

Helena Citizen's Council  
Regular Meeting  
July 27, 2005

Members Present: Thom Warsinski, Joe Ruby, Jerry McGee, Wayne Lewis, Bill Roberts, Teresa Klotz, Justin Trafton and Jan Lombardi.

Members Absent: Laura Erickson, Robert Clarkson, Keith Jones, Allen Tompkins, George Hoff, Bob Habeck, Jim Christnacht, Delma Sommers and Jerry Hutch.

Visitors Present: Randy Lilje, Allen Cormany, Cindy and Tal Redpath, Alan Peura.

Approval of June 22 Minutes: The minutes were approved as written.

Treasurer's Report: Our Treasurer, Jim Christnacht, was absent tonight.

#### OLD BUSINESS:

Helena Boulevard Ordinance: Randy Lilje, Director of Parks and Recreation

The current ordinance regarding boulevard landscaping sets the standard of grass or grass/trees. In the late 1990's, the City Commission revised the ordinance to include a variance process, allowing property owners to request a variance to the grass/trees standard from the Parks and Recreation. The variance requires a minimum of 60% vegetation within 3 years of planting. Variances must be approved by Parks and Recreation, to make sure the property owner's plan meets the boulevard ordinance and doesn't violate other ordinances.

Because the City isn't staffed to canvas the City, enforcement of this ordinance is complaint driven – like many other ordinances on our books. The City recently sent out violation notices, based on complaints they received. The City Commission's discussed this at two different Admin meetings and will discuss it at least once more. They're inclined to leave the ordinance as it stands but to change the penalty from a misdemeanor to a municipal infraction (fine).

If someone doesn't have a sidewalk, does that entitle them to park cars or do as they will with that property?

No. The area from the street to the property line is considered right of way (City property), not an easement. Land owners are responsible for maintaining that area according to City standards/ordinances.

What precipitated the notices people received?

The City received complaints from citizens. Apx. 50 notices have been issued so far. Parks and

Recreation has developed a brochure to insert with the water bill in the next month or two. It will explain the ordinance/variance process, include the estimated water needs to keep grass/trees in a suitable growing condition (apx. \$52 for the entire growing season). It will also list related ordinances and a website for more information.

Why must Parks and Recreation approve my alternate landscaping plan?

To make certain the property owner is in compliance with the variance and doesn't violate other ordinances. For example, native grasses may be fine as long as they're watered properly. However, if they dry out they become a fire hazard, weed. And not all trees are appropriate for boulevards. Some trees/roots cause trouble to sidewalks.

Will the City consider allowing people more time to comply with the ordinance?

Land owners currently have 60 days to come into compliance with the ordinance. Parks and Recreation doesn't intend to be heavy-handed. At this time, they haven't forwarded any violations to the City Attorney's office. It will take time to work with property owners to develop a plan to come into compliance.

What's the process to review an ordinance?

The City Commission receives a request to review an ordinance. If they feel it has merit, they appoint an ad-hoc committee. The ad-hoc committee reviews the issue and makes a recommendation to the City Commission.

Is dying grass as much a violation of the ordinance as no vegetation? If so, have any violation notices been issued for failure to maintain a boulevard?

No. Weed violations have been issued, but all boulevard ordinance violations have been related to rock only boulevards.

What would happen if a citizen submitted several complaints?

The City would do the best it could to respond to them.

Owners who care for their property, will typically care for the boulevard. Those who don't, won't. We can't enforce the ordinance – so do we really need it. Is there any way to get rid of it?

Any ordinance can be abolished by the City Commission, or the ballot initiative process.

We've heard about "xeriscaping". Are stones, sand and native plants in opposition to this landscaping approach?

Randy's understanding and definition of xeriscaping is "the use of plants that are adaptable to soil so they thrive and maintenance is reduced based on the adaptability of the plants." In some climates, grass and trees are the most adaptable approach. "Zeroscaping" has little to no vegetation.

Comments:

This ordinance has been on the books for many years, and many of the boulevards cited have been in their present condition for years – with no trouble. Suddenly it’s a problem; it seems very arbitrary and confusing. In the future, if the City receives violation complaints for a “dormant” ordinance, a better approach may be to send out reminder to educate property owners prior to issuing citations.

Further Discussion:

Alan Puera asked the HCC to ask the City Commission to reconsider the boulevard ordinance. The standards are in flux due to drought conditions, and there are good ideas that don’t meet the current standards. The HCC is more representative of the Helena community than the City Commission. Alan will also be sending a letter to the IR.

Motion:

The HCC recommends the City Commission form an ad-hoc committee to review the Boulevard Ordinance in its entirety and to develop community standards for boulevard landscaping. The committee could be comprised of a City Commission member, any appropriate City staff, 1 HCC member and 1 citizen representative from each of the 7 HCC districts.

Motion Carries.

Helena Police Dept: Officer John Fosket

Much of their recent focus has been on the investigation of the murder last Friday. They are making progress.

There has been a small increase in graffiti in the downtown area.

Police have working with merchants about some suspicious people showing up at events.

They have also been working with Downtown Helena Inc. on some problems with Alive @ Five, primarily with diversion of beverages to minors. Their policy is now, no ID, no wristband – regardless of your age. At their discretion, police will also card people with or without wristbands who appear to be under age.

Downtown Helena Inc. has hired 2 additional officers to work Alive @ Five, bringing the total number to 4 officers. They typically issue 2-3 MIPs to 18-20 year olds at that event.

Servers are absolutely accountable for the alcohol they serve. Just because someone has a wristband, it doesn’t guarantee they’re legal to drink.

If an organization receives multiple citations, the Montana Dept of Revenue may issue their own citations that impact their ability to sell alcohol.

An HCC member has heard some rumors that Alive @ Five is getting away from being a family event toward being a big drunk. The HPD doesn't have any statistics to support that and observes the adult crowd as being very well behaved. There hasn't been an increase in DUIs issued on Wednesday nights. The bigger focus for the HPD is alcohol being diverted to underage people.

#### NEW BUSINESS:

Helena Sidewalk Program: Allen Cormany, City Engineering

The Sidewalk Ordinance addresses sidewalks, curbs and gutters. City code says everyone is supposed to have a sidewalk (but we don't). The Sidewalk Ordinance allows for 2 types of sidewalks, listed in order of preference; boulevard-type sidewalks and curb-type sidewalks (adjacent to the curb). If a property owner requests a brand new sidewalk, the City will install a sidewalk that goes along with the neighborhood.

This ordinance is also complaint driven. If a citation is issued, the property owner has 30 days to respond. If they don't respond, City staff can petition the City Commission to force the homeowner to do the needed repairs. In 16 years, they've only had 1 case of forced compliance.

The Sidewalk Resolution addresses sidewalk repair. The City runs ads in the paper, usually late winter/early spring, soliciting property owners to voluntarily repair their sidewalks with the help of a low interest loan (1% over prime, calculated at January 1 each year). 10 people are using the program this year.

If the City does the work, they provide a warranty. Bills for completed work aren't issued until December, and no interest accrues until the bill is issued. People can also hire their own contractor or do the work themselves, but sidewalks must be built to City specifications and the property owner must acquire a permit to do the work. In either case, the homeowner pays the bill, but they can claim it as property tax.

Are retaining walls that are run up to the curb in violation of the ordinance?

Yes. If we can catch them in construction, we can make them follow the ordinance.

Another ordinance violation that's being overlooked – why is it so hit and miss?

There's no good answer to this. Sidewalks, landscaping, weeds and motor homes and boats being

parked on curbs are all hot topics, and all complaint driven.

Is it possible to use a similar program to help homeowners come into compliance with the boulevard ordinance, or other homeowner expenses incurred for property they don't own but are mandated by the City to maintain?

There isn't a program in place, but maybe the City can offer something like this.

HCC Attendance Policy/Bylaws:

Article II, Section 4, Item A of our Bylaws covers attendance at HCC meetings. According to the Bylaws, if an HCC member fails to attend 3 consecutive HCC meetings without good cause, their position is deemed to be vacant.

Motion: That the Secretary of the HCC send a letter (or email) to all HCC members reminding us of what our Bylaws say about attendance, and that it's each individual's responsibility to notify someone by phone or email when we're unable to attend the HCC meeting. The notice should also mention that if you're already in violation of this section of the Bylaws, to please let us know if you're interested in remaining on the HCC, or if your position is vacant.

Motion carries.

HCC Publicity:

Our bylaws also state that it is the HCC's responsibility to increase its own knowledge and capability in carrying out its duties and to inform the general public of the activities of the HCC. Further, that is the responsibility of the individual Neighborhood Councils to give public notification of all vacancies.

The HCC had 28 possible positions, 11 of which are currently vacant. What can we do to increase awareness and participation? We agreed the best approach is to dedicate our September 27th meeting to strategic planning/marketing for the HCC. We may need to appoint a subcommittee, but we'll start with a brainstorming session of the "full" HCC.

District Reports:

District 1: No representative present.

District 2: George received a letter from a resident about a neighbor's yard that is trash ridden. The information was passed on to Joe Ruby.

District 3: No news to report.

District 4: No news to report.

District 5: Zoning board and planning meetings have been keeping Thom busy; there are 5 subdivisions in various stages of development in his district.

District 6: A City survey crew was spotted at the 6th Ward Park today, but we haven't heard if that site's been officially chosen.

District 7: No news to report.

#### Meeting Schedule:

##### City Commission Meetings:

August 8: Justin Trafton

August 22: Joe Ruby

##### City Admin Meetings:

August 3: Wayne Lewis

August 17: Wayne Lewis

##### Tim Burton's Staff Meeting:

Date TBA: George Hoff

##### Transportation Coordinating Committee (TCC):

August 2: George Hoff

Next HCC Meeting:

There will not be an HCC meeting in August.

The next HCC meeting will be on September 27.

The meeting was adjourned at about 9:25pm.

Respectfully submitted,  
Teresa Klotz  
HCC District 3