

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
April 6, 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 6, 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, City Attorney Jodoin, Interim City Manager Reed, 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 summaries of the March 4, 2020 Administrative Meeting and March 9, 2020 Regular Commission Meeting minutes were approved without comment.
- Consent Agenda*** A. Claims.
B. Resolution of Intention to establish new fees to be charged for City of Helena Park and Open Space uses, recreation services and programs, and Waukesha Community Garden and repealing Resolutions Nos. 19816, 19995, and 20331.
- Comments*** Mayor Collins called for comments; there were none.
- Motion*** **Commissioner Logan moved to accept Consent Agenda items A and B.** Commissioner Dean seconded the motion. Interim Clerk Clayborn took 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.
- Communications from Commissioners*** Commissioner O'Loughlin expressed interest in writing a letter to Governor Bullock regarding a discussion of the allocation of federal funds given to states under the Congressional Coronavirus Aid Relief and Economic Security Act. She suggested asking the Governor to collaborate with local municipalities and counties to determine how the funds will be allocated. She also recommended that they approach the County Commissioners about making it a joint effort.
- Commissioner Dean asked if the League of Cities and Towns or the Montana Association of Counties has communicated with the Governor on this topic.
- Commissioner O'Loughlin said she's been in touch with both organizations and she believes they will address the issue, but it may be wise for local governments to keep the Governor apprised of local coronavirus costs specific to each community. Commissioners Logan and Dean expressed support.
- Comments*** The Mayor asked for comments; there were none.

**Report of the
City Attorney**

City Attorney Jodoin updated the Commission on the discrimination lawsuit filed against the City by the Montana Independent Living Project (MILP) in 2015 regarding the City's paratransit policy. MILP voluntarily withdrew that discrimination complaint but filed a retaliation complaint for the City's alleged reranking of TransAde grant applications. The HRB issued a no-cause finding, and MILP appealed to District Court, which determined that as an organization, MILP didn't have standing to bring a retaliation claim. MILP recently asked for supervisory control to the state Supreme Court. Mr. Jodoin anticipates that the court will want a response from the City, although it's not clear that one is needed. Murry Warhank of Jackson, Murdo, and Grant is representing the City.

Discussion

Commissioner Haladay asked if this is on a motion to dismiss for lack of standing. Mr. Jodoin confirmed it is.

Commissioner Logan asked Mr. Jodoin to briefly explain the Writ of Supervisory Control. Mr. Jodoin explained that it asks the state Supreme Court to take over review of the case now, rather than waiting for a decision from the District Court and then an appeal. The City will make the argument that this isn't the correct procedure, since the retaliation claim can not be made by an organization.

There were no further comments. Mr. Jodoin continued.

The City was served with a complaint and a temporary restraining order from the attorney representing the property owners near the Beattie Street trailhead. The Clerk of District Court had not received an order from a judge, so the project moved ahead. Mr. Jodoin described the work performed so far. He retained the services of John Tietz of Browning, Kaleczyc, Berry, and Hoven to assist. It's possible that the damage the plaintiff's are trying to stop is already done.

The Mayor asked for questions or comments; there were none.

Litigation Strategy

City Attorney Jodoin stated there was nothing to report.

**Report of the City
Manager**

Interim City Manager Reed reported that the City is continuing to provide essential services while safeguarding employees and the public. She thanked city employees and the public for coming together at this time. The City will continue to post updates and changes to services on the website to ensure that residents are informed. She urged everyone to check regularly for updates.

The City is continuing to coordinate with the County, including DES and the Health Department. There are concerns regarding people gathering in groups at some of the local parks, particularly the dog and skate parks, and the tennis courts. They're asking people to continue following social distancing guidelines.

The Bill Roberts municipal golf course will be re-opening on April 7th, after measures were taken to ensure that golfers and staff will be safe.

There will be a joint meeting on April 7th with the County Commission that will include updates from the County Department of Emergency Services Coordinator Reese Martin and the County Health Officer Drenda Niemann.

Discussion

Commissioner Dean asked if other municipalities around the state have closed their parks. Manager Reed confirmed they have, especially the larger cities.

The Mayor asked for comments.

Commissioner Logan thanked Interim Manager Reed for her professionalism and for the efforts of city workers to maintain services.

Regular Items

A. CONSIDER A RESOLUTION AMENDING RESOLUTIONS OF INTENTION NOS. 19911 AND 20340 TO DEFER THE DEDICATION AND TRANSFER OF THE FIRE STATION LOT TO A LATER PHASE OF THE CROSSROADS AMENDMENT AT MOUNTAIN VIEW MEADOWS SUBDIVISION IN LEWIS AND CLARK COUNTY INTO THE CITY OF HELENA, MONTANA.

Staff Report

Planner Lucy Morell-Gengler reported there are three actions for the City Commission to act on associated with the Uplands Phase 2 final plat:

- An amendment to condition number three (3), Fire Station Lot of the Resolution of Intent to Annex Crossroads at Mountain View Meadows;
- Resolution of Annexation for 10.7 acres of the Uplands Phase 2 portion of the Crossroads at Mountain View Meadows Subdivision; and
- The Uplands Phase 2 Final Plat creating 50 lots and one tract.

This is the first action.

In 2005, the resolution of intention to annex Aspen Park, the first component of the Mountain View Meadows development, was passed. This resolution included a condition to provide property for a fire station with the location to be determined at a future date. This requirement was continued in subsequent annexation conditions as the area of the development expanded. On May 7, 2012, the Helena City Commission approved the Resolution of Intention to Annex (Resolution No. 19911) for the amended Crossroads at Mountain View Meadows Subdivision. This resolution continued the annexation condition requiring dedication of a lot to the City for a possible fire station and a specific location was proposed in the Uplands area of the Mountain View Meadows development (Resolution No. 20340) see attached exhibit. An application for development of the last phase of the Uplands component of the Crossroads at Mountain View Meadows development has been submitted. This application does not include dedication of the fire station lot. As an alternative, the applicant has requested delaying transferring the fire station property until the adjacent Crossroads Parkway and related water and wastewater mains have been installed. The installation of adjacent Crossroads Parkway will improve fire station access and provide easier access to wastewater.

A portion of the area identified for the possible fire station has been annexed into the city although the majority of the property is still in the county. The property is zoned and rezoned PLI (Public Lands and Institutions) District. This zoning would limit the type of development on that property even though the property has not been transferred to the City. The timing for the development of a fire station in the area of Mountain View Meadows has not been established but it may precede the development of Crossroads Parkway. The applicant has also proposed language that will further ensure that property will be available for a fire station at a future date. Language has been proposed to address a situation where the City has determined that a location for a fire station facility will be required sooner than the availability of the current property. A City evaluation process would determine if another lot within the Mountain View Meadows Development is more appropriate.

If another property within the development is selected for a fire station, then the value of the current fire station property will be applied to the cost of the newly selected fire station property. This language is consistent with the intent of the annexation condition to provide property for future city services to the Mountain View Meadows Development. If the City Commission determines that the annexation condition should not be amended as proposed and the property should be transferred with the current phase, then the Resolution of Annexation and Uplands Phase 2 final plat cannot be approved until the plat is revised.

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A portion of the area identified for the possible fire station has been annexed into the city although the majority of the property is still in the county. The property is zoned and pre-zoned PLI (Public Lands and Institutions) District. This zoning would limit the type of development on that property even though the property has not been transferred to the City. The timing for the development of a fire station in the area of Mountain View Meadows has not been established but it may precede the development of Crossroads Parkway. The applicant has also proposed language that will further ensure that property will be available for a fire station at a future date. Language has been proposed to address a situation where the City has determined that a location for a fire station facility will be required sooner than the availability of the current property. A City evaluation process would determine if another lot within the Mountain View Meadows Development is more appropriate.

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Staff recommended approval of a resolution amending Resolutions of Intention Nos. 19911 and 20340 to defer the dedication and transfer of the fire station lot to a later phase of the Crossroads Amendment at Mountain View Meadows Subdivision in Lewis and Clark County into the City of Helena, Montana.

Discussion

Commissioner Dean noted that an evaluation process will determine if another lot is more suited to build a fire station. She asked what the process would entail and when it would happen? Ms. Morell-Gengler stated that the Helena Fire Department does not need a new station just now, but when the time comes, they will determine if the proposed lot meets their current needs. If not, a different lot will be chosen, and the value of the current lot will be taken into consideration for purchase of the future lot.

Mayor Collins asked if a lot will actually be available in the future? Ms. Morell-Gengler said that if a suitable lot in the development is available it will be acquired. If not, the City will work with the community to evaluate the situation. There are no current plans if a lot is not available. She deferred to Helena Fire Chief Wood for more information.

Chief Wood said that the current proposed location is not where they want the station built. They have done some basic modeling on response times and it is a good location for current needs. In the future, an independent study will be needed to ensure it's a good location at that time.

Mayor Collins asked for comments; there were none. He called on Mr. Greg Wirth and Mr. Mark Runkle to speak.

Greg Wirth, of Stahly Engineering explained that the amended plan was prepared in consultation with the Fire Department. The lot chosen in 2012 is not fully functional at this time, not until the Crossroads Parkway is fully extended. The Fire Department has indicated the need for a larger facility, perhaps to include a training center, and this lot is not large enough. This amendment prevents the City from creating underutilized property and provides more future flexibility.

Mr. Mark Runkle commented that a fire station near the development would be beneficial, so they have a stake in working with the City later to provide a desirable lot.

Mayor Collins asked for further comments; there were none. The Commission elected to move on to items B and C before entertaining motions.

B. CONSIDER A RESOLUTION ANNEXING A PORTION OF THE UPLANDS PHASE 2 OF THE CROSSROADS AT MOUNTAIN VIEW MEADOWS SUBDIVISION IN LEWIS AND CLARK COUNTY INTO THE CITY OF HELENA, MONTANA.

Staff Report

City Planner Lucy Morell-Gengler reported The owner of this property, Mark Runkle representing Mountain View Meadows LLC, has requested annexation for approximately 10.7 acres described as Lots 1-4 of Block 8, Lots 4-11 of Block 9, all of Block 10, Lots 2-9 and the south portion of Lot 1 in Block 11, and Lots 9-13 of Block 12 as well as all adjacent rights-of-way as shown on the final plat of Uplands Phase 2. On May 7, 2012, the Helena City Commission approved the Resolution of Intention to Annex (Resolution No. 19911) and approved the revised preliminary plat for Crossroads at Mountain View Meadows Subdivision which includes the subject property. Conditions for annexation and final plat were established at this time. Ordinance No. 3232 established R-U (Residential-Urban) District rezoning for the property.

Annexation of this property is subject to the conditions stated in Resolution No. 19911 as amended by Resolution No. 20340. The applicant has requested to amend annexation condition number three (3) related to the fire station lot. If the requested change is approved, then the applicant will have completed the annexation conditions associated with this phase of the development. For reference, a list of the annexation conditions and their status is attached to this memo.

If this amendment is denied, the annexation conditions will not have been met and the annexation and subdivision final plat requests will not move forward.

The applicant is requesting annexation of approximately 10.7 acres to the City of Helena. This proposal is accompanied by a request for final plat approval for proposed Uplands Phase 2 of Crossroads at Mountain View Meadows Subdivision creating 50 lots, one tract and internal rights-of-way. No public hearing is required for these actions. The proposed annexation is adjacent to the city; water and sewer mains, stormwater, and streets have been installed to city standards. Therefore, annexing this property is a logical expansion of the city, an opportunity to promote compatible urban growth, and would be consistent with the Helena Growth Policy. Annexation into the city and development to city densities has the potential to reduce vehicle miles traveled in the Helena area.

Staff recommends approval of a resolution annexing a portion of the Uplands Phase 2 of the Crossroads at Mountain View Meadows Subdivision in Lewis And Clark County into the City of Helena, Montana.

Discussion

Commissioner Dean asked what would be the increased costs to the City, and if there is an estimated tax value to the City for this annexation? Ms. Morell-Gengler said the cost of annexation for this area would be similar to other developments within the city and other annexations. Those costs would be deferred through property taxes and special fees. The actual taxable value of this annexation hasn't been determined yet.

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

C. CONSIDER APPROVAL FOR THE FINAL PLAT OF UPLANDS PHASE 2 OF CROSSROADS AT MOUNTAIN VIEW MEADOWS SUBDIVISION CREATING 50 LOTS, ONE TRACT, AND STREET RIGHT-OF-WAY, AND TO ACCEPT THE DEDICATION TO THE CITY OF THE PROPERTY AND PUBLIC IMPROVEMENTS SO DESIGNATED THEREON FOR PROPERTY LEGALLY DESCRIBED AS TRACT 1-A-2 AND TRACT C-2-A-1-A-1-A-1-A-1-A-1-A OF SUBDIVISION (SUB) #3305702, GENERALLY LOCATED SOUTH OF ALICE STREET AND JEANNETTE RANKIN DRIVE, IN THE CITY OF HELENA, MONTANA.

City Planner Lucy Morell-Gengler reported the applicant is requesting approval of a major subdivision final plat creating 37 lots zoned R-U (Residential Urban) District, and 13 lots zoned R-4 (Residential Office) District. The plat also bisects Tract 1-A-2 SUB # 3305702 creating Tract 1-A-2-A zoned R-2 (Residential) and PLI (Public Lands and Institutions) Districts which are intended for open space and a future fire station lot. The proposal includes simultaneous annexation of approximately 10.7 acres. This plat includes the dedication of right-of-way for Titus, Rian, and Donna Streets, and portions of Summer Crossing Avenue and Upland Avenue. A temporary secondary emergency access is proposed which will be eliminated when the street network is installed with future phases.

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Platting these 50 lots and one tract will result in a remainder tract (parcels over 160 acres) exempt from subdivision review per MCA 76-3-104 that will continue to be outside the city in Lewis and Clark County.

The proposed final plat includes several changes from the approved preliminary plat (attached). These changes were evaluated based on Section 12-2-14, Material Changes, of the City's subdivision regulations in effect when the preliminary plat was approved per 76-3-603(9)(a) MCA and are not considered material. The final plat requires 1.187 acres of parkland dedication. The four open space lots totaling 1.067 acres are to be owned and maintained by the Homeowners Association (HOA) and are intended to meet a portion of the parkland dedication requirement per MCA 76-3-621(6). The applicant is proposing to deduct the balance amount of parkland required, .120 acres, from the 1.296 acres of excess parkland that has been dedicated to the City with previous phases of the Crossroads at Mountain View Meadows development leaving 1.296 acres of parkland that has already been dedicated to the City to be used for future phases of the Crossroads development.

Water and wastewater mains have been installed in adjacent streets or in easements to the city; a stormwater easement is proposed for the conveyance of stormwater to a regional pond. The applicant is proposing a financial guarantee for the outstanding improvements. A lighting district will be established after the final plat is filed to accommodate streetlights for the subdivision. The parameters of that lighting district will be established at that time.

The approval of the preliminary plat was subject to the conditions stated in the Findings of Fact which have been completed for this phase. For reference, a list of the original subdivision conditions and their status is addressed in the Conditions of Approval letter.

On May 7, 2012, the Helena City Commission gave conditional preliminary plat approval for the Crossroads Amendment at Mountain View Meadows Subdivision and an extension to that preliminary plat approval was granted in 2015 and 2018. The applicant has met the conditions of approval. The applicant is now requesting approval of the final plat for Uplands Phase 2 of Crossroads at Mountain View Meadows Subdivision.

Approving the final plat would allow the sale of the lots and would encourage the development of property in this area with city services including municipal water and wastewater. Approving the final plat allows development to city densities in accordance with the City Growth Policy which has the potential to reduce vehicle miles traveled in the Helena area.

Staff recommends approval of the final plat for Uplands Phase 2 of Crossroads at Mountain View Meadows Subdivision creating 50 lots, one tract, and street right-of-way and to accept the dedication to the City of the property and public improvements so designated thereon for property legally described as Tract 1-A-2 and Tract C-2-A-1-A-1-A-1-A-1-A of Subdivision (SUB) # 3305702, generally located south of Alice Street and Jeannette Rankin Drive, in the City of Helena, Montana.

Discussion

Commissioner Dean asked for more information about the referenced tract. Ms. Morell-Gengler explained that this area is part of a preliminary plat to be annexed later.

Commissioner Dean noted that the information packet they were given indicates that the developer would prefer that the HOA be responsible for maintaining easements and maintenance, and that some uses for other than public use may be requested. She asked for further information regarding how those processes would work. Ms. Morell-Gengler explained that the HOA would only be responsible for installing and maintaining one easement to park land because the city did not want to install and maintain a trail within an easement; there would be other access points for which the city would be responsible. As to Ms. Dean's second question, the preliminary plat review determined areas designated as open space; if the desired use changes significantly the Commission would be tasked with deciding if the change would have any impact on the criteria that was agreed upon on the creation of the subdivision, and any material change to the plat. They would have to approve an amended plat.

Mayor Collins asked for comments.

Mr. Wirth thanked Ms. Morell-Gengler and the City Fire and Public Works departments. He gave the following summary: the subdivision will create 50 single family lots and condominiums. The original plat included 19 conditions, all of which have been satisfied. Open space in the Uplands Phase 2 will be managed by an HOA. There has been interim acceptance on underground utilities, gutters have been installed, and the financially guaranteed asphalt will be installed in the spring. Rudimentary calculations indicate that the taxable value of each lot will be around \$3,000 per year. The project is creating jobs and building much-needed workforce housing for Helena. There has been a lot of interest in the project and many lots are under contract or construction has already begun.

Mayor Collins called on Mr. Runkle.

Mr. Runkle thanked the city staff, and particularly noted the good work done by Community Development Director Sharon Haugen and Ms. Morell-Gengler.

Mayor Collins thanked Mr. Runkle and asked for further comments; there were none. He said he would entertain a motion on items A-C at this time.

Motion

Commissioner Logan moved to approve agenda item A. The motion was seconded by Commissioner Dean. A roll call vote was taken: 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.

Motion **Commissioner Haladay moved to approve agenda item B.** The motion was seconded by Commissioner O'Loughlin. A roll call was taken: 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.

Motion **Commissioner O'Loughlin moved to approve agenda item C.** The motion was seconded by Commissioner Logan. A roll call vote was taken: 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.

Mayor Collins requested they move on to item D.

D. CONSIDER A RESOLUTION AMENDING RESOLUTION NO. 20595
DECLARING A STATE OF LOCAL DISASTER EMERGENCY TO RESCIND
THE CANCELLATION OF CITY COMMISSION ADMINISTRATIVE MEETINGS.

Staff Report City Attorney Jodoin noted that Mayor Collins declared a local state of emergency due to the COVID-19 crisis on March 16, 2020. One week later the City Commission passed a resolution that continued that resolution indefinitely. Section 5 of that resolution cancelled City Commission administrative meetings. The City now has a video-conferencing system that allows for public participation; this resolution will amend the previous resolution by striking out language that cancelled administrative meetings with the goal of beginning them again on April 15, 2020.

Mayor Collins asked for comments; there were none.

Motion **Commissioner Dean moved to approve agenda item D.** Commissioner Haladay seconded the motion. A roll call vote was taken: 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.

Public Communications Mayor Collins asked for public comment.

Sandy Holland (1307 Warehouse Ave.) asked if the city parks are not closed, why is there caution tape and closure signs on hers? Why does the City want family businesses to remain closed while opening the city-managed (Bill Roberts) golf course?

Mayor Collins requested that Parks, Recreation, and Open Lands Director Pinozzo reply to Ms. Holland privately.

Brian Miller (563 3rd St.) said that it would behoove the City to do research on countries that have and have not responded well during the COVID-19 crisis, especially since this country has never experienced a pandemic. He expressed

a concern for a possible increase in the number of local cases if social distancing and personal hygiene aren't practiced and if businesses open too quickly. Mask wearing should be City policy, and we must look at ways the virus can be transmitted. We should be prepared to not get much economic help from the federal government. People are not getting much information on how economic assistance packages will work and how money will be transferred. There are too many barriers for small businesses to receiving assistance funds. He suggested the City form an advisory committee to look at getting assistance for small businesses.

Mariah Ramirez (no address given) asked if the City has options for citizens who don't have the necessary technology to attend Zoom meetings. She also asked about security measures as she has read that Zoom has been recently hacked. (Her comments were submitted electronically and read into the record).

Dr. Gregory Thomas explained that Zoom URL links include phone numbers people can call to join the meeting by phone. The city can publish those numbers in the meeting agenda. All city employees using Zoom have been trained in security measures.

Adjournment

Mayor Collins called for comments; there were none. The meeting was adjourned at 7:16 p.m.

MAYOR

ATTEST:

CLERK OF THE CITY COMMISSION