

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 30, 2006
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, January 30, 2006 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Smith indicated for the record that Commissioners Cartwright, Oitzinger, Peura, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Teresa Klotz and Matthew Cohn representing the Helena Citizens Council and Anne Pichette representing the Helena Youth Advisory Council.

Pledge of Allegiance

Mayor Smith asked Boy Scout Troop #208 to lead those persons present in the pledge of allegiance.

Minutes

The minutes of the regular City Commission meeting of January 9, 2006 were approved as submitted.

Proclamation

PROCLAMATION

- A. Carroll College Saints Football Team

Mayor Smith presented the Carroll College Saints Football Team proclamation to Coach Mike VanDiest.

State of the City Address

STATE OF THE CITY ADDRESS

Mayor Smith presented the 2006 State of the City Address. A copy is included with these minutes as part of the official record.

Appointments

APPOINTMENTS:

- A. City Commission Board Appointments
- B. City-County Consolidated Planning Board
- C. Transportation Coordinating Committee
- D. Public Art Committee
- E. Helena Housing Authority

Mayor Smith recommended the following board appointments:

Commission Board Appointments –

MAYOR PRO TEM

Sandy Oitzinger

BOARD OF ADJUSTMENT

Three year term - expires December 31, 2007
Paul Cartwright

AUDIT COMMITTEE

One-year term - expires December 31, 2006
Sandy Oitzinger
James E. Smith
Alan Peura

BUSINESS IMPROVEMENT DISTRICT BOARD OF DIRECTORS/HELENA PARKING COMMISSION

No specific term
Alan Peura

CITY COUNTY ADMINISTRATION BUILDING BOARD OF DIRECTORS

One-year term - expires December 31, 2006
Tom Pouliot
City Manager Tim Burton - standing member

CITY-COUNTY BOARD OF HEALTH

No specific term
Sandy Oitzinger

CIVIC CENTER BOARD

No specific term
Tom Pouliot

GATEWAY ECONOMIC DEVELOPMENT

No specific term
Alan Peura

HELENA CHAMBER OF COMMERCE LIAISON

No specific term

LOCAL GOVERNMENT COMMITTEE

James E. Smith

INFORMATION TECHNOLOGY COMMITTEE

No specific term
Paul Cartwright

INFRASTRUCTURE COMMITTEE

No specific term
Paul Cartwright

MONTANA LEAGUE OF CITIES AND TOWNS

No specific term
James E. Smith

PRE-RELEASE SCREENING COMMITTEE

No specific term
Tom Pouliot

PUBLIC ART COMMITTEE

No specific term
Sandy Oitzinger

PEACE OFFICERS STANDARDS & TRAINING COUNCIL (P.O.S.T.)

No specific term
James E. Smith

ROCKY MOUNTAIN DEVELOPMENT COUNCIL

No specific term
James E. Smith

TRANSPORTATION COORDINATING COMMISSION

One year term - expires December 31, 2006
Tom Pouliot
Paul Cartwright

TRANSPORTATION DEMAND MANAGEMENT

No specific term
Will appoint a staff member to be the commission liaison

City-County Consolidated Planning Board – Appointment of Fran Penner-Ray.

Transportation Coordinating Committee – Reappointment of Byron Roberts.

Public Art Committee – Appointment of Marcia Eidel.

Helena Housing Authority – Appointment of Sue Miller.

Public comment Mayor Smith called for public comment, none was received.

Motion **Commissioner Pouliot moved approval of the Commission Board Appointments and appointments to the City-County Consolidated Planning Board, Transportation Coordinating Committee, Public Art Committee and Helena Housing Authority.**
Commissioner Peura seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property (radio system equipment). **Resolution #19314**
C. An amended plat aggregating the vacated remaining 20-foot wide right-of-way of North Street from the east line of 18th Street to the west line of Lot T in Block 32 in the City Park Addition as shown on Document #3072693 into the adjacent lots. Property is legally described as Lots 1, 2 and 3, Block 32 and the S1/2 of vacated North Street, City Park Addition, Helena, Montana; generally located south of the Frontage Road, east of 18th Street, and north of newly named North Street.

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Public Comment Mayor Smith asked for public comment, none was received.

Motion	<u>Commissioner Cartwright moved approval of items A through C on the consent agenda.</u> Commissioner Peura seconded the motion. All voted aye, motion carried.
Communications	COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS Commissioner Pouliot thanked Mayor Smith for his well written, carefully thought out, State of the City Address and commended him on his service as Mayor. Commissioner Oitzinger referred to the methamphetamine problem in the community and noted it is also a workplace safety issue. She spoke of chronic wasting disease in deer and explained it has been discovered that it may be passed on to people dressing deer in the field. When staff and Fish, Wildlife and Parks begin working on an urban wildlife plan for the city, discussion needs to include protocol to protect public employees from this disease. Commissioner Peura noted he is serving on Communities Mobilizing for Change on Alcohol (CMCA), a grant funded, school district committee to prevent underage alcohol abuse. Commissioner Cartwright concurred with Commissioner Pouliot regarding the Mayor's State of the City Address and also spoke of his concerns with Medicare Part D.
Report of the City Attorney	REPORT OF THE CITY ATTORNEY No report was given.
Report of the City Manager	REPORT OF THE CITY MANAGER No report was given.
Report from the Helena Citizens Council	REPORT FROM THE HELENA CITIZENS COUNCIL HCC member Teresa Klotz gave an overview of the January 25, 2006 HCC meeting; officers were elected as well as district chairs. The HCC will sponsor another meth awareness town hall meeting before the end of the school year and also another emergency preparedness seminar.
Zone Change- Lamplighter Motel	CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359, AND AMENDING THE OFFICIAL ZONING MAP THEREOF, FOR A ZONE CHANGE FROM R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT TO B-2 (GENERAL COMMERCIAL) DISTRICT FOR APPROXIMATELY 23,796 SQUARE FEET FOR PROPERTY GENERALLY LOCATED WEST OF MADISON AVENUE BETWEEN KNIGHT STREET AND CANNON STREET. (TABLED FROM DECEMBER 19 TO JANUARY 30, 2006). City Planner Belinda Waters submitted a memo to the Commission that indicated the applicant has requested this item be tabled to February 27, 2006.
Public comment	Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved to table the proposed ordinance amending City of Helena Ordinance No. 2359, and amending the official zoning map thereof, from the City Commission meeting of January 30, 2006 to the City Commission meeting of February 27, 2006 for a zone change from R-2 (Single Family Residential) District to B-2 (General Commercial) District for approximately 23,796 square feet for property generally located west of Madison Avenue between Knight Street and Cannon Street.

Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Skelton Addition-CUPs

CONSIDER RESOLUTIONS GRANTING TWO SIMULTANEOUS CONDITIONAL USE PERMITS (CUP) FOR LOTS 1 AND 2, BLOCK 9, SECOND ADDITION OF THE SKELTON ADDITION, HELENA, MONTANA, TO ALLOW CONSTRUCTION OF (TABLED FROM JANUARY 9, 2006):

- 1) A 145-UNIT RETIREMENT COMMUNITY WITH INDIVIDUAL APARTMENTS FOR RESIDENTS 55 YEARS OF AGE AND OLDER WHICH INCLUDES A REQUEST FOR A VARIANCE FROM THE LOT AREA REQUIREMENTS ON THE NORTHERN PORTION OF THE PROPERTY; AND
- 2) A 33-FOOT HIGH BUILDING THAT EXCEEDS THE 24-BUILDING HEIGHT LIMITATION OF THE R-O DISTRICT.

Staff Report

City Planner Kathy Macefield reported on January 9, 2006 the City Commission tabled action on resolutions granting two conditional use permits (CUP) for the same property generally located east of McHugh Lane and north of Road Runner Drive to allow construction of:

- 1) A 145-unit retirement community with individual apartments for residents 55 years of age and older which includes a request for a variance from the lot area requirements on the northern portion of the property; and
- 2) A 33-foot high building that exceeds the 24-building height limitation of the R-O District.

The Commission tabled action on the CUPs due to questions that were raised related to the Skelton Addition covenants. A memo regarding restrictive covenants and zoning from City Attorney Nielsen was included in the Commission packet. After the January 9th meeting the applicant revised the site plan to increase the length of the building while keeping the southern portion of the building at two stories. Therefore, staff recommended the City Commission table the proposal so the Zoning Commission can review the revised site plan and consider new information related to the covenants at their February 14, 2006 meeting.

Commission comment

Commissioner Pouliot asked if the applicant is agreeable to tabling the proposal? Ms. Macefield stated the applicant had been concerned that the new timeframe might affect the sale of the property but had been assured by the seller that it wouldn't.

- Public comment Mayor Smith called for public comment, none was received.
- Motion** Commissioner Cartwright moved to table a resolution granting a CUP for Lots 1 and 2, Block 9, Second Addition of the Skelton Addition, Helena, Montana to allow construction of a 145-unit retirement community with individual apartments for residents 55 years of age and older to allow reconsideration by the Zoning Commission to the call of the City Manager. Commissioner Peura seconded the motion. All voted aye, motion carried.
- Motion** Commissioner Cartwright moved to table a resolution granting a CUP for the same property to allow a 33-foot high building that exceeds the 24-foot building height limitation of the R-O District for property described in Motion #1, to allow reconsideration by the Zoning Commission to the call of the City Manager. Commissioner Peura seconded the motion. All voted aye, motion carried.
- HATS Budget** CONSIDER THE PROPOSED OPERATING BUDGET FOR THE HELENA AREA TRANSIT SERVICE (HATS) AND HELENA TROLLEY AND AUTHORIZE STAFF TO COMPLETE AND SUBMIT THE FY'07 SECTION 5311 TRANSPORTATION ASSISTANCE GRANT APPLICATION.
- Staff Report** Transportation Superintendent Ed Robinson reported the Fiscal Year 2007 Section 5311 Transportation Assistance Grant is a primary funding source for the HATS Bus system. The grant application is due February 10, 2006. Notice of the grant request was advertised in the Independent Record on January 20 and 27, 2006.
The proposed budget would cover the cost of operations for the HATS/East Valley/North Valley/Head Start bus service and the Helena Trolley for FY2007. The total proposed operating budget is \$1,001,155.00. The requested federal match for the projected budget is \$582,484.00.
Capital expenditures proposed for the HATS system include five new passenger buses and additional funding for the new transit facility. The city's portion of these acquisitions is \$218,450.00. The federal grant appropriation would be \$1,150,500.00.
Mr. Robinson recommended approval of the FY2007 operating budget and explained the proposed budget is based on historical and projected costs for new services that have been included in the preliminary budget. The budget incorporates some recommendations identified in the 2001 Greater Helena Area Five Year Transit Plan Update.
- Commission comment** Commissioner Peura asked what source of revenue the anticipated local match would be? Mr. Robinson stated the sale of the existing transit site in the Great Northern area would provide the majority of the funding.
- Public comment** Mayor Smith called for public comment, none was received.

Motion

Commissioner Pouliot moved approval for the proposed operating budget for the Helena Area Transit Service and Helena Trolley and authorized staff to complete and submit the FY2007 Section 5311 Transportation Assistance Grant application.

Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Washington/Custer Intersection

CONSIDER UTILITY EASEMENT DEDICATIONS AND THE DONATION OF CITY-OWNED PROPERTY FOR THE WASHINGTON/CUSTER INTERSECTION RELOCATION.

Staff Report

Public Works Director John Rundquist reported the City of Helena, Montana Department of Transportation (MDT), and Northwestern Energy have been working with property owners in the vicinity of the Washington Street and Custer Avenue intersection relative to the relocation of the intersection in preparation for the Custer Interchange Project, and in coordination with current land development proposals. The relocation will ultimately connect Washington Street with the existing frontage road north of Custer Avenue.

Although developers on both sides of Custer have agreed to pay for the intersection relocation with their development proposals, the relocation of electric power poles in the intersection has been an impediment to the work. The interchange will ultimately require a complete reroute of area power supplies and the parties have been working toward the permanent relocation rather than a temporary one that would have to be moved again in a few years. The utility locations require new easements from properties in the area and Northwestern Energy has secured easements from all of the property owners except the City of Helena.

MDT has agreed to provide \$300,000 toward the utility relocation. Developers are paying for the intersection construction and traffic signal relocation. Northwestern Energy has asked the city for dedication of easements and a donation of city property for a future substation as the city's contribution toward the utility relocation effort.

Staff is recommending the city dedicate easements and donate approximately 1.3 acres of unused city property for a future substation as the city's contribution toward the utility relocation effort. A recent appraisal indicates this property is worth about \$40,000.

The relocation coordinates power lines with future transportation and utility corridors in advance of the construction of the new Custer Interchange. The relocation is necessary for the realignment of Washington Street at Custer Avenue, which can now be constructed by adjacent property developers. Permanent relocation of overhead power lines and realignment of Washington Avenue now will save on construction and utility relocation costs when the new interchange is constructed. A new substation at the proposed location and relocation of overhead power lines will allow for removal of a Northwestern Energy substation near Custer Avenue and Villard Street which is necessary for the future widening of Custer Avenue in accordance with the Transportation Plan.

City Manager Burton commended Director Rundquist for his work on the project.

Public comment

Mayor Smith called for public comment.

Jason Merkel, 1315 North Main, representing Northwestern Energy; spoke in support of the easement dedications and conveyance of property. He thanked Ryan Leland and Director Rundquist for their work on the project.

Motion

Commissioner Pouliot moved to approve easement dedications to Northwestern Energy for relocation of overhead transmission and distribution lines. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Motion

Commissioner Pouliot moved to authorize conveyance to Northwestern Energy of a parcel of property 250 feet by 280 feet for installation of a future substation. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Artisan Park- Intent to Annex

CONSIDER A RESOLUTION OF INTENTION TO ANNEX TRACTS B, C, D AND F ON COS #3038131; AND TRACTS E-1 AND M ON COS# 3063320, LEWIS AND CLARK COUNTY, MONTANA, ALSO KNOWN AS THE ARTISAN PARK MAJOR SUBDIVISION, AND THE FULL WIDTH OF THE ADJACENT WILLIAMS STREET AND COUNTRY CLUB AVENUE RIGHT-OF-WAY INTO THE CITY OF HELENA AND ESTABLISH CONDITIONS FOR ANNEXATION; PROPERTY IS GENERALLY LOCATED EAST OF FORT HARRISON, SOUTH OF COUNTRY CLUB AVENUE, WEST OF THE ARCHIE BRAY FOUNDATION, AND NORTH OF TENMILE CREEK.

Public Hearings

PUBLIC HEARINGS

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING ARTISAN PARK SUBDIVISION TO R-2 (SINGLE-FAMILY RESIDENTIAL) AND B-1 (NEIGHBORHOOD BUSINESS) DISTRICT; PRIOR TO ANNEXATION TO THE CITY OF HELENA, MONTANA FOR PROPERTY GENERALLY LOCATED EAST OF FORT HARRISON, SOUTH OF COUNTRY CLUB AVENUE, WEST OF THE ARCHIE BRAY FOUNDATION, AND NORTH OF TENMILE CREEK.

B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) FOR A PLANNED UNIT DEVELOPMENT (PUD) CONTAINING A MIXTURE OF SINGLE-FAMILY, TOWNHOUSES, AND COMMERCIAL USES IN A R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT AND B-1 (GENERAL COMMERCIAL) DISTRICT FOR PROPERTY GENERALLY LOCATED EAST OF FORT HARRISON, SOUTH OF COUNTRY CLUB AVENUE, WEST OF THE ARCHIE BRAY FOUNDATION, AND NORTH OF TENMILE CREEK.

C. CONSIDER THE PRELIMINARY PLAT FOR THE PROPOSED ARTISAN PARK MAJOR SUBDIVISION CREATING 734 LOTS (586 RESIDENTIAL LOTS, 127 MIXED USE RESIDENTIAL/COMMERCIAL LOTS AND 21 LOTS FOR PARKLAND) FROM 207.9 ACRES GENERALLY LOCATED EAST OF FORT HARRISON, SOUTH OF COUNTRY CLUB AVENUE, WEST OF THE ARCHIE BRAY FOUNDATION, AND NORTH OF TENMILE CREEK.

Staff Report

City Planner Lucy Morell-Gengler reported the owners of this property, HSR Investment, LLC; Schatz Ranch, LLC; the Estate of Edna R. Schatz; and Marilyn T Rigler Trustee, have requested annexation for 207.9 acres into the City of Helena. HSR Investment, LLC proposes to subdivide the property into 734 lots. The property is not currently located adjacent to existing City limits; the annexation of Country Club or Williams Street and Highway 12 right-of-way would create a contiguous link with the City.

The proposed resolution of intention to annex allows the city to establish conditions for annexation as an intermediate step toward the finalization of annexation.

Ms. Morell-Gengler added this proposal is accompanied by three simultaneous proposals affecting the same property:

- 1) Pre-zoning to R-2 (Single-Family Residential) District and B-1 (Neighborhood Business) District;
- 2) Major Subdivision /Preliminary Plat for proposed Artisan Park Subdivision creating 586 residential lots, 21 park lots and 127 mixed use residential/commercial lots; and
- 3) Conditional Use Permit for a Planned Unit Development to allow greater building heights, density and intensity of uses than would be permitted by the R-2 and B-1 underlying zoning.

Ms. Morell-Gengler recommended approval of the resolution and noted the proposed annexation and subdivision would develop an area that is near the city with urban density residential uses and neighborhood commercial uses. This annexation and subdivision would reduce sprawl and ease some of the pressure to develop lots in the county with septic systems, which could have a negative impact on ground water. Annexation allows city standards to be applied to development of this property.

Ms. Morell-Gengler further reported the applicant is requesting the adoption of an ordinance pre-zoning to R-2 (Single-Family Residential) and B-1 (Neighborhood Business) District the Artisan Park subdivision prior to annexation to the City of Helena, Montana. On December 13, 2005, the Zoning Commission unanimously recommended (5:0 vote) approval for the adoption an ordinance pre-zoning prior to annexation into the City of Helena, Montana to:

- R-2 (Single-Family Residential) District for Block 1; Blocks 4 through 14; Lots 1 through 16 in Block 15; Lots 1 through 4 in Block 16; and Blocks 23 through 56; and
- B-1 (Neighborhood Business) District for Blocks 2 and 3; Lots 17 through 19 in Block 15; Lots 5 through 8 in Block 16; and Blocks 17 through 22; all as shown on the preliminary plat for the proposed Artisan Park subdivision.

The City of Helena Zoning Ordinance requires property to be pre-zoned prior to annexation. The Zoning Commission recommendation slightly amends the applicant's boundaries of the R-2 and B-1 districts to mitigate the impact to existing residences on Williams Street. The

recommended zoning would not require any changes to the proposed preliminary plat.

Ms. Morell-Gengler recommended approval of the ordinance and stated the proposed zoning would allow residential and commercial development in accordance with city zoning on property in close proximity to the city. This annexation would allow the extension of city services and infrastructure to the area assuring compliance to city approved infrastructure plans, building codes, fire codes and stormwater plans.

Ms. Morell-Gengler stated the applicant is also requesting a resolution granting a CUP to allow a PUD, which would provide greater flexibility to the underlying R-2 and B-1 zoning requirements for the Artisan Park major subdivision.

On December 13, 2005, the Zoning Commission recommended (3:2 vote) approval for the adoption of a CUP to allow a Planned Unit Development (PUD) to be located in a R-2 (Single Family Residential) and B-1 (General Commercial) District, including the permitted uses, lot sizes, lot widths, building setbacks, lot coverage, and building heights as proposed in Part V of the November 2005 Artisan Park Environmental and Community Impact Assessment as amended by the conditions. Said property is legally described as Tracts B, C, D and F on COS #3038131; and Tracts E-1 and M on COS# 3063320, Lewis and Clark County, Montana; generally located east of Fort Harrison, south of Country Club Avenue, west of the Archie Bray Foundation, and north of Tenmile Creek. Said CUP approval must be subject to the following conditions:

1. To comply with the intent of a Planned Unit Development and the City of Helena Growth Policy, a 200-foot wide setback from Tenmile Creek which prohibits the construction of any structures including fences, must be established; a roadway, located at least 75 feet from the creek, may be constructed in this setback area.
2. The installation of any stormwater detention basins and drainages must meet all City of Helena standards; detention basins located in parks must be blended into parkland landscaping.
3. The building heights for Lots 1-20 in Block 1, as shown on the preliminary plat for the Artisan Park major subdivision, must not exceed 24 feet.
4. The proposed changes to the standard requirements of the underlying R-2 and B-1 zoning must be included in the covenants for the Artisan Park subdivision.
5. All conditions of annexation and subdivision for the Artisan Park development must be met prior to issuing a building permit for this PUD.

The proposed PUD would have several design elements that are different from those typically allowed in the R-2 (Single Family Residential) and B-1 (General Commercial) Districts: 16-foot to 22-foot wide front yards instead of 20 feet; 5-foot wide side yards instead of 8

feet; 50% of the lot could be covered with single-family structures instead of 30%, and up to 60% of the lot for townhouses instead of 40%; 30-foot to 36-foot building heights for single-family and townhouse residences instead of 24 feet; 36-foot to 45-foot building heights for multi-family and commercial uses instead of 24 feet. Secondary dwelling units referred to as "granny flats" in the Environmental Assessment (EA) would also be permitted in the R-2 District, and a number of additional commercial uses would be permitted in the B-1 District including a hotel.

Ms. Morell-Gengler stated the proposal allows greater design flexibility, creates a walkable mixed-use community, and would provide a variety of housing options in close proximity to neighborhood commercial uses. The proposed changes to the R-2 and B-1 zoning district requirements could allow a more efficient and diverse community than might otherwise be developed.

Regarding the proposed preliminary plat, on January 3, 2006 the Consolidated Planning Board held a public hearing for a major subdivision/preliminary plat, to be known as Artisan Park Subdivision. The Planning Board adopted two changes to the conditions recommended by staff. The Planning Board recommended conditional approval (6:1 vote) for the preliminary plat of the Artisan Park Major Subdivision creating 734 lots from 207.9 acres proposed to be located in a R-2 (Single-family Residential) District and B-1 (Neighborhood Business) District, and to adopt the Findings of Fact and the amended conditions contained therein for property legally described in the Findings of Facts.

Development at the proposed urban density could lower some of the pressure to develop property in the county and, as a result, reduce sprawl. The proposal would provide single-family detached housing and multifamily uses which would provide a variety of housing types in the City. The proposed PUD would incorporate neighborhood commercial uses near residential uses, thus encouraging a more walkable development.

City Manager Burton referred to a map of the area and spoke of adjacent properties that have approached the city regarding annexation. He discussed water quality issues in the area and the city's intention to improve the neighborhoods through retrofit and development agreements.

Manager Burton also addressed road conditions in the area. Future improvements to Country Club Avenue are critical whether it lies in the city or county. Discussion regarding this has occurred between the city, county and developers. The conditions for approval leave options available to form a proposal, prior to final plat, for improvements to Country Club Avenue and Williams Street, all the way to Highway 12. He added that Fort Harrison would like to close Williams street in front of their property for security reasons. The city ordinance regulating street vacations requires compensation for closures; the minimum cost for said portion would be at a minimum \$720,000, per the formula contained in the ordinance. He then outlined potential road configurations and improvements that could result from a partnership between the city, county, Fort Harrison and the developers. He summarized the subject under Commission consideration tonight is sustainable growth.

Commission comment

Commissioner Cartwright asked if the Commission could table the proposal without conflicting with the timeframe set by state statute? Ms. Morell-Gengler stated the timeframe relates to subdivision review,

the Commission could table the proposal to February 13, 2006; the sixty-day limit would be just following that date. Commissioner Cartwright disclosed an adjacent property owner had contacted him regarding the subdivision.

He asked City Attorney Nielsen if the Environmental Assessment could've been read at the time it was submitted to staff or if the Planning and Zoning Boards have to meet and consider the proposal first. City Attorney Nielsen stated it could've been read once it was submitted to staff. Commissioner Cartwright asked if Commission members can attend Planning Board and Zoning Commission meetings? City Attorney Nielsen stated yes.

Commissioner Peura asked if there has been a fiscal analysis on the projected additional costs this subdivision would incur on the city's budget, such as public safety, police and fire services or street maintenance? City Manager Burton stated the city doesn't necessarily demonstrate a cost benefit analysis by subdivision. There has been some preliminary discussion regarding tax base. This property is already in the Kenwood Fire Service District and the city is in a contract with Lewis and Clark County to provide fire protection to the area. As the city continues to grow, discussions need to be held with the Police and Fire Chief to determine what staffing levels need to be provided. Projections from accounting staff have shown real financial growth based on new construction and expansion of the city. City Manager Burton noted the draft Fire Service Review study is a couple months away from completion and will be brought forward for Commission review. He summarized that the city is projecting additional costs for services on a regional basis instead of a per subdivision basis. City Manager Burton also spoke regarding impact fees.

Commissioner Peura asked about the wastewater capacity study the developer is required to perform as a condition; would that contemplate all of the recent subdivisions and annexations that the Commission has approved? City Manager Burton explained the applicant must find what their subdivision's impact would be on the present wastewater treatment system and mitigate it. If the preliminary plat is approved the applicant would hire an engineer and perform the study.

Commissioner Peura referred to the staff report, which cites a disadvantage of the proposal is that the property is not contiguous. Why did staff determine that annexing a non-contiguous parcel is a disadvantage? Ms. Morell-Gengler stated it was identified as a disadvantage because the provision of city services is easier to obtain when there is a contiguous route, preferably a roadway. Commissioner Peura referred to adjacent properties that have not been annexed into the city and were not identified as properties currently wishing to come into the city and asked if there was any information on when they might apply for annexation? City Manager Burton stated he has only engaged in discussion with property owners that have approached the city regarding annexation.

Commissioner Oitzinger asked if the property is not annexed and developed to city standards, could the applicant develop the property in the county? City Manager Burton stated the applicant could change the design and develop it to county standards. Commissioner Oitzinger stated by allowing this development within the city it may provide some potential wherewithal to other properties interested in annexation in the same area. City Manager Burton concurred relative to sustainability.

Commissioner Peura referred to proposed joint city/county standards and asked if it is conceivable that the applicant could develop in the county with the same standards that the city would require? City Manager Burton stated the county cannot require development to city standards because they don't have a water or sewer treatment plant; however the Commission could change the ordinance governing the ability to use those services. The question before the Commission tonight is what's in the best interest of the ratepayer and the general taxpayer within the city of Helena- to parcel out partial city services, or to save those services for new development that will be built to city standards? Commissioner Peura asked how the TMDL concerns are being factored into potential stormwater issues in the area? Director Rundquist gave the background of the city's stormwater ordinance and referred to the Lake Helena Watershed Study which has noted one of the biggest problems relative to watershed is gravel roads within the county. He added he is unsure of how the results of the TMDL study will affect regulations but staff will be a part of it as it comes forward.

Commissioner Cartwright asked what the market value is of the land? Ms. Morell-Gengler stated she did not know.

Commissioner Cartwright asked Police Chief McGee what additional employees and time would be required to serve the subdivision? Chief McGee responded the subdivision would take time to be fully developed but once that occurs it will put pressure on the Police Department. Discussions with the City Manager have occurred relating to manpower needs for the future. Commissioner Cartwright asked if annexation on the westside would require additional funding in the fiscal year 2007 budget? City Manager Burton stated no, until the Fire Service Review is completed and discussion is held regarding impact fees no new positions will be added. Commissioner Cartwright referred to the sewer system study the applicant must perform using the Fort Harrison lift station and asked why the study doesn't include mains reaching all the way back to the Wastewater Treatment Plant to ensure adequate space? Director Rundquist explained the developer is being required to study the lift station at Fort Harrison and make any necessary improvements because it is the main constriction that could potentially exist and the city is under contract to provide a guaranteed capacity to the fort.

Commissioner Cartwright referred to the conflicting amount between the 7,000 lots the Commission has approved and projected growth listed in the Transportation Plan and asked if the developments don't build out what happens to services the city provides? City Manager Burton noted the 7,000 lots are based on subdivisions filing final plats and explained some of the developers have 15 to 20 year market strategies. Based upon the preliminary plat, the subdivision will either perform with the conditions that the Commission has established and file a final plat; or remain as undeveloped property, which should not affect the city.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Chuck Rippas, 502922 Southeast Place, Bothell WA; Jeff Rhoades, 919 East Bonneville, Las Vegas NV, applicants; spoke in support of the subdivision and gave an overview of the proposed development.

Josh DeWeese, Executive Director of Archie Bray Foundation; submitted a written statement and asked that the city require major utilities be installed on the eastern boundary of the property and urged the Commission to improve both Williams Street and Country Club Avenue.

Mike Harris, Facilities Manager, VA Fort Harrison; stated Fort Harrison does not oppose the development but would like clarification of the rights to the water line, and if the rights are given to the city, Fort Harrison would like compensation. He also expressed concern for runoff in the area caused by snowfall.

Ray Prill, Grizzly Gulch; stated the development is a great idea but urged the Commission to upgrade Country Club Avenue.

Chip Clawson, 202 Pine Street; stated he supports the proposed subdivision but urged the Commission to upgrade Country Club Avenue. He also clarified that the Archie Bray does not wish to annex into the city but believes this subdivision is smart growth.

Col. Kevin Collins, 1900 Williams Street; representing Adjutant General Mosely; stated Fort Harrison supports the proposed development but spoke in opposition to the preliminary plat because of stormwater and access issues.

Dick Thweatt, 36 Harrison, representing Plan Helena; spoke in support of the proposal and urged the Commission to assist the County in remedying their water quality issues.

Dave Madden, 2015 Williams Street; spoke in support of the development but warned that Fort Harrison uses very bright lights that are on 24 hours a day.

Grant Scott Buswell, 2767 Country Club Avenue; urged the Commission to consider extending and using Head Lane for access to the proposed subdivision.

There being no further persons wishing to address the Commission, Mayor Smith closed the public hearing.

Discussion

Commissioner Peura asked Col. Collins what the status is of the Department of Defense sponsored, joint land use study referenced in the Commission packet? Col. Collins stated the National Guard Defense Bureau is reviewing the request and awaiting funding.

Commissioner Pouliot asked Col. Collins if he was referring to runoff on the southern side of the fort along Williams Road in his public testimony? Col. Collins concurred and stated they have done studies and are looking at using holding ponds and burms to mitigate problems, depending on the status of Williams Street.

Commissioner Cartwright asked Mr. Madden if his neighborhood would be interested in a buyout of their land? Mr. Madden responded yes, he believes all or most of the neighbors would be interested in selling their property at some point in time.

Commissioner Pouliot asked Mr. Roupas if they have considered closing the portion of Williams Street that runs in front and north of Fort Harrison? Mr. Roupas stated they believe they can make it work.

Mark Brook, Morrison-Maierle, representing the applicant; referred to stormwater issues in the area and stated the developer has agreed to address and correct the problems. Also, the applicant is willing to work with the city and county as a public-private partnership to address the issue of improvements to Country Club Avenue.

Mayor Smith referred to Mr. Harris' comments about the water line Fort Harrison owns in the area and asked for an explanation. City

Manager Burton stated in fact the Veteran Administration does own the pipe; the agreement goes back to the 1960's. As far as he can tell by the history, the city did a favor to the fort. When running the new line in from Ten Mile Creek, the fort requested water and a deal was made where they would pay for the stub-out pipe and maintain it. The pipe does dead-end and Director Rundquist has recommended a looping design to provide water to additional properties in the area.

Commissioner Peura read the following statement into the record:

The decision about whether the City of Helena should annex the 200 plus acres in what is called the Artisan Park project, that decision is at the total discretion of the City Commission, in accordance to the ruling statute (7-2-4311 MCA, et.seq.). And the Commission's discretion is to be based on the Commission's determination as to whether that annexation is or is not in "the best interest of the city." This standard and the sole discretion of the City Commission are well documented in the case law related to this annexation statute.

With this statute and this standard in mind, I think we need to take a holistic view of all our recent annexations and subdivisions, and thus I am opposed to the proposed intent to annex Artisan Park and find that this proposal is not in the best interest of the city of Helena at this time for six specific reasons:

1. The lack of a contiguous boundary with the city limits
2. The fiscal impact and potential costs to provide city services to all our annexed projects
3. The impact on economic development opportunities and the housing market
4. Not part of our current, operational growth policy map
5. Incompatible use regarding the proximity to Fort Harrison
6. Unsettled issues related to traffic and congestion, and the impact on public safety

❖ There is no contiguous boundary with the city limits of Helena (as cited by our staff report as a distinct disadvantage of this proposal) so that this annexation will contribute to an uneven, checkerboard development pattern of city and non-city lands which is in fact an outcome that the city has been working to eliminate with our annexation policies and decisions over the past several years. Non-contiguous lands also create an inefficient configuration for providing city services; we should not ignore our own policy and approve this leapfrog development pattern.

❖ I am concerned about the fiscal impact of this proposed annexation and the cost impact of having to extend all city services to this non-contiguous area. In considering the impact of city services we must not look only at this specific proposal in isolation, we must consider all of the other annexations and subdivisions that this Commission has approved and be prepared to project what the total impact on city services will be, in particular the costs. We are currently committed in various stages, by recent decisions of this Commission, to extend all city services to Aspen Trails to the northeast, to Mt. View Meadows and Padbury Ranch east as far as East Helena, as well as to Nob Hill, all of which will likely grow very quickly once the south Helena interchange is completed next year. In addition, we have Overlook Estates to the west,

near Kessler School, and there is Golden Estates and Skelton to the north. I am concerned about the city's fiscal ability to provide services to this already dramatic increase in size of Helena, in particular our fiscal ability to provide public safety services, such as fire protection and police. It is likely that, taken as a whole, these expansions will require a new fire station and equipment, as well as more fire staff, and likely more police vehicles, equipment and staff. There is also the additional street maintenance costs and other services (we are already struggling to fund needed street maintenance projects in Helena, before adding these additional road miles). I do not believe that another large, major annexation is in the best interest of Helena at this time because it is not clear that we have the fiscal capacity to be extending city services across this total expanded footprint.

❖ I am also concerned about the affect of this annexation on economic development and housing market. According to a recent report, there are approximately 7,000 new residential lots that have received some level of approval for annexation and subsequent city services. I am concerned about the economics of obligating so much land to so much residential development, at the potential cost of having insufficient land available for economic development projects. The Helena Growth Policy, in chapter five, talks about opportunities to expand the employment sector and economy in the areas of regional trade and transportation facilities, in some manufacturing, in telecommunications, as well as the services sectors such as finance. Also according to the 2001 Growth Policy, Helena has approximately 4,800 owner occupied housing units and 4,300 renter-occupied housing units. As stated above, before Artisan Park, we have some 7,000 additional residential lots already in some stage of development. While the Growth Policy calls for more build able housing lots in Helena, it does not state a specific goal number, but I cannot believe that Helena needs to almost double the number of housing lots available to sustain anticipated growth. What if the housing market tumbles and we have all this land tied up, committed to residential development. Therefore, I do not believe that this annexation is in the best interest of the Helena housing market nor the best economic mix of land use for economic development.

❖ As our staff report states, the Artisan Park area is not on the current Growth Policy map that is intended to recommend areas to be developed with city services. On the other hand, at this moment the city and county are cooperating in a process of reviewing urban development boundaries, with the intention of creating updated map boundaries to delineate where it makes fiscal and land-use sense to develop. It may well be that this updated urban development boundary will include the Artisan Park project area. But, in the meantime, I do not believe it is in the best interest of the city to circumvent that city-county mapping project and ignore the existing growth policy map, so I do not believe this annexation is in the best interest of the city for this reason as well.

❖ I am also concerned about the incompatible proximity of developing \$200,000 priced homes adjacent to Fort Harrison, concerns also raised in a letter we received from MT National Guard General Randy Mosley. Fort Harrison was built distant from the city with great intention, in order to minimize the impact of military training operations

proximate to residential life. I believe that more consideration needs to be given to create a buffer between these two uses and I think this issue deserves more study, as General Mosley suggests. In addition, getting back to the Growth Policy related to economic development, I cannot help but think that land adjacent to Fort Harrison would be better suited for a commercial or business use. Until more study can be done on the concept of a buffer between Fort Harrison and this proposed large housing development, I do not believe annexation is in the best interest of the city.

❖ Finally, I have concerns about the impact of this annexation and development on traffic patterns and congestion in this area. Both Williams Street and Country Club Road are not adequate to handle projected traffic volumes. And since annexation is not contiguous to the city, there is non-city land between the city limits and the development. This creates too many variables related to critical road improvements that are not within the direct control of the city or the developer. With traffic congestion comes concerns about public safety, police and fire access to this area, so again I do not believe this annexation is in the best interest of the city of Helena.

Therefore, with all of these reasons in mind, and with clear authority from the ruling statute on annexation, I conclude that this annexation is not in the best interest of Helena at this time and therefore I would move that the Helena City Commission deny this request for intention to annex.

Motion

Commissioner Peura moved to deny a resolution of intention to annex Tracts B, C, D and F on COS #3038131; and Tracts E-1 and M on COS# 3063320, Lewis and Clark County, Montana, also known as the Artisan Park major subdivision, and the full width of the adjacent Williams Street and Country Club Avenue right-of-way, into the City of Helena as legally described in the resolution of intention to annex into the City of Helena, and establish conditions for annexation as stated in the resolution.
Commissioner Pouliot seconded the motion.

Comment

Commissioner Pouliot stated he would not support the annexation because it is not contiguous and because of access issues to the property.

City Manager Burton stated the 7,000 lots referenced throughout the meeting include this proposed subdivision.

Commissioner Oitzinger stated she would not support the motion because of water issues on the westside of Helena, she believes this is a way to remedy the situation.

Mayor Smith stated he would not support the motion because he believes this is sustainable development.

Commissioner Cartwright referred to a map he brought that showed the "metropolitan area" of the city in order to show that the proposed subdivision is closer to the city center than other subdivisions the Commission has approved. He added it seems we are making a deal with the future, trading capital improvements for operational exposure. He wishes the Commission had a more rigorous growth plan but he would rather see this proposal go forward than not.

- Vote** Motion failed 2-3, with Commissioners Cartwright, Oitzinger and Mayor Smith voting no.
- Motion** Commissioner Oitzinger moved approval for a resolution of intention to annex Tracts B, C, D and F on COS #3038131; and Tracts E-1 and M on COS# 3063320, Lewis and Clark County, Montana, also known as the Artisan Park major subdivision, and the full width of the adjacent Williams Street and Country Club Avenue right-of-way, into the City of Helena as legally described in the resolution of intention to annex into the City of Helena, and establish conditions for annexation as stated in the resolution. Commissioner Cartwright seconded the motion. Motion carried 3-2, with Commissioners Pouliot and Peura voting no. **Resolution #19315**
- Motion** Commissioner Oitzinger moved approval for an ordinance pre-zoning prior to annexation into the City of Helena, Montana to: R-2 (Single-Family Residential) District for Block 1; Blocks 4 through 14; Lots 1 through 16 in Block 15; Lots 1 through 4 in Block 16; and Blocks 23 through 56; and B-1 (Neighborhood Business) District for Blocks 2 and 3; Lots 17 through 19 in Block 15; Lots 5 through 8 in Block 16; and Blocks 17 through 22; as shown on the preliminary plat for the proposed Artisan Park subdivision, for property legally described in the ordinance. Commissioner Cartwright seconded the motion.
- Comment** Commissioner Peura stated he would not support the motion for public policy reasons and because he believes it would adversely affect the general welfare of the public.
- Vote** Motion carried 3-2, with Commissioners Pouliot and Peura voting no. **Ordinance #3051**
- Discussion** Commissioner Cartwright discussed adding a zoning overlay to the property. City Attorney Nielsen explained zoning has to be done on a community wide basis and it is illegal zoning to have special zoning for special pieces of property. A zoning overlay could be added by creating a comprehensive zoning plan, which would need to be considered through public hearings.
Commissioner Cartwright asked the developers if they would be agreeable to protecting Fort Harrison, specifically the lights and noise, and also ensuring that the Archie Bray's current operations would not be compromised. Mr. Rhoades agreed.
- Motion** Commissioner Oitzinger moved approval of a resolution granting a Conditional Use Permit to allow a Planned Unit Development (PUD) to be located in a R-2 (Single Family Residential) and B-1 (General Commercial) District, including the permitted uses, lot sizes, lot widths, building setbacks, lot coverage, and building heights as proposed in Part V of the November 2005 Artisan Park Environmental and Community Impact Assessment as amended by the conditions of this CUP for property legally described in the staff report. This approval is subject to the conditions recommended by the Zoning Commission as stated in the staff memo to the City Commission. Commissioner Cartwright seconded the motion.

- Comment** Commissioner Pouliot stated he would not support the CUP because he believes the allowable building height of 45 feet is too tall. Commissioner Peura stated he would support the motion because he believes this is a smart growth development.
- Vote** Motion carried 4-1, with Commissioner Pouliot voting no.
Resolution #19316
- Motion** **Commissioner Oitzinger moved conditional approval of the preliminary plat for the Artisan Park major subdivision creating 734 lots from 207.9 acres, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Facts.** Commissioner Cartwright seconded the motion.
- Discussion** Commissioner Pouliot stated he would support Country Club Avenue as the primary access road to the subdivision. Commissioner Peura stated both Williams Street and Country Club Avenue need to be developed to city standards. City Manager Burton noted according to Montana subdivision law, the applicant can pick the primary access route to the subdivision. He reiterated all of the issues regarding access can't be resolved tonight. The developer has agreed to change the focus for primary access from Williams Street to Country Club Avenue and staff will work with the developers and Fort Harrison to work out these issues. Mayor Smith stated he would not support an SID to improve Country Club Avenue. Commissioner Cartwright stated he is satisfied that the conditions on the plat will ensure that Country Club Avenue is improved. Commissioner Peura expressed grave concern for the wildlife corridors between the Scratchgravel Hills and the Mount Helena area and added the city needs to review subdivision proposals holistically. He urged the developers to consider developing the land in accordance with recommendations provided by Montana Fish, Wildlife and Parks. He also indicated that he foresees Country Club Avenue will not be improved as the Commission desires.
- Vote** Motion carried, 4-1 with Commissioner Pouliot voting no.
- Public Communications** PUBLIC COMMUNICATIONS
Keith Allen, PO Box 466, IBEW Representative; spoke of issues the Water Plant Operators are having with their labor contract. City Manager Burton explained the grievance to the Commission. City Attorney Nielsen noted according to the City of Helena Charter the union's contact is City Manager Burton and not the Commission.
- Meetings of Interest** MEETINGS OF INTEREST
The next Joint Work Session is February 2, 2006; Administrative Meeting is February 8, 2006; and the next Commission Meeting is February 13, 2006.
- Adjournment** There being no further business to come before the Commission, the meeting was adjourned at 11:20p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission