

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
April 20, 2020 – 6:00 p.m.
Zoom Online Meeting <https://zoom.us/j/4129664351>

Time & Place A regular City Commission meeting was held on Monday, April 20, 2020 at 6:00 p.m., via Zoom Online Meeting: <https://zoom.us/j/4129664351>.

Call to Order and Roll Call Mayor Collins, Commissioner Haladay, Commissioner Dean, Commissioner Logan, Commissioner O'Loughlin, Interim City Manager Reed, City Attorney Jodoin, and Interim City Clerk Clayborn all responded present.

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

Minutes The minutes of the January 8, 2020 Special Meeting, the January 13, 2020 Regular meeting, and the March 23, 2020 Regular Meeting were approved as submitted.

Proclamations Mayor Collins read an Earth Day proclamation to celebrate the 50th anniversary of the annual event.

City Sustainability Coordinator Patrick Judge accepted the proclamation and thanked the Commission and Helena citizens for their ongoing efforts toward sustainability, public health, and quality of life. Members of the Earth Day organizing team and the Citizens' Conservation Board felt it is important to recognize this internationally significant milestone despite the current health crisis. There are some commonalities between the current situation and our sustainability efforts, specifically the importance of community resilience, preparedness, and planning. Mr. Judge thanked Valerie Stacey of the Lewis & Clark County Public Health Environmental Division, who organized the effort and created the website. He also thanked Diana Hammer, Makenna Sellers, Patricia Heiser, and Lisa Fairman.

Consent Agenda A. Claims
B. Consider revisions to Sections 7-1 and 11-2 of the City of Helena's Personnel Policies Handbook

Public Comment Mayor Collins called for comments; there were none.

Motion **Commissioner Dean moved to approve items A. and B. on the Consent Agenda.** Commissioner Logan seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5:0.**

**Communications
& Proposals from
Commissioners**

No Communications were given.

**Report of the
City Attorney**

City Attorney Jodoin gave an update on the Beattie Street Trailhead lawsuit. The City's request to substitute Judge McMahon for Judge Reynolds was granted; the plaintiffs then made a motion to substitute Judge McMahon. There is a tentative hearing on the preliminary injunction scheduled on April 22nd, but Mr. Jodoin believes it may change due to the plaintiffs' motion to substitute.

**Litigation
Strategy**

This item was included with the regular City Attorney Report and is referenced previously.

**Report of the
City Manager**

Interim City Manager Reed thanked the city leadership and staff for their support, and said the City is continuing to work with City department directors on the COVID response and with the County on support for housing the homeless population. Departmental budget reviews are ongoing in preparation for the budget presentation on May 4, 2020. She turned her briefing over the City Budget Analyst Chris Couey, who introduced Interim Public Works Director Phil Hauck.

Discussion

Commissioner Logan noted the amount of information in the budget memo submitted by Mr. Couey et al., and asked if the Commission could discuss it further at the next Administrative meeting? He quoted from the memo regarding depletion of Public Works and Transportation fund balances. He noted that something went wrong with these budgets, and it should be discussed prior to the May 4th budget presentation. Mayor Collins asked Mr. Couey if he would be able to address Commissioner Logan's concerns at the May 4th preliminary budget report? Mr. Couey hadn't planned to discuss this issue in-depth at that time but would be able to do so then or at a prior Administrative meeting.

Commissioner Dean brought up the need for further discussion, noting that the information in the spreadsheets the Commission was given wasn't adequately explained in the accompanying memo. She has questions and would like an after-action report. It appears that the City only secured 25% of the debt service needed for the projects that were outlined, resulting in \$16M of projects that were cut or delayed.

Commissioner Haladay agreed to put the discussion on another agenda if the other Commissioners agreed. He said that the City's rate setting for at least the past four years has been based on securing a certain amount of debt based on what's presented each year to the Commission. It's important to continue to do this and make sure there are checks in place. He asked Mr. Couey what sort of policies, procedures, and outlines did he receive for tackling the securing of debt vs. capital outlay for any of these projects, both holdover and new?

Mr. Couey explained that when he joined the City last October there was a lack of written official policy, just known and best practices. He felt that if there had been a better-organized effort to have this information written down and put together with past budgets it would have been easier to follow the process. There was little transition time after he arrived, and no trail to pick up. He has put some internal controls in place, and they are writing official policies to ensure that debt-funded projects have funds in place before the project begins.

Commissioner Haladay agreed that official policies should be made and written down to ensure institutional knowledge, and that they need to do a better job of transition planning. He asked Mr. Couey if they are considering securing or proposing additional debt in the 2021 budget, as opposed to using a capital outlay to essentially balance the budget out between two years? Mr. Couey said that the 2021 budget will not be debt-heavy; the plan they've put in place to finish out FY20 and the plan going forward into FY21 will be sufficient at this point to replenish these funds without having to take on an exorbitant amount of debt to make up the shortfalls.

Commissioner Haladay addressed Mr. Hauck. He asked if the City would have to adjust rates from where they were set last year in order to bring about the planned "fixes." Mr. Hauck said that they did not assume any additional rate increases in any of the funds; they utilized the rates that the Commission passed in FY20 and FY21 for their revenue projections. The plan they submitted does not require additional revenue.

Mayor Collins asked for further comments or questions; there were none. He asked if there was a consensus for adding this discussion to the agenda for the next Administrative meeting? Commissioner Dean expressed support, but wondered if they needed to have similar discussions regarding water, wastewater, storms, streets, and the gas tax? Mr. Couey said those funds, as they stand now, should be fine. Commissioner O'Loughlin thought the impact on the community and the timeline of projects should be discussed at another meeting. Mayor Collins asked Interim Clerk Clayborn to add the discussion to the next Administrative meeting agenda.

Commissioner Haladay noted that each fund would be discussed at the work sessions and asked if there would be an opportunity for a deeper look at those funds. Mr. Couey indicated that they could increase the projected debt funding for next year at the work sessions if the Commission has priorities or projects they would like to add.

Public Hearings

- A. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW AN EIGHTEEN (18) SPACE PARKING LOT USE 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 CONDITIONS.

Staff Report

City Planner II Hillary Taylor explained that the applicant wants to build an eighteen (18) space parking lot to accommodate parking for those Opportunity Bank employees who are currently parking on the street. This is the second application for this parking lot. The first application was made on August 1, 2019. That application was heard by the Zoning Commission on October 8, 2019. The Zoning Commission recommended approval 3-1. The City Commission conducted a public hearing on the application on November 4, 2019. The City Commission denied the application 4-1. The Commissioner that voted against the proposal stated that there were concerns over converting the use of the land from a single-family household to a parking lot, as well as the danger to pedestrians with increased egress of traffic into the area from the proposed lot. The light disturbance and sound would also be problematic.

The second application was made on January 28, 2020. The applicant tried to address the concerns raised by the City Commission with the following mitigation measures: cut-off lighting, landscaping 63% above what is required, boulevard sidewalks, and the installation of ADA compliant curb cuts. This application was heard by the Zoning Commission on March 10, 2020. The Zoning Commission voted 3-0 to approve the application with four (4) conditions.

This would create an eighteen (18) space off-street parking lot which would allow Opportunity Bank employees to park off the street, eliminating potential conflicts with surrounding neighbors. As conditioned, the proposal would alleviate pedestrian conditions. The applicant shall replace the existing non-compliant (four (4)-foot wide) sidewalk and a new five (5)-foot boulevard sidewalk will be installed along Butte Avenue and Roberts Street, and new ADA compliant curb ramps will be installed at the southwest corner of Butte Avenue and Roberts Street. Additionally, as conditioned the applicant will provide for 63% more landscaping than required

This does result in the conversion of what was historically a residential lot into a commercial use. The mitigation measures recommended by the Zoning Commission are designed to mitigate those impacts.

The depart recommends approving a resolution granting a conditional use permit to allow an eighteen (18) space parking lot use in the R-3 (Residential) District, with the following conditions:

1. The applicant is required to provide, as shown in the application materials, an opaque six (6) foot fence (or similar) in compliance with Section 11-24-5 along the western property line to mitigate glare and noise.
2. Landscaping as shown in the proposed site plan shall be included along the fence and Butte Avenue and Roberts Street to reduce the noise, odor, and glare from the parking vehicles. As proposed the landscaping will be 63% over what is required.

3. To alleviate pedestrian conditions the applicant shall replace the existing non-compliant (four (4)-foot wide) sidewalk and a new five (5)-foot boulevard sidewalk will be installed along Butte Avenue and Roberts Street, and new ADA compliant curb ramps will be installed at the southwest corner of Butte Avenue and Roberts Street.

4. The proposed lighting on the property will be limited to lighting four (4) feet high that is equipped with down shielding cut off material.

Byron Stahly from Opportunity Bank provided further information about the business and elaborated on the proposed plans using a slide presentation.

Discussion

Commissioner Dean noted that she wasn't on the Commission when the proposal was first made. She asked if the neighbor who objected to the original plan due to car lights was consulted about the new plan? She asked about public comments or complaints. There were none. Commissioner Dean asked if the bank would be responsible for snow removal, which was confirmed by a bank representative. She thanked them for the thorough presentation.

Commissioner O'Loughlin referred to the objection made to the previous plan and asked again if that individual had commented on the new proposal? Ms. Taylor said she didn't know if that neighbor was specifically consulted but that all comments were included in the informational packet.

Mayor Collins asked how many letters were sent out to neighbors? Darryl Rensmon from Opportunity Bank said they did not go door-to-door, but rather tried to catch people on the street for input. They did the same with people living in the housing authority across the street. No one they spoke with objected.

Mayor Collins asked for further comments from the Commission; there were none. He called for public comment.

Public Comment

Mr. Chris Hellwitz (no address given) stated that he is a homeowner who has lived next door to the proposed parking lot for 30 years. He believes the parking lot will be an asset to the neighborhood because it will allow residents to park on the street in spaces now used by bank employees. He thinks there will be minimal impact from the parking lot because there will be the same businesses, amount of traffic, and noise as there is now.

Discussion

Commissioner Logan asked Mr. Stahly what are the substantive differences between the November and current plan? Mr. Stahly said the only differences are that they now plan for two ADA ramps instead of one, and there will be more landscaping along the west border. Plans for the parking lot itself are unchanged.

Commissioner Haladay said that the applicant had done a significantly better job in this presentation and he appreciates the attention to detail. Normally, the Commission hears a lot of opposition to putting in surface

parking lots and they generally decide against it, but in this case the plans appear to be beneficial to the area and residents. He especially appreciated the nod to the Helena Climate Change Action Plan with the addition of more landscaping.

Motion

Commissioner Logan moved to approve the resolution subject to the four conditions listed by the City Planning Department.

Commissioner Dean seconded the motion. Mayor Collins called for a roll call vote: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. **The motion carried, 5:0.**

- B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW AN 800 SQUARE FOOT GENERAL PROFESSIONAL USE IN THE R-3 (RESIDENTIAL) DISTRICT FOR A PROPERTY WITH A LEGAL DESCRIPTION OF LOT 5 IN BLOCK 603 OF THE HOBACK AND CANNON ADDITION TO THE CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA, WITH AN ADDRESS OF 817 9TH AVENUE, HELENA, MT 59601 WITH CONDITIONS.

Staff Report

City Planner II Hillary Taylor reported that the property is currently occupied by a single-family house and a detached garage. The application was heard by the Zoning Commission at the regularly scheduled meeting on March 10, 2020. The Zoning Commission voted 3-0 to approve the application with five (5) conditions. There was discussion about the fifth condition which states "the general professional use shall not allow the use of the property for the following: photography, fitness, weight loss, postal, hairstyling, pet grooming, copying and printing, or laundry and dry-cleaning services." After consultation with the Attorney's office, staff recommends that the condition should remain as written.

The applicant/property owner is seeking to obtain a Conditional Use Permit (CUP) to allow a general professional services use in the R-3 (Residential) zoning district to operate an environmental consulting office with one full-time employee and two (2) part-time employees.

This will allow the use of 800 square feet of an existing single-family home for a general professional services use encouraging the continuation and growth of a small business. The granting of this Conditional Use Permit will legitimize the use of a small office in the R-3 allowing the business to outgrow the allowed 'home occupation' business license.

Planner Taylor and Community Development Director Sharon Haugen's recommend motion was to approve a Resolution granting a conditional use permit to allow an 800 square foot general professional use in the R-3 (Residential) District for a property with a legal description of Lot 5 in Block 603 of the Hoback and Cannon Addition to the City of Helena,

Lewis and Clark County, Montana, with an address of 817 9th Avenue, Helena, MT 59601 with the following conditions:

1. Applicant shall maintain three (3) off-street parking spaces;
2. No signage beyond what is permitted by the sign ordinance shall be allowed;
3. No alterations to the existing lighting shall be allowed, except normal additions and changes in compliance with Helena City Code;
4. No more than 800 square feet of the property shall be dedicated to the general professional use; and
5. The general professional use shall not allow the use of the property for photography, fitness, weight loss, postal, hairstyling, pet grooming, copying and printing, or laundry and dry-cleaning services.

Discussion

Commissioner Haladay noted that he had *ex parte* communications with the applicant that can't be waived and opted to not participate in the discussion or vote.

The applicant, Mr. Colin McWilliams, did a slide presentation to provide the Commission with further information. He demonstrated that there are several churches and businesses already located in the same R-3 neighborhood. He stated there will be no structural changes to the building or to pedestrian, bicycle, or traffic patterns. He is not anticipating requesting any variances. Mr. McWilliams described his business as having no walk-in customers, and most of their clients are from outside the City as they work in environmental compliance for freight railroads. He has an existing business license. He noted that as a locally owned small business it would be beneficial to maintain a footing in Helena.

Mayor Collins thanked Mr. McWilliams and called for public comment.

Public Comment

Tyler Warne (528 Highland St.) stated that he is the former owner of the property at 817 9th Avenue. He operated an appraisal business with 1-2 employees. He had good relations with the neighbors. Previous to his purchasing the property in 2015 there was a childcare business in that location, which resulted in a higher traffic count than there would be with Mr. McWilliam's business.

Mayor Collins thanked Mr. Warne and called for comments from the Commission.

Discussion

Commissioner Dean noted that the agenda packet indicates that the previous businesses in the location operated from the garage; she asked if the applicant planned to conduct his business in the house. Mr. McWilliams said he didn't specify which portion of the structures he planned to use because at the time of his application he wasn't certain, but he has a better picture now and plans to include a furnished portion of the garage as well as the house for his business. Mr. Warne stated that he used a portion of the house, as well as the garage, when he had more part-time employees.

Commissioner O'Loughlin addressed Planner Taylor: page 139 of the agenda packet notes that the applicant's intent is to void the CUP if the property is sold again. Commissioner O'Loughlin wanted to clarify if the CUP would be voided with the sale of the property. Ms. Taylor said it would not and the CUP would stay in effect with any sale of the property. Commissioner O'Loughlin asked if a new owner would have to petition the City for another CUP to use the property? Ms. Taylor noted that if the property is sold the property owner will be able to have a general professional use on the property. However, the CUP can be altered. If the use is discontinued the new owner will have to apply for a new CUP. Commissioner O'Loughlin noted that the criteria for approval have been met, and she's pleased that there won't be a significant increase in traffic in the area due to the business.

Motion

Commissioner O'Loughlin moved to grant the Conditional Use Permit along with the five conditions recommended by the City Planning Department. Commissioners Dean and Logan simultaneously seconded the motion. Mayor Collins called for a roll call vote: Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye, and Mayor Collins voted aye. Commissioner Haladay abstained. **The motion carried, 4:0 with 1 abstention.**

Discussion

Commissioner O'Loughlin asked Ms. Taylor about the new criteria and standards used to evaluate requests for CUPs. Ms. Taylor said that the new system is more thorough, and that the two applications they've received since implementing the new system have been more robust. Several new criteria are working very well in terms of historic trends in neighborhoods, and the additional criteria relating to climate change and structural changes are producing stronger applications.

Mayor Collins noted that he inadvertently skipped over Item 10 of the agenda, Communications from the Helena Citizens' Council (HCC). He called on their representative.

Communications from the Helena Citizens' Council

Nancy Perry, Treasurer of the HCC, said the Council has not met since Governor Bullock's order to shelter in place, so the regular March and April meetings were cancelled. She noted that Article 4, Section 4 of the City Charter requires the HCC to review the City's annual budget and make any recommendations to the Commission. The HCC's budget committee is preparing and requests a copy of the preliminary budget prior to discussions so they have time to study it. They intend to attend the budget work sessions scheduled between May 11-25, and to write a summary report. The entire HCC membership will meet on May 28th to discuss and vote on the report; they will present their findings at the June 8th regular Commission meeting.

Mayor Collins asked for comments from the public; there were none. He called for comments from the Commission.

Commissioner Dean said that she found it helpful to see details on budget line items noting if they were delayed, in progress, or already completed. She asked if they could be included in the budgets for wastewater, water, and storm water.

Mayor Collins called for further comments; there were none.

Adjournment

There being no further business to come before the City Commission, the meeting adjourned at 7:44 p.m.

MAYOR

ATTEST:

CLERK OF THE CITY COMMISSION