

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
December 4, 2006  
6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, December 4, 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 Throssell were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Ken Saunders representing the Helena Citizens Council.

***Pledge of Allegiance***

Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance.

***Minutes***

The minutes of the regular City Commission meeting of November 20, 2006 were approved as submitted.

***Appointments***

APPOINTMENTS:

- A. Building Board of Appeals
- B. Joint City/County Impact Fee Committee

Mayor Smith asked for Commission concurrence on the following appointments:

**Building Board of Appeals** – Reappointment of Jim C. Whaley and James D. Wolfe

**Joint City/County Impact Fee Advisory Committee** – Appointment of Bill Pierce, Ron Bartsch, Roxanne Lincoln and Stephanie Wallace

Public comment

Mayor Smith called for public comment, none was received.

***Motion***

**Commissioner Throssell moved approval of the appointments to the Building Board of Appeals and City/County Impact Fee Advisory Committee.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Consider amending the Right-of-Way (ROW) Use Agreement for the Sidewalk Café at 314 N. Last Chance Gulch
- C. Professional Services Agreement with Big Butte Compost, Inc.
- D. Utility bill insert – Lewis & Clark Library

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** **Commissioner Peura moved approval of items A through D on the consent agenda.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Mayor Smith announced agenda item #13 would be tabled at staff and the applicant's request.  
Commissioner Oitzinger congratulated Commissioner Peura on his second place finish at the annual Turkey Trot race. She spoke of Commissioner Peura and fellow runner Mr. Patrick Judge, who came in third at the Turkey Trot, and is on Commissioner Peura's Montana Cup team.

**Report of the City Attorney** REPORT OF THE CITY ATTORNEY  
No report was given.

**Report of the City Manager** REPORT OF THE CITY MANAGER  
City Manager Burton asked Community Development Director Sharon Haugen to introduce the new Zoning Enforcement Officer. Director Haugen introduced Mr. Elroy Goleman, who will be working on zoning enforcement and annexation for the city. Mr. Goleman expressed his happiness to be working for the City of Helena.

**Report from the Helena Citizens Council** REPORT FROM THE HELENA CITIZENS COUNCIL  
HCC member Ken Saunders reported due to the holiday schedule, the HCC will meet on December 20, 2006 at 7:00pm in City/County Building Room 326 and gave an overview of the agenda.  
Commissioner Oitzinger noted there will be enhanced coverage of City/County Planning Board meetings on HCTV.

**Professional Services Contract** CONSIDER AWARDING A PROFESSIONAL SERVICES CONTRACT FOR DESIGN AND COST ESTIMATION OF THE CO-GENERATION PROJECT AT THE WASTEWATER TREATMENT FACILITY.

**Staff Report**  
Water/Wastewater Superintendent Don Clark reported the Wastewater Treatment Facility burns methane gas into the boiler that provides heat to the digesters. What is not used in the boiler is burned off in the torch above the digester building. This wasted energy is available for generation of electricity that could offset utility costs. Staff solicited qualifications from professional engineering firms to assist with design and installation of a Stirling engine and generator. Two proposals were received and the selection committee chose Camp, Dresser, & McKee, Inc. (CDM), a local engineering firm, as the most qualified.  
Staff has negotiated and recommends approval of a scope of services associated with development of a cogeneration project for the Wastewater Treatment Plant. Because the facility will be able to generate this alternative energy source the amount of energy we purchase from outside agencies will be less. Depending on future electrical costs this savings will help reduce the operating budget. The City of Helena Wastewater Treatment facility would be less dependent on purchased energy and will use the methane produced in an effective and more environmentally friendly manner.

Commission comment Mayor Smith asked if the electricity generated would be sold to a power company or used at the treatment facility? Mr. Clark stated the electricity would be utilized at the treatment plant.

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

**Motion** Commissioner Cartwright moved approval to award an engineering contract with CDM, Inc. not to exceed \$50,000 for the co-generation project as outlined in the scope of services.  
Commissioner Throssell seconded the motion. All voted aye, motion carried.

Comment Commissioner Peura commended the Public Works Department for their effort to be more energy efficient.

**Sidewalk Variance** CONSIDER A SIDEWALK VARIANCE FOR A 5-FOOT BOULEVARD SIDEWALK FOR N. WASHINGTON STREET ADJACENT TO LOT 8 IN BLOCK 95 OF THE NORTHERN PACIFIC ADDITION; GENERALLY DESCRIBED AS PENKAY EAGLES MANOR AT 715 N. FEE STREET.

**ROW Use Agreement** CONSIDER A RIGHT-OF-WAY (ROW) USE AGREEMENT WITH EAGLE MANOR III RESIDENCES LP FOR PARKING ON A PORTION OF THE N. WASHINGTON STREET ROW; GENERALLY DESCRIBED AS PENKAY EAGLES MANOR AT 715 N. FEE STREET.

Staff Report City Engineer Ryan Leland reported the applicant is requesting a variance for a 5-foot boulevard instead of the seven-foot boulevard currently in place along N. Washington Street. The request is in order to accommodate the planned new thirty-unit retirement residence and to allow a portion of the required parking to be on the North Washington Street right-of-way (ROW). The parking would require a ROW Use Agreement. In addition, this variance and ROW Use Agreement are being requested so that the building can be built without the removal of an on-site mature evergreen tree.

The parking stalls would use a portion of the Washington Street ROW adjacent to the applicant's property and would be accessed internally from the applicant's property. Mr. Leland noted approval of the agreement would allow Eagles Manor to expand in accordance with the proposed site plan and comply with on-site parking requirements.

Mr. Leland added the fee associated with the Use Agreement is 5%, per year, of the fair market value of the property; there is a \$50.00 minimum charge. This property's fee amounted to \$47.00 so the applicant would be charged the minimum \$50.00.

Commission comment Commissioner Throssell asked if the sidewalk would be curbside or boulevard? Mr. Leland clarified boulevard.

Public comment Mayor Smith called for public comment.  
Jeff Miller, 210 South Cooke, representing Rocky Mountain Development Council; urged the Commission to approve the proposed variance and ROW Use Agreement.  
Commissioner Cartwright asked Mr. Miller if there would be irrigation installed in the boulevard? Mr. Miller confirmed they expect to install irrigation. Commissioner Cartwright asked staff to report back to

the Commission whether or not irrigation is included in the applicant's landscaping plan when it is submitted.

**Motion** **Commissioner Oitzinger moved approval for a variance for a 5-foot boulevard along N. Washington Street adjacent to Lot 8 in Block 95 of Northern Pacific Addition.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Motion** **Commissioner Oitzinger moved approval for a ROW Use Agreement with Eagles Manor III Residences, LP for parking on a portion of the Washington Street ROW.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Amended Plat-GNTC** CONSIDER AN AMENDED SUBDIVISION PLAT AGGREGATING 6 LOTS INTO 5 LOTS IN THE GREAT NORTHERN PUD, LOCATED IN THE B-3 (CENTRAL BUSINESS) DISTRICT; GENERALLY LOCATED NORTH OF 14TH AVENUE BETWEEN GREAT NORTHERN BOULEVARD AND CAROUSEL WAY.

**Staff Report** Mayor Smith referred to a memo from City Planner Kathy Macefield recommending this item be tabled in order for further clarification regarding public access easements to the existing and proposed lots. He noted staff is working with the applicant on this issue.

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

**Motion** **Commissioner Cartwright moved to table the amended subdivision plat aggregating six lots into five lots located in the B-3 (Central Business) District, for property legally described in the Findings of Fact, Helena, Montana, generally located north of 14<sup>th</sup> Avenue between Great Northern Boulevard and Carousel Way to the call of the City Manager.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Preliminary Plat-Nob Hill Subdivision** CONSIDER PRELIMINARY PLAT APPROVAL FOR A SUBSEQUENT MINOR SUBDIVISION OF THE AMENDED PLAT OF THE NOB HILL SUBDIVISION, PHASE IV, BLOCK 6, LOT 1; GENERALLY LOCATED WEST OF COLONIAL DRIVE AND NORTH OF DEERFIELD LANE.

**Staff Report** City Planner Belinda Waters reported the applicant is requesting approval of a preliminary plat to subdivide a lot into five lots in which three are proposed to be zoned B-2 (General Commercial) District and two will retain the R-3 (Medium density Residential) District.

The applicant proposes that the existing 301,552 square foot lot (6.9 acres) be subdivided into five lots. The three proposed lots that front Colonial Drive are designated for office and general commercial, proposed Lot 4 will house a church and proposed Lot 5 will be multi-family uses.

Ms. Waters recommended approval of the conditional preliminary plat and noted The 2001 Helena Growth Policy promotes more intense and efficient use of land and facilities. The proposed subdivision will provide efficient use of the property by utilizing a vacant lot in the City with in-fill development. Infrastructure (water, sewer, storm water drainage, and streets) to serve the proposed uses are adjacent to the site.

Public comment

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Cartwright moved conditional preliminary plat approval for the amended plat of the Nob Hill Major Subdivision, Phase IV, creating five lots from 6.9 acres with Lots 1, 2, and 3 to be located in a B-2 (General Commercial) District and Lots 4 and 5 in a R-3 (Medium Density Residential) District, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact.** Commissioner Peura seconded the motion.

Discussion

Commissioner Peura referred to the staff report and asked why the applicant must receive approval from Montana Department of Transportation (MDT) for the proposed approaches on Colonial Drive? Ms. Waters explained the property owners entered into an agreement with MDT for the approaches when the subdivision was first reviewed. Since the uses for the lots have changed, MDT will need to review the applicant's proposal again.

**Vote**

All voted aye, motion carried.

**Public Hearings**

PUBLIC HEARINGS:

A. 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: (1) R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT TO B-2 (GENERAL COMMERCIAL) DISTRICT FOR A PORTION OF LOT 1, BLOCK 6, AND LOTS 5 AND 6, BLOCK 5; (2) FROM R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT TO R-O (RESIDENTIAL-OFFICE) DISTRICT FOR LOTS 1 THROUGH 4, 7 AND 8 OF BLOCK 17; AND (3) FROM R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT TO R-O (RESIDENTIAL-OFFICE) DISTRICT FOR LOTS 5 AND 6, BLOCK 17 OF THE NOB HILL MAJOR SUBDIVISION, PHASE IV; GENERALLY LOCATED SOUTHWEST OF COLONIAL DRIVE, ALONG DEERFIELD LANE, AND EAST OF CHIANTI DRIVE.

Staff Report

City Planner Belinda Waters reported on October 10, 2006 the Helena Zoning Commission recommended approval for the adoption of an Ordinance for zone changes for multiple properties located in Nob Hill Major Subdivision, Phase IV:

- 1) From R-3 (Medium Density Residential) District to B-2 (General Commercial) District for a portion of Lot 1, Block 6, generally located south west of Colonial Drive and north of Deerfield Lane; and for Lots 5 and 6, Block 5 generally located north of Cabernet;
- 2) From R-3 (Medium Density Residential) District to R-O (Residential – Office) District for Lots 1 through 4, 7 and 8 of Block 17, generally located north of Deerfield Lane, south of Cabernet, and east of Chianti; and for Lots 1 through 4, Block 19 generally located south of Deerfield Lane; and
- 3) From R-2 (Single Family Residential) District to R-O (Residential – Office) District for Lots 5 and 6, Block 17 generally located north of Deerfield Lane and east of Chianti.



allow the extension of the wastewater service area, Ms. Donnelly will not be installing a septic for her property. The city would have the advantage of further guaranteeing how land would develop in the proximity of its sewer line.

Section 6-5-4 of the Helena City Code set out the requirements for consideration of the enlargement of the water and/or wastewater service area. The conditions in the agreement will govern any further subdivision of the property, will ensure that further development will be built to the appropriate standards and will guarantee that the new system being added to the wastewater system will be constructed to the appropriate standard and plumbing codes.

Director Haugen recommended approval of the extension and noted the proposal would allow the property to be developed without the need for a septic system. The conditions outlined in the agreement would prevent any further subdivision of the property without review and approval of the City Commission.

Commission comment

Mayor Smith asked if city ordinance permits horses on residential property within the city limits? Director Haugen stated there is no prohibition against horses; however, they must be located within a certain distance from neighboring houses.

Commissioner Cartwright asked if the location of the proposed home on the property would allow for future subdivision? Ms. Haugen stated yes; with innovative subdivision design, the placement of Ms. Donnelly's home should not be a problem. Commissioner Cartwright expressed concern for future uses of the property and commented he likes the property as open space.

Public Testimony

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

Mary Lynn Donnelly, 321 Gilbert; urged the Commission to take action on her application for services. She noted she has been approved to install a septic system on the property.

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

Discussion

Discussion was held on this proposal versus a recent annexation request from Mr. Paulsen in Jefferson County.

Motion

**Commissioner Throssell moved approval for the extension of the City of Helena wastewater service area to include a tract of land in the NE1/4, NW1/4 Section 14, T.10 N, R. 4 W, being a remainder of the N1/2NW1/4, as described in Deed reference M Book 8, page 1281, created by Deed reference M Book 11, Page 1164, Lewis and Clark County Montana and to enter into an Agreement for the Enlargement of the Wastewater Service Area in accordance with City Ordinance.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Public  
Communications**

PUBLIC COMMUNICATIONS

No public communications were given.

***Meetings of  
Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, December 13, 2006 and the next Commission Meeting is Monday, December 18, 2006. The City/County Commission Joint Work Session will be held on Thursday, December 7, 2006.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:05p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission