

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
December 16, 2019 - 6:00 P.M.
City Commission Chambers, Room 330

Time & Place A regular City Commission meeting was held on Monday, December 16, 2019 at 6:00 p.m., in the City Commission Chambers, 316 N. Park Avenue, Helena, Montana.

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

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

Minutes The minutes of the December 9, 2019 Regular City Commission meeting were approved as submitted.

Consent Agenda CONSENT AGENDA:

- A. Claims
- B. Consider adoption of the Official Zoning Map for the City of Helena with a revision date of December 9, 2019.
- C. Consider a resolution declaring the 2003 Ford Excursion rescue vehicle (Unit #124) owned by the City of Helena to be surplus property and authorizing the city manager to dispose of the property by donation to the Lincoln Volunteer Fire Department.
Resolution 20584

City Manager Cortez recommended approval of the Consent agenda, items A - C.

Public Comment Mayor Pro Tem Haladay asked for public comment on the Consent Agenda. None was received.

Motion **Commissioner O'Loughlin moved to approve the claims and consent agenda items B- C.** Commissioner Wicks seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**

Communications from City Commissioners COMMUNICATIONS/PROPOSALS FROM CITY COMMISSIONERS

Commissioner Noonan thanked the residents of Helena for the opportunity to serve on the City Commission. He stated the work of the Commission was both exhilarating and difficult at times. He recounted sources of pride from the years he served on the Commission, including HPAC, ADA and work with the non-profit community partners. He also stated there were tough decisions he has made which challenged him, but he felt he made decisions with the best interest of the community in mind, including his decision regarding the confederate fountain.

Commissioner Wicks congratulated and thanked both Chief Hagen and Fire Chief Wood on their recent appointments. She thanked City staff for their efforts in working with her personally over the past year. The Commissioner stated she was honored for the opportunity to serve and thanked the other Commissioners for their support and friendship.

Commissioner O'Loughlin gave remarks about Commissioner Noonan and Commissioner Wicks and their service to the Helena community, and their efforts in improving the Commission as a legislative body. Commissioner O'Loughlin stated she looked forward to what Commissioner Wicks would bring moving forward and Commissioner Noonan for his genuine care for the City and his vision for the community.

Commissioner Haladay thanked Commissioner Wicks for her thoughtfulness and her zeal with which she has approached her work on the Commission. Mayor Pro Tem Haladay thanked Commissioner Noonan for not only being a collaborative member of the Commission, but also for his friendship. Commissioner Haladay recounted the number of accomplishments the Commission had accomplished over the past year, and thanked Commissioners Noonan and Wicks for the role they played in getting the work of the City done.

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 there was nothing to report.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Cortez took this time to thank Commissioners Wicks and Noonan for their guidance and service.

Report from the HCC

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chair Sumner Sharpe thanked Commissioners Wicks and Noonan for their service. Mr. Sharpe stated there was not a meeting this month and at the first meeting in the new year there would be elections of the executive committee and invited the Commission to attend.

Regular Items

REGULAR ITEMS

- A. CONSIDER A RESOLUTION TO DISSOLVE THE CIVIC CENTER BOARD AND TO IDENTIFY OR CREATE AN ADVISORY BODY BY JANUARY 2021 TO SUPPORT PERFORMANCE, VISUAL AND MEDIA ARTS, AS WELL AS TO PROVIDE PROGRAMMATIC OVERSIGHT OF THE CIVIC CENTER.

Staff Report

City Manager Cortez reported on November 18, the City of Helena Commission directed staff to draft a resolution for the dissolution of the Civic Center Board.

The proposed resolution dissolves the Civic Center Board and seeks to identify or create an alternate body to ensure support for the performing, visual and media arts, as well as to provide programmatic oversight of the Civic Center.

The proposed language recognizes the importance of performing, visual and media arts, and programmatic activities at the Civic Center while also recognizing the need for a new governance body that can work in partnership with the City of Helena Commission and staff.

Manager Cortez recommended approval of a resolution to dissolve the Civic Center Board and to identify or create an advisory

body by January 2021 to support performance, visual and media arts, as well as to provide programmatic oversight of the civic center.

Public Comment

Mayor Pro Tem Haladay asked for public comment

Pat Keim, President of Helena Symphony, read a letter from the Helena Symphony Board of Directors. The letter was given to the Clerk for the permanent record. The letter stated general support for the decision to dissolve the Civic Center Board and formation of a new advisory body for the Civic Center. Mr. Keim added the symphony was thankful for the work of the Civic Center Board in their efforts to support the Civic Center as a facility.

Sumner Sharpe, HCC Chair, spoke to previous years discussion within the HCC in greater transparency of the Civic Center Board, and budgetary deficiencies discussion, and general support of efforts to promote new opportunities for programming and activities at the facility. Mr. Sharpe expressed concern over the lack of cooperation between the Civic Center Board and other advisory bodies, including the HCC. Mr. Sharpe stated he believed personally their needed to be greater consistency in the formation and management of advisory bodies.

Kathleen Pace, Civic Center Board Member, stated concern over statements made at a previous meeting regarding the accounting of funds by the Civic Center Board. Ms. Pace stated she felt the advisory body was an integral part of maintaining the costs and affordability of the use of the facility. Ms. Pace stated the use of the Civic Center facility had a ripple effect within the local economy and asked the Commission to consider this when making their decision.

Judy Kline, president of Civic Center board, spoke in opposition of the resolution. She asked the individuals in attendance who concur with this statement to stand. Ms. Kline stated for the record all monies raised by the Civic Center Board were used to the benefit of the facility. Ms. Kline stated the Civic Center Board had offered more than fundraising efforts for the facility but offered advice to the staff and Commission.

Mike Dasilva, Civic Center Board member, spoke in opposition of the resolution.

Bridget Holland, Civic Center Board member, spoke in opposition of the resolution, citing a lack of communication between the Civic Center Board and the Commission as a reason for the dissent.

Kim Abbott, 523 6th Avenue, spoke in support of the resolution, thanking the current and former board members for their efforts, and stated she felt this thoughtful manner in which the Commission was moving forward with the Civic Center.

Kevin Hamm, spoke in support of the resolution, stating the current board is not reflective of the community and the formation of a new advisory body would bring new ideas to the facility.

Chuck Hunter, 717 Dearborn, spoke in opposition to the resolution, citing his concerns over the broader discussion regarding the advisory bodies as a whole and concern over efficiencies as a reason for dissolving this board and possibly others, and expressed concern over the future of the Golf Advisory Board, on which he sits.

Carol Bondy, expressed concern over the decision to dissolve the Civic Center Board, and spoke in opposition to the resolution.

Kevin Casey, spoke in support of the resolution.

Brian Kahn, spoke to the broader discussion of discourse in this matter and the government as a whole, and asked the commission should consider the polarization of the body politic and ask the commission to work towards unifying the opposing sides.

Claudia Clifford, resident, spoke in favor of the resolution.

Linda Kindrick, 71 Ruby Mountain Road, Clancy, stated she believed the programming was the responsibility of the Civic Center Staff, and asked the Commission to not support the resolution to dissolve the Civic Center Board.

Discussion

Commissioner O'Loughlin asked for clarification on the date cited in the resolution for reforming the new advisory body in the coming year and how the process of this formation would be carried out. Manager Cortez asked Director Ponozzo to assist in answering the question. Manager Cortez stated this would be an open and active engagement with the broader public, Director Ponozzo stated she concurred with the Manager stating the opening discussions and listening sessions with the public was just a starting point, the next year will be seeking guidance from the Commission as to how the new advisory board will be formed.

Commissioner Wicks asked Mr. Hamm to speak further on resistance he has found in bringing events to the Civic Center. Mr. Hamm stated he has often found the resistance to new ideas for programming and events at the Civic Center frustrating, and the Civic Center Board has opposed specific events he personally had made efforts to bring to the Civic Center.

Commissioner O'Loughlin stated she had been reading minutes from the past twenty years from the Civic Center Board, and she said there was no doubt the commitment of those individuals who have served. She noted there was similarities to how boards of non-profits operate. The treasurer's reports focus on the one account to which they had fund raised and spent to the benefit of the Civic Center.

Commissioner O'Loughlin stated the focus of the board seemed to be focused primarily on the events they had helped to organize, and while there was no doubt the passion and effort surrounding those events, there was not very much discussion by the board about the Civic Center more broadly. The Commissioner stated there also seemed to be resistance to new ideas from some board members and the public, with the Board stating they were not to serve "special favors" to community members, but this seemed to lack substance as an argument against the new ideas. The Commissioner stated she felt this was counter productive to ensuring the success of the Civic Center, and the facility itself. The Commissioner thanked the City Manager for bringing forward in this resolution the formation of a new board in the next year, and she felt this would allow for a continued discussion in the upcoming year and the incoming commission members.

Commissioner Wicks stated she had received comments from a current member of the Civic Center Board, who asked not to be identified, did not want to speak in public and did not agree with a letter submitted by the board. The Commissioner stated the fact a current member of the Board did not feel as though they could speak candidly in opposition spoke to a much deeper issue with the culture of the Board.

Motion

Commissioner O'Loughlin moved to approve the resolution to dissolve the Civic Center Board and to identify or create an advisory body by January 2021 to support performance, visual and media arts, as well as to provide programmatic oversight of the civic center.

Discussion

Commissioner Noonan stated he was aware this was an ongoing issue which had brought forth rancor in the past, and he was hopeful this resolution would be the beginning of a new future of the Civic Center.

Commissioner Haladay cited an analysis report of the Civic Center board in 2017 which had occurred at the direction of a previous commission. The Commissioner stated the general findings of the report were the community supported new ideas and programming for the use of a beloved and underutilized facility, and these recommendations were not well received by the Civic Center Board.

Vote

Commissioner Wicks seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye and Mayor Pro Tem Haladay voted aye. The motion carried, 4-0. Resolution 20585

- B. DIRECT THE CITY MANAGER TO ENTER INTO A BUY/SELL AGREEMENT TO SELL A TRACT OF LAND LOCATED IN PORTIONS OF LOTS 8, 9, AND 10 OF THE CHESSMAN AND DAVIS PLACER, HELENA, MONTANA AND LOT 1, BLOCK 4 OF THE CENTRAL ADDITION TO HELENA MONTANA, BOOK 4, PAGE 8659 (THE BUS DEPOT) TO SEELEY BUILDING, LLC FOR \$300,000.

Staff Report

Community Development Director Sharon Haugen reported earlier this year, the City issued a Request for Proposals (RFP) soliciting concepts to lease and/or sale of the property located at 630 Last Chance Gulch (Bus Depot). Goals for the disposing the Bus Depot include: 1. impact of the proposal for the Downtown; 2. maximization of retail/commercial space on the ground floor; 3. offers of community benefits and 4. strategic partnership with capable entities. The City received four responses to the RFP. The respondents were Bjerke & Smith, Ray Kuntz and the Seeley Family Trust, Kim Smith and Mike & Susan Hughes, and D & M Development. A committee consisting of a representatives from the HBID, MBAC, lending industry, City Commission, and city staff reviewed the proposals and conducted interviews with the respondents. The group selected Ray Kuntz and the Seeley Family Trust as the top proposal. The purchase price will be \$300,000. This project was chosen because it offered a number of elements that addressed the articulated goals including partnerships with non-profits (Pureview Clinic and Intrepid Credit Union), as well as creation of two 120% AMI eligible units (out of eight units). Also, the respondents proposed completion date of July-August 2021. To protect the affordability of the two 120% AMI units for a period of ten years, City and Developer will enter into a deed restriction agreement. Once staff has determined the best mechanism to protect affordability, staff will present these deed restrictions to the Commission in early 2020. The net proceeds of this transaction will be deposited in the General Fund. The City will create a Community Renewal Fund to allocate these monies for future economic development activities. Staff will prepare a framework for the new Community Renewal Fund.

Seeley Building, LLC., would like to purchase the property at 630 Last Chance Gulch and construct a mixed-use building which includes units for workforce housing, a non-profit clinic and other businesses. City will use net proceeds from the disposition of this asset to establish a Community Renewal Fund.

The sale of the property at 630 Last Chance Gulch will result in the construction of a new mixed-use building that will have a mix of commercial space, housing, and a health clinic.

Any new construction will be built in accordance to the latest adopted Energy codes and will take advantage of the existing infrastructure. The redevelopment of this lot may encourage the rehabilitation and/or redevelopment of other properties in the Downtown.

Community Development Director Haugen recommended authorizing the City Manager to enter into a Buy/Sell Agreement to sell a tract of land located in portions of Lots 8, 9, and 10 of the Chessman and Davis Placer, Helena, Montana and Lot 1, Block 4 of the Central Addition (the Bus Depot) to Helena Montana, Book 4, Page 8659 to Seeley Building, LLC. for \$300,000.

Direct City Manager to bring to the Commission deed restrictions to protect affordability in early 2020

Public Comment

Mayor Pro Tem Haladay asked for public comment. Mr. Seeley thanked the Commission for their efforts in pursuing this project and others like it. Mr. Seeley also thanked Commissioner Wicks and Noonan for their service.

Motion

Commissioner Noonan moved to approve a Buy Sell agreement between the City of Helena and Merite LLC for real property owned by the City, known as KCAP Park, located at the north-west corner of Broadway Street and Cruse Avenue, for \$5,000 and to Direct City Manager to bring parameters and definition of the Community Renewal Fund no later than 90 days after closing escrow. Commissioner Wicks seconded the motion.

Discussion

Commissioner Wicks thanked City Staff for their efforts in this process and stated excitement over this new process developed for RFP's and stated she looked forward to seeing what the future holds for projects such as this one.

Commissioner Noonan stated this was an example of a great partnership between a community partner, like Mr. Seeley, and City Staff.

Mayor Pro Tem Haladay concurred with the other comments and felt this was the inception of a great future for the downtown area and would serve as an example for how this type of project and others like it would be a result of the new and improved RFP process. Mayor Pro Tem Haladay stated this was a great example of how the surplus property could be utilized to the benefit the downtown URD and to the betterment of the City.

Vote

Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye and Mayor Pro Tem Haladay voted aye. The motion carried, 4-0.

Commissioner Noonan moved to approve a motion the Buy-Sell agreement to include earnest money of fifty percent of the sale price. 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, 4-0.**

C. CONSIDER A RESOLUTION OF INTENTION TO CREATE THE BUSINESS IMPROVEMENT DISTRICT AND SET A PUBLIC HEARING

DATE OF 1/13/20.

Staff Report

Budget Analyst Chris Couey reported the City created the Business Improvement District (BID) in August 2010. BID's have a life of 10 years according to state law. There is not a specific renewal option in state law, but the BID may be recreated for another 10 years at the will of the City Commission.

State law requires we receive petitions from owners of at least 60% of the area of the proposed district shown in the attached "Proposed BID Boundary." The BID staff collected petitions equal to 67.4%. Electronic and hard copies of the signed petitions are available in the Finance office. The current BID expires August 10, 2020.

City Staff recommended approval of a resolution of intention to create the Business Improvement District within the City of Helena, Montana and set a public hearing on January 13, 2020.

Public Comment

Mayor Pro Tem Haladay asked for public comment.

Executive Director of the BID Micky Zurcher spoke in favor of the resolution and stated the BID would continue to collect petitions going forward, and currently the number stood at 69.6%, with the potential for more.

Motion

Commissioner Noonan moved to approve a resolution of intention to create the Business Improvement District within the City of Helena, Montana and to set a public hearing date on January 13, 2020. Commissioner Wicks seconded the motion. **Resolution 20586**

Discussion

Commissioner Noonan recognized the often-difficult position being a member or representative on the BID and thanked all those who chose to serve.

Commissioner O'Loughlin and Mayor Pro Tem Haladay echoed Commissioner Noonan's comments, both thanked Director Zurcher for her dedication and efforts in gaining the necessary signatures.

Vote

Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O'Loughlin voted aye and Mayor Pro Tem Haladay voted aye. The motion carried, 4-0. Resolution 20586

D. THE CITY OF HELENA PERSONNEL POLICIES HANDBOOK PROMOTES CONSISTENCY AND UNIFORMITY ON EXPECTATIONS FROM EMPLOYEES AND THE CITY AS AN EMPLOYER. SOUND, RELEVANT AND TIMELY UPDATES TO THIS DOCUMENT ENSURE ITS VALUE AS A ROADMAP THAT GUIDES EMPLOYEE-EMPLOYER INTERACTIONS. THE PERSONNEL HANDBOOK CONTAINS INCONSISTENCY, INACCURACIES AND OUTDATED INFORMATION. PERIODIC UPDATES TO THE HANDBOOK ARE IMPERATIVE.

Staff Report

Staff presents updates to four sections in the current Manual:

- I. Paid Holidays.
- II. Section 1 Equal Employment Opportunity.
- III. Section 9 Discipline & Grievances Policies and
- IV. Code of Conduct.

Current City policy requires the City Commission to approve changes to the Personnel Handbook. In reviewing the Handbook, it is apparent that the Commission has not approved policy changes in a number of years even though, changes have occurred. The Department recommends that the Commission directs the City Manager to bring substantial amendments I. Paid Holidays. The HR Department recommends adding the day after Thanksgiving as a paid holiday. This change will provide employees 12 paid holidays per calendar year.

The following sections were reviewed by MMIA and legal counsel to ensure that the modifications were consistent with Montana laws and within the risk management framework used by MMIA.

Section 1. The new policy simplifies and clarifies language. Substantive changes include broadening of harassment to include all actions against protected classes including sexual harassment, definition of Bullying and clarification on reporting allegations of harassment.

Section 9. This section reflects modification to the current policy including a more detailed grievance procedure, a more detailed disciplinary framework and distinction between protocols for employees and executive management.

Code of Conduct. The current code of conduct is replaced by STATE OF MONTANA TITLE 2. GOVERNMENT STRUCTURE AND ADMINISTRATION CHAPTER 2. STANDARDS OF CONDUCT.

The Human Resources Department believes that these modifications will:

1. Bring more clarity of City policies to employees and employer
2. Improve protocols
3. Create an expectation that the Personnel Handbook is an important document which needs to be updated, reviewed, understood and referenced. For Commission approval on a quarterly basis.

Discussion

Commissioner Wicks asked Director Franco to further discuss who MMIA was and what their role was in reviewing the policies.

Commissioner O'Loughlin asked what the timeline was to communicate the new changes and policies with City Staff. Director Franco stated there should be the new policies would be made available to City Staff within 90 days on a flash drive.

Commissioner Haladay asked the City Attorney how new policies and revisions were adopted to the HR policy given there was not formal adoption of HR policy. City Attorney stated the statute stated there needed to be "acceptance" of a new HR policies and this could be argued to be a difference. Manager Cortez stated the Handbook updates would be brought forward to the Commission quarterly to the Commission for review and adoption. Director Franco added the Family Medical Leave Act updates were also to be addressed after the new year, but given the push to get this portion done for the end of the year, FMLA needed to wait for the next update to the policy. Commissioner Haladay stated for the record the reason for bringing the policy to a public hearing, was past practices were to adopt without going through a formal public adoption process and this was the reason for bringing these items forward this evening.

Director Franco recommended the Commission direct the City Manager to adopt the new List of Holidays, Sections 1 and Section 9.

- Public Comment Mayor Pro Tem Haladay asked for public comment. None was given.
- Motion** **Commissioner O’Loughlin moved to direct the City Manager to adopt the new listing of Holiday which includes the day after Thanksgiving, section 1, Section 9 and the standards of conduct as presented.** Commissioner Noonan seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye, Commissioner O’Loughlin voted aye and Mayor Pro Tem Haladay voted aye. **The motion carried, 4-0.**
- Public Hearings** PUBLIC HEARINGS
- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE INCREASING LOT COVERAGE IN THE TWO RESIDENTIAL ZONING DISTRICTS R-1 AND R-2; INCREASING MAXIMUM BUILDING HEIGHT IN RESIDENTIAL ZONING DISTRICTS: R-1, R-2 AND R-3, RESIDENTIAL OFFICE DISTRICT R-4, AND GENERAL COMMERCIAL DISTRICT B2, AND ELIMINATING MINIMUM LOT SIZES FOR MULTIPLE DWELLING UNITS IN THE R-3, R-4/R-O ZONING DISTRICTS BY AMENDING CHAPTER 4 OF TITLE 11 OF THE HELENA CITY CODE.
- Staff Report Community Development Director Sharon Haugen reported the City Commission has articulated its desire to expand housing opportunities, implement the city’s 2019 Housing Strategy and meet the goals set in the 2018 Tri-County Housing Needs Assessment. Presently the City has a vacancy rate of below 3% for both rental and home ownership opportunities. The City’s 2019 Housing Strategy includes removal of regulatory barriers that impede housing development. The 2018 Tri-County Housing Needs Assessment recommends zoning updates and adoption of flexible in development regulations.
- Staff and the Housing Task Force (HTF) determined that the current allowances for height, lot coverage, and lot area are overly restrictive and prevent residents from improving or expanding properties in areas where non-conforming structures are often prevalent (due partly to housing units predating the passage of zoning codes). Such regulatory barriers create the following challenges: Lot Coverage
- Landowners may be stymied from making necessary home alterations or adding additional units that is otherwise permitted by right due to not having a large enough building envelope or the ability to build upon existing residences or accessory structures.
- Building Height
Currently City code limits heights. Proposed changes will allow developers and landowners opportunities to build up thus producing more density/units per development.
 - Lot Area
Currently City code does not allow for multifamily dwellings units that might otherwise be permitted by right in the R-3, R-4 and R-O residential zoning districts. Multifamily dwellings increase density and increase housing stock.
- The proposed changes to city code were presented to the City Commission and Lewis and Clark County Board of Commissioners at a Joint Work Session on May 7, 2019 and to the Zoning Commission at a

work session on October 8, 2019 ahead of a public hearing on December 3, 2019. The district dimensional standard changes proposed are as follows:

Increase lot coverage allowance in the R-1 and R-2 (Residential) Districts from 30% with an additional 5% for a porch to 40%

Increase the maximum height allowances as follows:

R-1/R-2 (Residential) Districts increase from 24 feet to 30 feet

R-3 (Residential) District increase from 24 feet to 36 feet

R-4 (Residential) and R-O (Residential-Office) increase from 36 feet to 42 feet

B-2 (General Commercial District) increase from 42 feet to 60 feet

Remove lot area requirements as follows:

R-3 (Residential) District from 2,000 square feet per dwelling unit for multiple dwelling units to zero (0) square feet

R-4 (Residential)/R-O (Residential-Office) Districts from 1,200 square feet per dwelling unit for multiple dwelling units to zero (0) square feet

On December 3, 2019, the City of Helena Zoning Commissioners voted unanimously (5:0) to recommend approval of an ordinance to change the aforementioned district dimensional standards by amending Chapter 4 of Title 11 of the Helena City Code.

To increase housing development and density within the city by removing regulatory barriers. With the recommended dimensional standard changes noted above, the City will address housing goals by increasing dwelling unit supply while also protecting the character and quality of the city's neighborhoods.

The recommended dimensional standard changes to the 5 Zoning Districts will remove regulatory barriers in three areas: Lot Coverage, Building Height and Lot Area. Such changes are expected to increase housing stock in the City. Higher density residential development within city limits may produce lower resource(s) and infrastructural impacts.

Expected increases in housing supply may not be enough to keep up with demand in a growing city.

Community Development Director Haugen recommended approval of a first passage of an Ordinance increasing lot coverage in the two Residential Zoning Districts R-1 and R-2; increasing maximum building height in Residential Zoning Districts: R-1, R-2 and R-3, Residential Office District R-4, and General Commercial District B2, and eliminating minimum lot sizes for multiple dwelling units in the R-3, R-4/R-O Zoning Districts by amending Chapter 4 of Title 11 of the Helena City Code.

Discussion

Commissioner O'Loughlin asked Ms. Ray to give the Commissioner guidance if there were any items or broad scope ideas which would be missed even with the adoption of this item and should be addressed in the upcoming year. Ms. Ray stated referenced regulatory barriers in the current Zoning Code which could be addressed.

Mayor Pro Tem Haladay asked Ms. Ray to elaborate on the lot area requirements within the ordinance.

Commissioner Wicks asked if there had been any public commentary received in reference to the ordinance. Ms. Ray stated the public commentary received had been from several developers and non-profit agencies, which were generally positive and supportive of the changes as being reasonable.

Public Testimony

Mayor Pro Tem Haladay declared the public portion of the hearing open and asked if there was anyone wishing to address the Commission.

Bill Hess, 409 Raymond Street, expressed concern over the ordinance, as it pertains the possibility to building structures which with a greater density, and perhaps taller structures, and without addressing parking when allowing for larger density.

Motion

Commissioner Noonan moved to approve to approve first passage of an Ordinance increasing lot coverage in the two Residential Zoning Districts R-1 and R-2; increasing maximum building height in Residential Zoning Districts: R-1, R-2 and R-3, Residential Office District R-4, and General Commercial District B2, and eliminating minimum lot sizes for multiple dwelling units in the R-3, R-4/R-O Zoning Districts by amending Chapter 4 of Title 11 of the Helena City Code. Commissioner O'Loughlin seconded the motion.

Discussion

Commissioner Noonan offered support for the ordinance and thanked staff for their work on this item.

Commissioner Haladay spoke to the concerns expressed regarding density and stated he felt this ordinance would help to move the development of the City forward in an incremental thoughtful manner and would be one more way to offer affordable housing within the City.

Commissioner O'Loughlin echoed the other comments and stated this would be an ongoing discussion, and this ordinance was just one tool in order to continue offering affordable housing to the City residents.

Vote

Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye Commissioner O'Loughlin voted aye and Mayor Pro Tem Haladay voted aye. The motion carried, 4-0.

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE REVISING THE CONDITIONAL USE PERMIT PROCESS BY AMENDING CHAPTER 3 OF TITLE 11 OF THE HELENA CITY CODE TO PROVIDE BETTER GUIDANCE FOR APPLICANTS AND DECISION MAKERS.

Staff Report

Community Development Director Sharon Haugen introduced City Planner Lucy Gengler to present the staff recommendations to the Commission. Ms. Gengler reported chapter 3 of Title 11 of the City Code contains language to guide the process for a Conditional Use Permit (CUP) including CUP limitations, application requirements, application review, the role of the Zoning and City Commissions, conditions of approval and cessation, or change of conditional uses.

On December 3, 2019 the Zoning Commission held a public hearing on revising the Conditional Use Permit chapter and reviewed the proposed Ordinance. The Commissioners discussed the language in factors number 6 in Section 11-3-4 (B) which states, "Whether the use will substantially impede the Helena Climate Change Action Plan." The commission expressed concern that "will substantially impede" was a difficult standard and that " is consistent with" would better express the intent of that factor. The Zoning Commission voted 5:0 to approve the Ordinance as amended.

Staff held a joint work session on August 13, 2019 with the Zoning Commission and the City Commission and received direction to

evaluate the current CUP Chapter to increase language clarity and better define the decision-making parameters.

Staff then held two work sessions on October 8, 2019 and again on November 12, 2019 with the Zoning Commission to review other communities' regulations, past CUP applications, and the current Helena review process.

Amendments to Chapter 3 of Title 11 are proposed in the attached Ordinance. The proposed Ordinance impacts five (5) major areas: 1. CUP Review Standards; 2. CUP Impact Evaluation; 3. CUP Mitigating Conditions; 4. Changing Conditions and 5. CUP Revocation.

1. CUP Review Standards. The review criteria language is changed from "significantly increase" or will not "significantly reduce or impair" to will not "adversely impact". This change provides the City Commission with better standards for review. Currently, the language requires the City Commission to find that a use will not "significant increase" the risk to public health, safety, or general welfare; or will not "significantly reduce or impair" the peaceful use of existing property or improvements in the vicinity of the proposed CUP. This language is vague and it is replaced by "adverse impacts" in these areas.

2. CUP Impact Evaluation. This second change is proposed to enhance evaluation of impacts by the proposed CUP. The existing factors have been reorganized and clarified and new factors have been added. A greater emphasis on impacts to adjacent properties and the larger neighborhood is a new focus. Clearer direction for considering public input is also included.

3. CUP Mitigating Conditions. Possible conditions of approval are enumerated in the chapter to provide more direction to the Zoning and City Commissions. This change includes a list of conditions that can be considered to mitigate the impacts of a proposed CUP. This list is intended to provide the City and Zoning Commissions with guidance for the types of conditions that might can be mitigated. Nine conditions are proposed, but other conditions can be supported. This list is expected to be beneficial to the applicant and can help provide predictability to the process.

4. Changing Conditions. The fourth change is intended to fill a gap in the limitations to a CUP approval as it relates to changes in the site plan as a CUP is developed. It is important to have a process in place to be able to determine if a "material change" has occurred in a CUP. Currently this is not a standard in Chapter 3. This change will allow staff to work with applicants to keep CUPs up to date.

5. CUP revocation. The fifth substantive change to the ordinance comes in the section regarding the ability to revoke a CUP. The proposed Ordinance would include a new process with standards to revoke a CUP that is not in compliance with the approved conditions or has ceased to operate on the property.

Discussion

Commissioner O'Loughlin asked if this would impact all CUP's or just the CUP's going forward. City Attorney Jodoin stated this would impact all the CUP's going forward.

Commissioner Haladay asked if there were any current CUP's which may be impacted by the revisions. Ms. Gengler stated the only current CUP which could possibly be impacted was in the very

preliminary processes and because of this should not be negatively impacted.

Public Testimony

Mayor Pro Tem Haladay declared the public portion of the hearing open and asked if there was anyone wishing to address the Commission.

Motion

Commissioner O’Loughlin moved to approve first passage of an Ordinance revising the Conditional Use Permit process by amending Chapter 3 of Title 11 of the Helena City Code.
Commissioner Wicks seconded the motion.

Discussion

Commissioner Wicks and O’Loughlin both expressed support for the Ordinance and excitement as to the future use of the new process for CUP’s. Mayor Pro Tem Haladay thanked the Zoning Commission for their diligence and thanked City Staff for their commitment to improving this process going forward.

Vote

Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Wicks voted aye, Commissioner Noonan voted aye Commissioner O’Loughlin voted aye and Mayor Pro Tem Haladay voted aye. The motion carried, 4-0.

Public Communications

PUBLIC COMMUNICATIONS
Representative Moffie Funk thanked the Commission and especially Commissioner Noonan and Wicks for their service.

Adjournment

There being no further business to come before the City Commission, the meeting adjourned at 8:33 p.m.

Meetings of Interest MEETINGS OF INTEREST

Regular City Commission Meeting – January 2, 2020 - 5:00 p.m. - Commission Chambers,
City-County Building

MAYOR PRO TEM

ATTEST:

CLERK OF THE CITY COMMISSION