financing funds has been used in other communities to help fund improvements necessary to bring existing building up to code. This use of funds is also contemplated in this Plan and would help extend the useful life of these buildings and help to make them more efficient.

It is anticipated that the actions resulting from the Plan amendment will increase the overall taxable value of the proposed district through strategic public and private investment. The increase in taxable value from a set baseline level will be redirected back into the district. The increment that is derived from the increase in taxable value therefore, will stay in the district and will not be available to be used elsewhere in the city.

Director Haugen recommended approval of first passage of an ordinance amending the boundaries of the Downtown Urban Renewal District to include the Rodney Street Study area, including a tax increment provision pursuant to Title 7, Chapter 15, parts 42 and 43, Montana Code Annotated; and set a public hearing date for November 18, 2019.

Discussion

Commissioner Noonan asked if the plans included a CHIP board would include a seat on the board, or would there be a new seat in the Rodney Street area. Director Haugen stated the City Manager and Community Development have been in discussions on how to govern the Urban Renewal Districts, the plan is currently designed to use the board system, and this would include adding a couple of members from the Rodney Street area.

Commissioner O'Loughlin asked Director Haugen to confirm the property taxes for the residents within the boundary of the amendment would remain the same. Director Haugen confirmed this and stated any increase through mills going forward will be set aside in a separate fund and will be used for infrastructure improvements to the area.

Commissioner Wicks thanked Community Development staff for their outreach efforts in the matter. Commissioner Wicks asked if there

were any concerns in the matter for the residents of the area. Director Haugen stated there were some comments regarding the allocation of funds to the specific area collected from tax increases.

Public Comment

Mayor Collins asked for public comment. None was received.

Gina Satterfield, business owner on Rodney, spoke in opposition to the ordinance.

Discussion

Commissioner O'Loughlin thanked the City Staff for their efforts in formulating the plan for the Rodney Street area and expressed support for the comprehensiveness of the plan and its abilities to address the needs of the area. Commissioner O'Loughlin stated it would be helpful to receive the minutes from planning board meetings.

Commissioner Haladay thanked Director Haugen and staff for their efforts. Commissioner Haladay stated the area was one of the densest family populations, but with many aging properties in the area, and the TIF would allow the area to address needs while combatting inequities in the housing available.

Commissioner Noonan stated the Rodney area was unique and he looked forward to the development of the area, its revitalization, and enhancement of the existing historical beauty.

Motion

Commissioner Wicks moved first passage of an ordinance amending the boundaries of the Downtown Urban Renewal District to include the Rodney Street Study area, including a tax increment provision pursuant to Title 7, Chapter 15, parts 42 and 43, Montana Code Annotated; and set a public hearing date for November 18, 2019. Commissioner Haladay seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye and Mayor Collins voted aye. **The motion carried, 5-0.**
Ordinance 3275

Public Hearings

PUBLIC HEARINGS

A. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW A PARKING LOT USE IN THE R-3 (RESIDENTIAL) DISTRICT FOR A PROPERTY WITH A LEGAL DESCRIPTION OF LOT 8 IN BLOCK 12 OF THE FLOWRREE ADDITION TO THE CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA, WITH AN ADDRESS OF 1337 BUTTE AVENUE, HELENA, MT 59601.

Staff Report

City Planner Hillary Taylor reported the property, addressed as 1337 Butte Avenue, is located in the R-3 (Residential) District and is presently developed with a single-family home and associated garage. The Zoning Commission met and heard the application at their regularly scheduled meeting on October 8, 2019 and voted 3-1 to recommend approval of the application to the City Commission. Upon further consideration and consultation with the City Attorney's office, staff made a few alterations to the recommended conditions to make them clearer and easier to read. This reduced the number of conditions from five (5) to two (2) conditions. The applicant proposes to demolish the existing structures on the property in order to develop the property with an eighteen (18) space parking lot. The proposed parking lot will allow

employees of the Opportunity Bank to park off-street and lessen the congestion in the neighborhood.

City Staff recommended to conditionally approve, table, or deny a Resolution granting a conditional use permit to allow a parking lot use with eighteen (18) spaces in the R-3 (Residential) District for a property with a legal description of Lot 8 in Block 12 of the Flowerree Addition to the City of Helena, Lewis and Clark County, Montana, with an address of 1337 Butte Avenue, Helena, MT 59601 with the following conditions:

1) Install landscaping along the fence and Butte Avenue and Roberts Street to reduce the noise from the parking vehicles.

2) Replace the existing four (4') foot wide sidewalk with a new five (5') foot boulevard sidewalk along Butte Avenue and Roberts Street, and install new ADA compliant curb ramps at the southwest corner of Butte Avenue and Roberts Street.

Discussion

Commissioner O'Loughlin asked for clarification of the public hearing process was for these projects, since there was not public comment made on the CUP presented this evening. Ms. Taylor stated the two requirements were followed in this process 15 days prior to the meeting a newspaper ad was posted, and legal notices were given to adjacent properties within 150 feet of the proposed CUP.

Commissioner O'Loughlin asked if the CUP was denied this evening, would the property be in compliance with current zoning. Ms. Taylor confirmed it would be in compliance, but the property would remain a vacant lot.

Commissioner Haladay asked what the CUP stipulated regarding lighting in the language within. He asked Ms. Taylor if the Commission would need to stipulate the lighting specifically in the CUP in order to prevent disruptive lighting in the parking lot.

Public Testimony

Mayor Collins declared the public portion of the hearing opened and called for anyone wanting to address the commission.

Ms. Dion Brass, resident of the Butte Ave area and within the residential area within consideration for the CUP. Ms. Brass stated concerns over the CUP due to the amount of the traffic on the street surrounding the area, and the alleyway use.

Mr. Daryl Rensom, applicant, stated the intent of the CUP was to relieve parking by employees on the street and thus freeing the residential street parking in the area.

Discussion

Commissioner O'Loughlin asked how many parking spaces for the bank currently existed. Mr. Rensom stated he did not know the exact number.

Commissioner Haladay stated it would appear there were around 70 spaces in the aerial photos and this CUP would bring the total spaces to 88. Commissioner Haladay asked whether this was the most suitable and viable use of the property.

Commissioner Wicks asked if there could be a specific condition added to the motion, increasing the height of the fence required, and an additional condition of the no overhead lighting in the new spaces. Ms. Taylor stated a change in the language of the motion adding the third and fourth conditions could be added.

Commissioner Wicks asked if Mr. Rensom, as the bank representative, would have any objections to the condition of no

overhead lighting. Mr. Rensom stated there was adequate lighting on the street, so there would be no objection.

Byron Stahly of Stahly Engineering, assisting in the application, spoke to the question regarding the dissention referenced in the Zoning Commission minutes. He stated when he did his due diligence when watching the traffic flows in heavy traffic times and inclement weather conditions, and he did not see any traffic stacking of concern.

Commissioner O'Loughlin asked if Mr. Stahly had any data on the average use and capacity of the parking lot during business hours. Mr. Stahly stated no, unfortunately he did not have any specific information on the parking numbers, but the intent was for the new lot to be used primarily by employees thus freeing up the main parking lot for customers.

Commissioner Noonan stated the alley issue brought forward in public comment this evening, seemed to be a separate issue which could be resolved outside of the CUP process, and the concern about the fence and lighting could be addressed with the additional language in the motion.

Commissioner O'Loughlin stated in the minutes there didn't seem to be robust discussion on weighing all the various adverse factors on the CUP and would be open to further discussion on those effects; would be open to moving the motion forward if a consensus of the Commission wanted to move to approve this evening.

Commissioner Haladay asked the City Attorney what the public process would be if this item was denied and tabled this evening. City Attorney Jodoin stated he felt the best option would be a total denial of the item in order to send it back to the Zoning Commission, but if the applicant was here and willing to accept any modifications to the conditions it could be possible to pass the item with said conditions.

Commissioner Haladay expressed concerns over the use of the land from a single-family household to a parking lot, and the danger to pedestrians with the increased egress of traffic into the area from the proposed lot, and the light disturbance and sound would also be problematic.

Commissioner Noonan stated he would support further discussion on this matter this evening.

Mayor Collins asked City Attorney Jodoin to explain what the process would be if the item was tabled and not denied this evening.

City Attorney Jodoin stated it would be most legally justifiable process if the Commission would deny the CUP and the applicant would like to resubmit the application to be reviewed by the Zoning Commission to review the concerns brought forward by the public commentary and the Commission.

Commissioner O'Loughlin stated she was comfortable with the denial this evening, to have the applicant go before the Zoning Commission for consideration.

Mr. Rensom stated he felt the concerns of the Commission and the residents of the area had been addressed and were considered when the original application was submitted. He said the bank had spoken with the resident of the direct adjacent property, and the resident felt the improvements to the property outweighed the concerns.

Mayor Collins stated he wanted clarity on the concerns from the rest of the commission for the CUP.

There being no other persons wishing to offer public testimony. Mayor Collins closed the public portion of the hearing.

Motion

Commissioner Haladay moved to deny a Resolution granting a conditional use permit to allow a parking lot use with eighteen (18) spaces in the R-3 (Residential) District for a property with a legal description of Lot 8 in Block 12 of the Flowerree Addition to the City of Helena, Lewis and Clark County, Montana, with an address of 1337 Butte Avenue, Helena, MT 59601 with the following conditions:

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2) Replace the existing four (4') foot wide sidewalk with a new five (5') foot boulevard sidewalk along Butte Avenue and Roberts Street, and install new ADA compliant curb ramps at the southwest corner of Butte Avenue and Roberts Street.

Commissioner O'Loughlin seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Wicks voted aye, Commissioner Noonan voted aye and Mayor Collins voted nay. **The motion carried, 4-1.**

Public Communications

PUBLIC COMMUNICATIONS

Jerry Hoover, Our Redeemers Lutheran Church spoke about concerns for Resolution 20537 regarding assessment of water usage. Mr. Hoover asked the Commission to consider an additional exemption from the assessment on all non-profit entities in this matter, including the Church. Mr. Hoover asked for a meeting with the Commission to discuss the matter.

Gretchen Crum, 905 Hayes Ave, also spoke on behalf of the Church, and asked the Commission to consider revising the assessments for non-profits and churches.

Discussion

Commissioner Haladay asked if the City Manager if the concerns with the Church representatives addressed tonight. Manager Cortez asked Community Development Director Haugen to address the Commissioner's question.

Community Development Director Haugen stated a discussion was had with the Church representatives with former Finance Director Jorgenson separate the property into condominiums, and this was done by the Church, what had transpired after this point the Director was not aware of.

Commissioner Noonan asked if the changes made by the Church to the property, would possibly be allowed to be applied to the current $54,000 assessment.

Gretchen Crum stated this would not offer relief for the current year, but it would offer relief for next year.

Mayor Collins requested the City Manager to look for specific solutions to this one particular instance. Manager Cortez stated if the Commission as a whole directed the City Manager's office to look into a specific solution for this matter it could be addressed, but would be careful to not create a precedence or general policy which could affect the City's capabilities to use assessments for all entities.

Adjournment

There being no further business to come before the City Commission, the meeting adjourned at 6:51 p.m.

Meetings of Interest

MEETINGS OF INTEREST

Administrative Meeting – November 13, 2019 - 4:00 p.m. - Room 326, City-County Building

Regular City Commission Meeting – November 18, 2019 - 6:00 p.m. - Commission Chambers, City-County Building

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE CITY COMMISSION