

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**May 7, 2012**  
**6:00 P.M.**

**Time & Place** A regular City Commission meeting was held on Monday, May 7, 2012 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 Elsaesser, Ellison, Thweatt and Haque-Hausrath were present. City Manager Ron Alles and Deputy City Clerk Robyn Brown were present.

**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 April 23, 2012 were approved as submitted.

**Board Appointments** BOARD APPOINTMENTS:  
A. Heritage Preservation & Tourism Council and Non-Motorized Travel Advisory Council

Mayor Smith asked for Commission concurrence on the following appointments:

Heritage Preservation & Tourism Council (HPTC) - Appointment of Gretchen Olheiser as a city representative on the Heritage Preservation and Tourism Council. Term will begin upon appointment and expire June 30, 2014.

Non-Motorized Travel Advisory Council (NMTAC) - Appointment of Chris Hunter and Ryan Kettel to the Non-Motorized Travel Advisory Council. Terms will begin upon appointment and expire March 31, 2015.

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

**Motion** Commissioner Ellison moved approval of the appointments to the HPTC & NMTAC as listed above. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. A resolution to enter into a Memorandum of Understanding for the Fort Harrison Joint Land Use Study and authorize the City Manager to sign all documents relating to the study Res #19909  
C. Contract for printing, stuffing and mailing of utility statements

City Manager Ron Alles recommended approval of the claims and the consent agenda.  
Commissioner Ellison asked item C be removed for discussion.

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

**Motion** **Commissioner Ellison moved approval of items A and B on the consent agenda.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

**C. CONTRACT FOR PRINTING, STUFFING AND MAILING OF UTILITY STATEMENTS**

Commissioner Ellison asked for more information on the selection of CU Source for printing, stuffing and mailing the city's utility statements. City Manager Alles invited City Controller Glenn Jorgenson to explain the RFP process and assured the Commission CU Source is the contractor that would best meet the city's needs.

Controller Jorgenson explained the RFP process and the city's policy related to utility bill stuffers. Cash Cycle Solutions (CCS), which submitted a proposal, has questioned the city's recommendation of CU Source claiming the results of the review were skewed. A copy of CCS' concerns and Controller Jorgenson's responses are included in the Commission packet as part of the official record. Controller Jorgenson recommended award of the contract to CU Source of Helena.

**Discussion** Mickey Kunnary, CU Source, Helena; urged the Commission to award the contract to CU Source and noted they have been providing this service to the city since 2000.

**Motion** **Commissioner Ellison moved approval of item C on the consent agenda.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser spoke in support of the Fort Harrison Joint Land Use Study approved on the consent agenda. He announced the city's next electronics collection would be Wednesday, May 16<sup>th</sup> at the Transfer Station and the next plastics drive will be Friday, May 11<sup>th</sup> through Monday, May 14<sup>th</sup>.

**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 Alles reported with the warmer weather the Street Department has begun filling potholes and repairing streets, the Parks Department has begun trimming trees and performing park maintenance, and golf course staff is getting prepared for a busy season.

**Report from the Helena Citizens Council** REPORT FROM THE HELENA CITIZENS COUNCIL  
No report was given.

**Regular Items** REGULAR ITEMS:  
A. CONSIDER A RESOLUTION OF INTENTION TO VACATE NICOLE COURT BETWEEN LOT 6 IN BLOCK 2 AND LOT 1 IN BLOCK 4 OF THE INTERCITY COMMERCIAL SUBDIVISION.

**Staff Report** Public Works Director John Rundquist reported Michael Ruppert, CEO of Boyd Andrew Community Services, has submitted an application

to vacate Nicole Court between Lot 6 in Block 2 and Lot 1 in Block 4 of the Intercity Commercial Subdivision. Nicole Court is platted but undeveloped with an existing 8" sewer main located within the right-of-way (ROW). The street was platted in case access across the railroad tracks was needed for conductivity to a possible future subdivision and allows access to maintain the sewer main.

City staff has requested comment from the public and private utilities, as well as other city departments, and received one objection to the vacation. The objection was from Northwestern Energy because of a two-inch gas main located within the ROW. The applicant has reached an agreement with Northwestern to relocate the gas main and Northwestern has no further objection. In addition to relocating the gas main, a 20-foot utility easement will be provided to the city to allow maintenance of the existing 8" sewer main within Nicole Court. If the applicant develops the site with a new building the sewer main will be relocated at that time. The applicant is requesting the subject property to be vacated and deeded to the applicant. The square footage of Nicole Court to be vacated is 12,545. The adjacent land values averaged from \$2.75 to \$3.02 per square foot with a calculated fee of \$36,255.05.

Director Rundquist recommended approval of the resolution of intention and to set a public hearing date of May 21, 2012.

Public comment

Mayor Smith called for public comment; none was received.

Motion

**Commissioner Elsaesser moved approval of a resolution of intention to vacate Nicole Court between Lot 6 in Block 2 and Lot 1 in Block 4 of the Intercity Commercial Subdivision and set a public hearing date of May 21, 2012.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19910**

B. CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA APPROXIMATELY 312 ACRES OF THE CROSSROADS AMENDMENT AT MOUNTAIN VIEW MEADOWS SUBDIVISION INCLUDING ADJACENT RIGHTS-OF-WAY (ROW); AND ESTABLISH CONDITIONS FOR ANNEXATION.

**Public Hearings**

PUBLIC HEARINGS:

- A. CONSIDER A MAJOR SUBDIVISION/PRELIMINARY PLAT FOR THE CROSSROADS AMENDMENT AT MOUNTAIN VIEW MEADOWS SUBDIVISION CONTAINING APPROXIMATELY 442 ACRES AND 956 LOTS.
- B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP, DESCRIBED IN SECTION 11-1-3 OF THE HELENA CITY CODE AND ADOPTED BY REFERENCE, FOR A ZONE CHANGE FROM B-2 (GENERAL COMMERCIAL) DISTRICTS TO: R-4 (RESIDENTIAL-OFFICE) DISTRICT, R-2 (RESIDENTIAL) DISTRICT, AND PLI (PUBLIC LANDS AND INSTITUTIONS) DISTRICT, FOR PROPERTY GENERALLY LOCATED SOUTH AND WEST OF ALICE STREET AND EAST OF CROSSROADS PARKWAY.
- C. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR A CHANGE IN PREZONING FROM B-2 (GENERAL COMMERCIAL) DISTRICTS TO: R-2 (RESIDENTIAL)

DISTRICT, AND PLI (PUBLIC LANDS AND INSTITUTIONS) DISTRICT, FOR PROPERTY GENERALLY LOCATED SOUTH AND WEST OF ALICE STREET AND EAST OF CROSSROADS PARKWAY.

- D. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP, DESCRIBED IN SECTION 11-1-3 OF THE HELENA CITY CODE AND ADOPTED BY REFERENCE, FOR A ZONE CHANGE FROM R-4 (RESIDENTIAL-OFFICE) DISTRICTS TO: B-2 (GENERAL COMMERCIAL) DISTRICT AND R-2 (RESIDENTIAL) DISTRICT, FOR PROPERTY GENERALLY LOCATED SOUTH AND WEST OF ALICE STREET AND NORTH OF RUNKLE PARKWAY.
- E. CONSIDER FIRST PASSAGE OF AN ORDINANCES FOR A CHANGE IN PREZONING FROM R-4 (RESIDENTIAL-OFFICE) DISTRICTS TO: R-2 (RESIDENTIAL) DISTRICT, FOR PROPERTY GENERALLY LOCATED SOUTH AND WEST OF ALICE STREET AND NORTH OF RUNKLE PARKWAY.
- F. CONSIDER FIRST PASSAGE OF AN ORDINANCE PREZONING PORTIONS OF CROSSROADS AMENDMENT AT MOUNTAIN VIEW MEADOWS SUBDIVISION TO B-2 (GENERAL COMMERCIAL) DISTRICT R-3 (RESIDENTIAL) DISTRICT R-2 (RESIDENTIAL) DISTRICT PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA; FOR PROPERTY GENERALLY LOCATED NORTH OF RUNKLE PARKWAY AND WEST OF ALICE STREET, LEWIS AND CLARK COUNTY, MONTANA.

Staff Report

City Planner Lucy Morell-Gengler reported the City Commission approved rezoning (Ordinance #3109), Resolution of Intention to Annex #19627, and a major subdivision preliminary plat for the Crossroads phase of the Mountain View Meadows development in 2009. Since that time, portions of the Crossroads development have been annexed into the city, various phases have been final platted, and minor changes to the preliminary plat were approved in 2010.

The developer is now requesting to amend the approved Crossroads preliminary plat. A component of this amendment is to include approximately 65 acres located adjacent to the original Crossroads preliminary plat but not included in the original annexation evaluation. Therefore, to amend the preliminary plat to include the additional area, the resolution of intention to annex must also be updated.

The proposed resolution of intention to annex currently would include the entire Crossroads Amendment subdivision, and would supersede the previously approved Resolution of Intention to Annex #19627. Approximately 160 acres of the original approximately 473 acres of the Crossroads preliminary plat have been annexed and are not a part of this annexation review.

The petition to annex the Crossroads at Mountain View Meadows Subdivision was requested by R&D Partners, LLC; the International Church of the Four Square Gospel; and Marvin and Maria Nyberg. In addition to the request for annexation, the applicant is

requesting simultaneous actions for major subdivision preliminary plat review for the Crossroads Amendment at Mountain View Meadows, rezoning and changes to existing zoning.

On April 10, 2012 the Helena Zoning Commission recommended approval for an ordinance rezoning the portions of Crossroads Amendment at Mountain View Meadows Subdivision included in this annexation.

The City Commission approved rezoning (Ordinance #3109), in 2009. The developer is now requesting to significantly amend the Crossroads phase including several changes to the zoning for the property. Those proposed zoning changes include rezoning portions of the subdivision previously zoned and rezoned R-4 (Residential- Office) Districts to B-2 (General Commercial) and R-2 (Residential) Districts.

On April 10, 2012 the Helena Zoning Commission recommended approval (5:0 vote) for the adoption of the following ordinances:

- 1) An Ordinance amending the Official Zoning Map described in Section 11-1-3 of the Helena Zoning Ordinance for a zone change from B-2 (General Commercial) District to: R-4 (Residential-Office), R-2 (Residential), and PLI (Public Lands and Institutions) Districts for property legally described as a portion of Tract 1 of Antelope Trace Phase of Crossroads at Mountain View Meadows Subdivision COS #3173428, Helena.

- 2) An Ordinance amending City of Helena Ordinance No. 3109 for a change to the rezoning from B-2 (General Commercial) District to: R-2 (Residential) and PLI (Public Lands and Institutions) Districts for property legally described as a portion of Tract C-2-A-1-A-1-A-1-A of Amended Plat of Phase A of Aspen Park at Mountain View Meadows, COS #3173428, Lewis and Clark County.

On April 10, 2012 the Helena Zoning Commission recommended approval (5:0 vote) for the adoption of the following ordinances:

- 1) An Ordinance amending the Official Zoning Map described in Section 11-1-3 of the Helena Zoning Ordinance for a zone change from R-4 (Residential-Office) District to B-2 (General Commercial) District, and R-2 (Residential) District for property legally described as Tract 2-A-1, a portion of Tract 2-A-2 of Antelope Trace Phase 2 of Crossroads at Mountain View Meadows Subdivision COS #3206220, Helena.

- 2) An Ordinance amending City of Helena Ordinance No. 3109 for a change to the rezoning from R-4 (Residential-Office) District to R-2 (Residential) District for property legally described as a portion of Tract C-2-A-1-A-1-A-1-A of Amended Plat of Phase A of Aspen Park at Mountain View COS #3173428, Lewis and Clark County.

On April 10, 2012 the Helena Zoning Commission recommended approval (5:0 vote) for the adoption an ordinance rezoning portions of Crossroads Amendment at Mountain View Meadows Subdivision to B-2 (General Commercial), R-3 (Residential) and R-2 (Residential) Districts for property legally described as a portion of Tract C-2-A-1-A-1-A-1-A of

Amended Plat of Phase A of Aspen Park at Mountain View COS #3173428 in Lewis and Clark County, Montana; generally located west of Alice Street and north of Runkle Parkway.

Ms. Morell-Gengler recommended approval of the resolution of intent to annex, preliminary plat and rezoning/zone changes as this proposal is consistent with the 2011 Helena Growth Policy and annexation allows city standards to be applied to development of this property. This proposal will work in conjunction with other zoning in the area to create a mixed use/urban development.

#### Discussion

Commissioner Haque-Hausrath noted the Growth Policy shows a bit of open space and asked for more information. Ms. Morell-Gengler explained when the Growth Policy was done it was recognized that in undeveloped areas those boundaries are flexible. There should be some open space/recreational area associated with development of this property so it was included to show that it should not be overlooked for the area. The exact location has been moved as shown on maps of the development.

Commissioner Haque-Hausrath asked for more information on the inadequate capacity of the existing sewer main and lift station. Ms. Morell-Gengler noted the applicant will be required to upgrade infrastructure as each phase is developed. She added all improvements must be made before final annexation and plat approval can occur. Director Rundquist explained over the course of development of the subdivision the main line between the lift station at the airport and the subdivision itself will have to be upgraded and resized; the applicant is already designing those improvements. He noted the lift station currently has adequate capacity but it is anticipated once the subdivision is fully developed capacity will be exceeded. Director Rundquist explained future options for upgrades to the lift station but noted at the current rate of development they are a long way off. Commissioner Haque-Hausrath asked who would be responsible for paying for the upgrades. Director Rundquist stated the developer and explained as future phases of the subdivision are planned and developed, capacity is reviewed. Once capacity is exceeded the developer will have to upgrade the infrastructure before further development will be allowed.

Commissioner Elsaesser asked if the ROW for Crossroads Parkway has already been acquired. Ms. Morell-Gengler stated it has not yet been acquired, however development of the area has been anticipated and discussed for many years. Ms. Morell-Gengler then explained the numerous ways the ROW could be obtained.

Commissioner Elsaesser asked if the properties designated as open lands will be maintained by open lands funding. Ms. Morell-Gengler stated at the time of final plat and annexation the property will be added into the open lands maintenance district.

Commissioner Elsaesser noted the applicant is requesting exceptions be made to the city/county road naming policy and asked for more information. Ms. Morell-Gengler explained the exceptions would have to be approved by the road naming committee; staff is not recommending approval of the requested exceptions.

Commissioner Ellison asked if the property owned by the applicant extends into Jefferson County and may be available for development at future date. Ms. Morell-Gengler stated yes, according to the applicant.

Commissioner Haque-Hausrath asked if the city will be able to provide fire service to this subdivision once it is fully developed. Fire Chief Feucht noted the Fire Department currently serves the area and a lot is contained in the plat for a future fire station. The subdivision is at the far end of the city's response area but there is not set criteria for where fire services are provided. He noted the buildings in the subdivision don't present any different challenges than buildings in other areas of the city. He commented the city already needs an additional fire station and this area may not be where the next one is built or first needed.

Commissioner Elsaesser asked what needs to happen for MDT to install a traffic signal at the intersection with Highway 12. Ms. Morell-Gengler explained MDT requires certain warrants be met. To date, none of those warrants have been met but once they are a signal will be installed.

Commissioner Ellison disclosed that infrastructure needs for this subdivision had been discussed during his tenure on the Helena Regional Airport Authority. Commissioner Elsaesser noted he had visited the subdivision and attended several open houses.

Public Testimony

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

Tyler Emmert, Stahly Engineering, representing the applicant; gave a detailed overview of the proposal and urged the Commission to support the preliminary plat, intent to annex and zoning ordinances.

Mark Runkle, developer; thanked planning staff for their work and spoke in support of the proposal.

Rebecca Ryland, developer; explained the rationale behind the proposed street names for the subdivision and requested an exemption from the street-naming policy to allow first and last names be used.

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

Comment

Commissioner Haque-Hausrath indicated she would vote against the resolution of intention to annex because of concerns related to the subdivision's impact on the city's fire services. Without impact fees, the city cannot fund fire services it currently needs to provide and due to the legislature property taxes cannot be increased to cover the costs. She commended the applicant on an innovative development.

Motion

**Commissioner Ellison moved approval of a resolution of intention to annex the Crossroads Amendment at Mountain View Meadows Subdivision and the full width of the adjacent Highway 12, Route 240, and Crossroads Parkway rights-of-way, as legally described in the Resolution of Intention to Annex, and establish conditions for annexation as stated in the resolution.** Commissioner Elsaesser seconded the motion. Motion carried 4-1, with Commissioner Haque-Hausrath voting no. **Res #19911**

Discussion

Discussion was held on the applicant's request to deviate from the city's street naming policy. City Manager Alles explained the city/county street naming policy and committee. He noted Addressing Coordinator John Hinshaw recommended against exceptions to the policy because Christian street name signs are stolen more often; a larger sized sign is easier for the wind to blow over; and the replacement

of the signs becomes the expense of the City of Helena. He cautioned the Commission that allowing deviation from the policy may set a precedent for other developments.

Commissioner Elsaesser asked for staff's comments on the proposed ROW width. Ms. Morell-Gengler explained staff is recommending a 64-foot ROW. Detailed discussion was held on ROW and sidewalk width for the development.

**Motion** Commissioner Ellison moved to conditionally approve the preliminary plat for the Crossroads Amendment at Mountain View Meadows Major Subdivision creating 956 lots from approximately 442 acres and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact. Commissioner Elsaesser seconded the motion.

**Amendment** Commissioner Haque-Hausrath moved to amend Condition #4 to reflect the applicant's language provided by Mr. Emmert related to a 60-foot ROW. Commissioner Thweatt seconded the motion.

*Friendly amendment* Commissioner Elsaesser offered a friendly amendment to add a 2-foot sidewalk on either side of the road. Commissioner Haque-Hausrath resisted the amendment.

**Vote on amendment** Motion failed 1-4 with Mayor Smith and Commissioners Elsaesser, Ellison and Thweatt voting no.

**Motion** Commissioner Haque-Hausrath moved to allow the street names as requested by the applicant per Condition #6 in the staff report. Commissioner Elsaesser seconded the motion.

Manager Alles again explained the city/county addressing committee function and practice. Following discussion there was concern that precedence could be set by allowing a deviation from the policy.

**Vote on amendment** Motion failed 2-3 with Mayor Smith and Commissioners Ellison and Thweatt voting no.

**Vote on Plat** All voted aye, motion carried.

**Motion** Commissioner Elsaesser moved approval of first passage of an ordinance amending the Official Zoning Map described in Section 11-1-3 of the Helena Zoning Ordinance for a zone change from B-2 (General Commercial) District to R-4 (Residential-Office), R-2 (Residential), and PLI (Public Lands and Institutions) Districts for property legally described in the ordinance. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.  
**Ord #3153**

**Motion** Commissioner Haque-Hausrath moved approval of first passage of an ordinance amending City of Helena Ordinance No. 3109 for a change to the rezoning from B-2 (General Commercial) District to R-2 (residential) and PLI (Public Lands and Institutions) District for property legally described in the ordinance.

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3154**

**Motion** **Commissioner Elsaesser moved approval of first passage of an ordinance amending the Official Zoning Map described in Section 11-1-3 of the Helena Zoning Ordinance for a zone change from R-4 (Residential-Office) District to B-2 (General Commercial) District, and R-2 (Residential) District for property legally described in the ordinance.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried. **Ord #3155**

**Motion** **Commissioner Elsaesser moved approval of first passage of an ordinance amending City of Helena Ordinance No. 3109 for a change to the rezoning from R-4 (Residential-Office) District to R-2 (Residential) District for property legally described in the ordinance.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Ord #3156**

**Motion** **Commissioner Ellison moved approval of first passage of an ordinance rezoning portions of Crossroads Amendment at Mountain View Meadows Subdivision to B-2 (General Commercial), R-3 (Residential), and R-2 (Residential) Districts for property legally described in the ordinance.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3157**

G. CONSIDER APPROVAL OF BUREAU OF JUSTICE ASSISTANCE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDING.

**Staff Report** Police Chief Troy McGee reported the Helena Police Department (HPD) has received funding from the Federal Bureau of Justice Assistance (BJA) for the past 12 years. As in years past, staff is recommending the 2012 funding be used to supplement the city's portion of the Missouri River Drug Task Force (MRDTF), specifically MRDTF officer salary and overtime. The MRDTF has been in existence for twelve-plus years and has had a positive impact on drug possession and trafficking in Montana.

The grant amount for 2012 is \$19,661. In the past, this amount has been split with the Lewis & Clark County Sheriff's Office; however, this year they have declined their portion of the funding.

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

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

**Motion** **Commissioner Haque-Hausrath moved to accept Justice Assistance Grant (JAG) funding in the amount of \$19,661.** Commissioner Ellison 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 May 16, 2012 and the next Commission Meeting is May 21, 2012. A Budget Work Session will be held May 14, 2012.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 8:57 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission