

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
December 17, 2001
6:00 P.M.**

Time & Place A regular City Commission meeting was held on Monday, December 17, 2001, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present Mayor Ken Morrison indicated for the record that Commissioners Groepper, Netschert, Oitzinger and Smith were present. City Manager Tim Burton, City Attorney David Nielsen, and Deputy City Clerk Barb Fairhurst were present. Dave Samson from the Helena Citizens Council was also present.

Pledge of Allegiance Mayor Morrison 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 December 3, 2001 were approved as amended. One amendment was added regarding questions that Commissioner Oitzinger had in regards to the north/south alley closure.

Appointments APPOINTMENTS
A. Helena International Affairs
B. City-County Parks Board
C. Pre-Release
D. Helena Housing Authority

Mayor Morrison asked for commission concurrence on the following appointments:

Helena International Affairs Council

Carla Wambach

Kay Hansen - No specific terms - citizen representative on the council

City-County Parks Board

Jerry Spencer - Unexpired term will expire on September 30, 2002

Pre-Release Screening Committee

David P. Blade - No specific term

Helena Housing Authority

Sue Miller - Unexpired term will expire on August 2, 2003

Motion **Commissioner Groepper moved approval of the mayor's appointments to the Helena International Affairs Council, the City-County Parks Board, the Pre-Release Screening Committee and the Helena Housing Authority.** Commissioner Smith seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA
A. Claims
B. Project closeout - Transfer Station Paving Project No. 01-18
C. Project closeout - Warren Street Reconstruction Project No. 00-15
D. Partial application fee refund of \$175.40 for a Conditional Use Permit (CUP)

- E. Second passage of Ordinance 2927 amending Chapter 3 of Title 2 of the Helena City Code - Administrative Services
- F. Second passage of Ordinance 2928 rezoning five (5) parcels of wholly surrounded property on Custer Avenue prior to annexation into the city of Helena.
- G. Second passage of Ordinance 2929 rezoning fourteen (14) parcels of wholly surrounded property on Airport Road prior to annexation into the city of Helena.
- H. Second passage of Ordinance 2930 rezoning fifteen (15) parcels of wholly surrounded property on Billings Avenue, Carter Drive, Gibbon Street, and Blaine Street prior to annexation into the City of Helena, Montana and repealing Ordinance No. 2814 and 2871

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

Commissioner Netschert asked that items F, G and H be removed from the consent agenda.

Motion Commissioner Groepper moved approval of consent agenda, items A-E. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Motion Commissioner Groepper moved approval of items F - H on the consent agenda. Commissioner Smith seconded the motion. Motion carries 4-1. Commissioner Netschert voted no.

Bid Award
BID AWARD
A. Main Fire Station Remodel

Staff Report
Community Facilities Director Gery Carpenter reported bids for the remodel of the Main Fire Station were opened on December 5, 2001 at 2 p.m. The lowest responsive bidder was Diamond Construction, Inc. with a base bid of \$257,000. Golden Eagle Construction requested that their bid be rejected as non-responsive due to complications with pricing from one of their subcontractors. The City Attorney has reviewed Golden Eagle's request and recommends approval of their request to be rejected. The base bid from Diamond Construction, Inc. is one percent (01%) lower than the Architect's estimate. The project is within the funding available.

Staff recommends that the Main Fire Station Remodel project be awarded to Diamond Construction, Inc. in the amount of \$257,000 for the base bid and include alternates 1 through 5 at an additional cost of \$6,150.00 for a total cost of \$263,150.00. Staff further recommends that this project have a 12% contingency of \$31,500.00 for a total construction cost of \$294,650.00. The total project funding is \$400,000. Construction project funding would be \$294,650.00, architectural fees are \$33,000.00 and the remaining \$72,350.00 is needed to cover kitchen equipment, office furniture, and temporary quarters for the firefighters and administrative staff during construction.

Motion

Commissioner Oitzinger moved to award the Main Fire Station Remodel base bid and alternates 1 through 5 to Diamond Construction, Inc. in the amount of \$263,150.00 and that the project have a 12% contingency of \$31,500.00 for a total construction project cost of \$294,650.00.

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Netschert thanked Mayor Morrison and Commissioner Groepper for their service to the commission.

Commissioner Groepper stated it was a pleasure serving on the commission and he has learned a lot. He, along with his wife Julie, greatly appreciated the luncheon that was put on by the staff.

Commissioner Smith stated that he has learned a great deal from Mayor Morrison and Commissioner Groepper in the past two years and he believes that the city is better off for their service to the community.

Mayor Morrison reported that he had given a letter to the commissioners from Gateway Economic Development. Commissioner Groepper thinks the letter is a good idea.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

A. Findings of Fact - Crestview Subdivision.

City Attorney David Nielsen reported the Findings of Fact for the Crestview Subdivision is for 6.53 acres creating 14 single family lots for property legally described as all lots in Block 6, Lots 1-17 and 23-26 in Block 7, Lots 1-10 and 29-36 in Block 12 and all vacated street and alley rights-of-way adjacent to these lots in the Court House Addition, Section 31, T10N, R3W, Helena, Lewis and Clark County, Montana.

Motion

Commissioner Groepper moved approval of the Findings of Facts for the Crest View Estates major subdivision/preliminary plat creating 14 residential lots from 6.53 acres to be located in an R-1 District on property legally described as all lots in Block 6, Lots 1-17 and 23-36 in Block 7, Lots 1-10 and 29-36 in Block 12 and all vacated street and alley rights-of-way adjacent to these lots in the Court House Addition, Section 31, T10N, R3W, Helena, Lewis and Clark County, Montana. Commissioner Smith seconded the motion. All voted aye, motion carried.

Report of the City Manager

REPORT OF THE CITY MANAGER

A. Contingency fund request - City Court

Human Resource Director Harry Payne reported this is a request for contingency funds. The clerk of the city court will be retiring at the end of December and staff does not budget for payouts. When there is a large payout, staff requests contingency funds to cover that cost.

Commissioner Groepper asked if the budget would be amended to cover

this payment or would it be paid out of the contingency fund budget?

City Manager Burton recommended it be paid out of the contingency fund budget. With a motion and approval from the commission, staff can cover the unanticipated expense.

Motion

Commissioner Groepper moved approval of the contingency budget expenditure for the retirement payout in the amount of \$10,706.54.
Commissioner Smith seconded the motion. All voted aye, motion carried.

Change Order

Public Works Director John Rundquist reported on a late change order issue regarding a sidewalk replacement project. Staff tries to set up a project with unit prices that anyone in town can participate in, but if too many people participate in the sidewalk project, it pushes the price up well above 10% of the contract amount. That is what happened in this case.

City Manager Burton reported that a motion was not needed, but he felt it was an appropriate discussion for the commission. The city was able to put in more sidewalks than staff initially reported to the commission. The program in place has all of the resources to cover this additional expense.

City Manager Burton spoke of his appreciation to Mayor Morrison and Commissioner Groepper for their service to the community.

32-Unit Apartment

CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW A 32-UNIT APARTMENT COMPLEX IN A B-2 (GENERAL COMMERCIAL) DISTRICT. [APPLICATION INCLUDES REQUESTS FOR VARIANCES FROM OFF-STREET PARKING, SCREENING, AND LOADING BERTH REQUIREMENTS.] LEGALLY DESCRIBED AS LOT 8-A, BLOCK 2 OF THE SKELTON ADDITION, HELENA, MONTANA; GENERALLY LOCATED AT THE NORTHWEST CORNER OF PTARMIGAN LANE.

Discussion

This issue had been tabled from the December 3, 2001 commission meeting. Mayor Morrison noted he had previous communications with both the applicant and businesses in the area that were concerned about the application, therefore he excused himself.

Commissioner Groepper reported that he is the city's representative to the Rocky Mountain Development Council, which is a matter of public record. He is not a paid representative and he does not gain anything from his services as a board member. Therefore, he will vote on this matter.

Staff Report

City Planner Lucy Morell-Gengler stated that she had received a letter from Gene Leuwer, director of the Rocky Mountain Development Council, which states that Mr. Leuwer did address the property owners in regard to this issue. There were no lots available in the R-3 zoning area that would accommodate the proposal. Most of the lots adjacent to this proposal have been sold and some of them are already under development. While looking at other R-3 lots, there were not enough to consolidate to make an area large enough to accommodate the proposal. That was one of the issues asked by the commission at the December 3 meeting. One of the other issues was parking and if it could be increased. There is a site-plan revision, which adds an additional nine (9) parking spaces, which would increase the ratio. Ms. Morell-Gengler received the letter during the meeting and did not have an opportunity to evaluate the letter. The site-plan submitted did not show the revision. The previous Ptarmigan project has three

visitor parking places for the 22 units, so this is a considerable increase over the ratio for the previous development.

This project will provide housing for citizens of low income. It will consist of five four-plexes, two six-plexes, and one community room. Each unit will have a single bedroom. The applicant is requesting variances for off-street parking, screening, and omission of an off-street loading berth. Boulevard sidewalks are proposed and landscaping requirements have been met.

Approval of the CUP shall be subject to the following conditions:

1. Parking: A minimum of 64 paved off-street spaces, plus 3 accessible parking spaces for persons with disabilities with one-van accessible space, and 1 loading berth are required unless the city commission grants variances.

2. Storm water drainage: A storm water drainage plan, as specified in Section 6-6-9 of the Helena City Code, shall be submitted to the city engineer for review and approval prior to issuance of a building permit.

3. Financial Guarantees: Improvements shall be installed or financially guaranteed in accordance with Section 11-21-3-G of the Helena Zoning Ordinance.

4. Time Frame: All conditions must be satisfied prior to issuance of a building permit and a building permit must be obtained within two years.

Discussion

Commissioner Groepper stated there was a public hearing December 3 and the issues raised at the public hearing were concerns about parking and zoning. Mr. Leuwer has given the commission answers to the zoning and parking issues. Commissioner Groepper asked if the original proposal was back before the commission with an amendment to the parking and also if there was still a need for a CUP? Ms. Morell-Gengler responded that was correct and the commission can make a motion to approve or deny with the conditions stated in the transmittal memo.

Commissioner Groepper asked Ms. Morell-Gengler to speak about the conditions.

Ms. Morell-Gengler stated there were four conditions. One regarded parking that would require the minimum of 67 parking spaces. This condition would be eliminated if a variance was granted to the parking requirements. The condition requiring storm water drainage would remain the same. Improvements, landscaping, parking, interior improvements would require financial guarantee and that the conditions be met within two years. Because this proposal is single story and the units are spread-out, the applicant is requesting a variance to the loading berth space. The applicant is also requesting a variance to eliminate the screening requirement on the west side of the proposal. The zoning ordinance requires screening on a B-2 regardless of what type of development.

Commissioner Smith asked what is being proposed regarding parking. Is there still a request for a variance from 67-40? Ms. Morell-Gengler stated that the variance would be from 67-49.

Commissioner Smith asked where that information was found and Ms. Morell-Gengler reported that it is shown on the site-plan. The middle island previously was green space. There were no parking spaces in that area and currently there are nine spaces being proposed.

Gene Leuwer stated there is a site plan that details the parking. Susan Bjerke, architect, stated they have proposed 50 spaces. The applicant would need a variance from the 67-50 total. Some of those are visitor and some of those are handicap.

Commissioner Groepper asked how many residential sites are in

Ptarmigan and what kind of occupancy they have? Mr. Leuwer stated in the Ptarmigan units, there are 22 units and 23 residents. All the units are occupied by one individual with one exception. The unit with the couple has two cars. Three of the units are occupied by people who do not own cars. The apartments are designed for single people and most of the people tend to be mature.

Commissioner Netschert asked how many parking spaces they have at Ptarmigan.

Ms. Morell-Gengler reported that Ptarmigan has 23 regular spaces and two accessible spaces for a total of 25.

Commissioner Netschert reported that he had driven through the Ptarmigan area because of the concerns of the business people in the area about the parking. There were many cars in the lot with a number of open spaces. There was quite a bit of traffic for the middle of the day. Commissioner Netschert noticed that there was minimal on-street parking.

Commissioner Smith reported that he had also driven through the proposed area and had discussions with Ms. Morell-Gengler and Mr. Leuwer, but did not speak with Mr. Leuwer about the proposal.

Motion

Commissioner Smith moved approval of a resolution for a Conditional Use Permit (CUP) to allow a 32-unit apartment complex in a B-2 (General Commercial) District and variances for off-street parking in accordance with the site-plan submitted December 17, 2001, screening, and omission of an off-street loading berth and subject to the conditions listed above. The proposal is legally described as Lot 8-A, Block 2 of the Skelton Addition, Helena, Montana; generally located at the northwest corner of Ptarmigan Lane. The total number of parking spaces is 50. Commissioner Oitzinger seconded the motion. All voted aye, motion carries 4-0. Mayor Morrison abstained from voting. **Resolution No. 11718**

Growth Plan

CONSIDER AMENDING THE GROWTH POLICY PLAN TO ELIMINATE THE WORD "FUTURE" WHEN REFERRING TO THE LAND USE MAP.

Staff Report

Planner Belinda Waters reported the change would be non-substantial in nature and editorial. Therefore it did not go to the planning board for review. Staff is recommending to change the name of the map in the growth policy from the "Future Land Use Map" to "Land Use Map" and as noted in the proposal in the transmittal, to change some of the wording to reflect that.

Discussion

Commissioner Groepper asked if the map attached to the growth policy was a present use map, not a projected future use map? Ms. Waters reported that it was a present use map.

Motion

Commissioner Groepper moved approval to amend the City of Helena's 2001 Growth Policy by eliminating the word "Future" when referring to the Land Use Map, and change the appropriate wording on pages 3-4 to reflect that change. Commissioner Smith seconded the motion. All voted aye, motion carried.

City's Comprehensive Parks CONSIDER AN AMENDMENT TO THE CITY'S COMPREHENSIVE PARKS, RECREATION AND OPEN SPACE POLICY REGARDING MINI PARKS.

Staff Report

Director of Parks and Recreation Randy Lilje reported late this past summer, the City Commission requested the City-County Parks Board to review the current policy in the Comprehensive Parks, Recreation, and Open Space Plan (CPROSP) that places a low priority on the development of mini-parks or parks less than three acres in size. After much discussion over the past few months, the Parks Board approved a recommended change to the CPROSP regarding this policy. The Parks Board recommendations are that the City of Helena will place a higher priority for development and maintenance on the larger neighborhoods and community parks. However, there are circumstances where the development of smaller mini-parks is appropriate and the city should assist in the development and maintenance of these parks. These circumstances would include: 1) There is no developed neighborhood park that includes playground equipment and where appropriate other recreational facilities such as basketball hoops within a one-half mile radius of most residents of the neighborhood without separation by a major barrier such as a railroad track, highway or large hill. 2) There is parkland available to develop a small park at least one-half acre in size. 3) There is demonstrated neighborhood support for development of the park. This support will be made manifest by the neighborhood's willingness to assist in the improvement of the park either through contributions, volunteer efforts, or through creation of a special improvement district.

Discussion

Mayor Morrison asked how large Lincoln park is and Mr. Lilje reported it is one-half acre.

Motion

Commissioner Smith moved to approve the change in policy as recommended by the City-County Parks Board regarding the development of small mini-parks. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Donation of Property

CONSIDER ACCEPTING A DONATION OF 1.35 ACRES OF LAND DESCRIBED AS A PORTION OF GOVERNMENT LOT 5, SEC. 4, T9N, R3W, PMM IN JEFFERSON COUNTY, MONTANA.

Staff Report

Director of Parks and Recreation Randy Lilje reported that in recent discussions with OSBAC's property acquisition consultant, Mrs. Virginia Bompert expressed a desire to donate 1.35 acres of property to the city of Helena as parkland. The property is located adjacent to nine acres of open space property the city had previously acquired from Mr. Bill Diehl two years ago. Mr. Lilje used the overhead projector to describe the property. The goal is to create a linkage across the south hills

Motion

Commissioner Oitzinger moved the acceptance of 1.35 acres of land from Mrs. Virginia Bompert described as a portion of Government Lot 5, Sec. 4, T9N, R3W, PMM in Jefferson County, Montana, and authorize the use of \$140 in open space bond funds to pay for the title insurance. Commissioner Groepper seconded the motion. All voted aye, motion carried.

**Traffic Control
Signs**

CONSIDER CHANGES TO TRAFFIC CONTROL SIGNS AT THE INTERSECTION OF FLOWEREE AND UNIVERSITY, IN THE WESTRIDGE SUBDIVISION.

Staff Report

Public Works Director John Rundquist reported this fall another petition was received from Westridge residents asking the city reconsider the placement of some of the new street signs. Staff met with the residents in a public meeting on November 27, 2001 and developed a consensus on one sign change. Specifically, it was agreed the yield sign on Floweree Street, at the intersection of University Street, could be removed and substituted with two yield signs on University at the approach to Floweree.

There was considerable discussion on the three-way-stop at Floweree and Joslyn Streets but the neighborhood was split on a solution. Some of the petitioners want to have the stop signs removed at this intersection to allow free flow of traffic. Others wanted the stop signs to remain for pedestrian safety and to slow traffic.

Staff recommends that the yield sign on Floweree at University be removed and replaced with two yield signs on University at Floweree. Staff does not concur with any change in signage at Floweree and Joslyn at this time.

Discussion

Commissioner Smith stated this is a contentious issue with residents in the Westridge area and he agrees with staff's recommendation, but asked if there is a comprehensive solution to be found.

Mr. Rundquist believes there are enough differences in the neighborhood both ways that there will never be a consensus about what to do with that intersection. Staff could look at traffic calming measures, but it would be a cost to the neighborhood.

Public Comment

Patty Jacques, 1957 University, has watched people trying to come up the hill on Joslyn and then trying to come up the hill on Floweree and they slide all the way back down to the 3-way stop sign. Most of the residents who live on top of University would like to see the stop signs that are going up the hill and the yield sign removed. They don't have any problem with the stop signs that are running on Floweree nor would they have a problem with a yield sign being put on University going east-west.

Tom Cladouhos, 2009 University, stated these signs were put there in the first place because of a letter signed by five people in the neighborhood who claimed to be representatives of the neighborhood. Less than 10% of the neighborhood got those five signs in and now when 15 people sign a petition and ask for those signs to be changed in a more reasonable manner, they are told they have to reach a consensus to take them out. He would support strongly, a study done by the Public Works Department.

George Olsen, 706 Joslyn, testified that he lives one-half block below the 3-way stop sign intersection and the people around there are very much in favor of those stop signs for safety reasons. They do the best they can to control the speed and the direction of the people that take that intersection. Without the stop signs there to control the traffic, there were people going up the hill, cutting off the corner and speeding down the hill when there are blind driveways on the right. Mr. Olsen, his wife and other people in the neighborhood are very much in support of leaving the stop signs there until they can find a better way to control the traffic in that area.

Motion

Commissioner Netschert moved approval of the change in yield signs at the intersection of Floweree and University Streets to allow right-of-way to uphill traffic on Floweree and to remove the stop sign heading uphill on Joslyn street and allow the other two that are on Floweree to remain to allow better usage during the winter and allow that traffic to flow uphill. Commissioner Groepper seconded the motion.

Discussion

Commissioner Smith asked Commissioner Netschert to explain his motion in more detail.

Commissioner Netschert explained at the intersection of Joslyn and Floweree there is a lot of contention within the neighborhood. There are three stop signs, two stop signs control Floweree traffic either going east and west or to make a turning motion onto Joslyn street. Commissioner Netschert is proposing that they eliminate the stop sign from Joslyn street that goes up to Floweree so people can maintain their momentum going uphill. The other two stop signs would allow the traffic to be controlled going downhill and would make them stop for the corner.

Commissioner Groepper said they should do the motion as a six-month study or trial so staff could take a look at the whole neighborhood and come back with a recommendation.

Commissioner Netschert stated he would be happy to incorporate that into the motion.

Commissioner Groepper asked John Rundquist what would be a reasonable amount of time for staff to study this and come up with a recommendation? Mr. Rundquist suggested that a professional traffic consultant be hired to monitor the traffic over a period of six months. By summer of 2002, staff would have a recommendation.

Staff's recommendation is to leave the 3-way stop in place because there are a significant number of safety issues at that intersection that warrants a 3-way stop. A traffic consultant would also tell them that in lieu of the 3-way stop system, they would also want to install curb bulb-outs and other traffic control measures to funnel the traffic. This would be a considerable expense over putting in stop signs.

Commissioner Groepper supports making this motion temporary so that staff has time to study this issue.

Mayor Morrison stated he concurs with the staff's recommendation to take a hard look at it now while the streets are icy and see what the problems are and report back to the next commission.

Vote

Motion fails 2-3 with Commissioners Oitzinger, Smith and Mayor Morrison voting no.

Motion

Commissioner Smith moved to approve a change in yield signs at the intersection of Floweree and University streets to allow right-of-way to the uphill traffic on Floweree with the further direction that the Public Works and Streets Department study this over the winter and that the commission revisit this issue by the end of May, 2002. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Amber Hills
Letter**

Mayor Morrison stated that he had received a letter from the Amber Hills Condominium Association expressing their appreciation to John Rundquist for the work he did in solving their water problem. Mayor Morrison thanked Mr. Rundquist for the good work he does.

**Traffic Calming
Measures**

CONSIDER CHANGES TO TRAFFIC CALMING MEASURES ON SOUTH HOWIE STREET.

Staff Report

Public Works Director John Rundquist reported traffic-calming measures were installed several years ago on Howie Street to help prevent excessive speeding over what has been called "Thrill Hill." The current measures apparently work as intended, but cause some inconvenience and a perceived threat to pedestrians walking on the hill, especially in winter when the roads are icy. Staff received a petition from the neighbors on the hill earlier this year requesting changes to the traffic calming devices.

In addition to the neighborhood petition, the City Streets and Solid Waste Division would also prefer that the north barricade come out in the winter. The existing barricade makes it difficult to efficiently plow snow from the street and it creates a problem for garbage collection trucks when the roads are slick.

The following suggestions for improvement had support from the property owners in attendance at the public meeting held November 29, 2001.

1. At the top of the hill, replace the existing barrier south a few feet to allow better driveway access for the property owner to the west. Combine this with reflective poles for better visibility to south bound vehicles. Lengthen the barrier to provide more of a constriction.
2. Investigate a placement of a stop sign at the top of the hill for further deterrent to excessive speeds and to allow a view of the south side of the hill.
3. Between the hill and the historic bridge on Howie Street, install an additional barrier to channel southbound, one-way traffic back to the west side of the road.
4. Remove the existing barricade on the north side of the hill during the winter months to allow two way traffic on the hill.

Discussion

Commissioner Oitzinger asked which household was experiencing difficulty as a result of the barrier.

Mr. Rundquist pointed out which houses they were and stated the residents can't make a turning movement without running into the barrier. The other problem the residents had was that this road gets a lot of pedestrian use. In the winter time, especially when there is such a narrow path, cars don't have enough room to share that pathway with pedestrians. In addition, it is also a problem with Public Works in terms of snow plowing and getting garbage trucks up to the top of the hill in the wintertime. Staff's recommendation is to remove the barrier only during the winter months, but re-install it each spring. Barrier number one is a pin-down curb with reflective poles sticking up that looks like a triangle and is about street level. Barrier number four is a pin-down curb also, but they have back-filled the inside of the curb with earth so it is more of a solid barrier.

Commissioner Oitzinger asked if staff would have to excavate barrier number four and Mr. Rundquist reported they would take out the existing pin-down curb and remove the dirt and then bring it back in the spring. They would only set up the pin-down curb and the reflective poles.

Commissioner Groepper stated it was his understanding that when this

barricade was originally put in, it was supposed to come out in winter. That never happened and at some point, the commission had made it permanent. Commissioner Groepper noted he chaired the public meeting and the commission received copies of the results of the meeting. Because of the traffic calming measure, it is inconvenient for the two people who live at top of hill to use their property. When they come out of their driveway, they are forced to go downhill on a road that narrows to one lane and if cars are coming up the road, they have to back down the hill. Mr. Rundquist had suggested they put a traffic-calming device at the intersection of Howie and Adams that would slow all the traffic, but people didn't like that because they couldn't get enough speed going to get up the hill. Everyone at the meeting shared the common interest that they didn't want people to get hurt as a result of changing the traffic calming measures. The traffic calming device works, but it doesn't allow people access to their property in the winter. The best thing to do to insure safety in that area is to take the barricade out in the winter and replace it in the summer.

Commissioner Oitzinger asked about the house that is east of number one and if their difficulty would be resolved.

Mr. Rundquist reported that persons concern was backing out of her driveway because of the barrier which prevents her from getting around. The proposal is to leave the barrier in place, but move it back a few feet so she has enough room to back out and also to raise the reflective strips on the barrier so people can see them from down the hill.

Pubic Comment

Keith Hamilton, 108 S. Howie, spoke in support of having the barrier stay in place because history shows it has worked for the past 10 years. It has also calmed the traffic on Howie and Jefferson streets. Mr. Hamilton urged the commission to leave the barriers in place.

Alice Liebel, 118 S. Howie, stated she did not want the barricade under any circumstances, but she compromised to have the barricade taken out in the wintertime. She felt she was double-crossed and has been battling this issue for 10 years. She hopes the commission will consider taking it out in the wintertime and feels that is a good compromise.

Discussion

Commissioner Groepper stated what was worked out at the meeting was a compromise even though no one was ecstatic with the solution. The solution was one that was recommended by Mr. Rundquist, the Public Works Director. Traffic can be calmed with a stop sign at the top of the hill and barricades that make it more of a serpentine route. This solution should be tried for a six-month trial period having the barricade out in the winter and put back in the summer.

Motion

Commissioner Groepper moved to approve all four of the traffic calming changes on South Howie Street including the stop sign, as proposed by city staff. This will be a six-month trial period. The four calming changes are: 1. At the top of the hill, replace the existing barrier south a few feet to allow better driveway access for the property owner to the west. Combine this with reflective poles for better visibility to south bound vehicles. Lengthen the barrier to provide more of a constriction. 2. Investigate a placement of a stop sign at the top of the hill for further deterrent to excessive speeds and to allow a view of the south side of the hill. 3. Between the hill and the historic bridge on Howie Street, install an additional barrier to channel southbound, one-way traffic back to the west side of the road. 4. Remove the existing barricade on the north side of the

hill during the winter months to allow two way traffic on the hill.

Commissioner Smith seconded the motion. All voted aye. Motion carried.

Discussion

Commissioner Netschert had concerns about the petition that was received by the commission. The petition had 46 signatures, but how many of those petitioners had been notified as to exactly what would happen with this proposal?

Mr. Rundquist stated that the staff report was prepared immediately after the public meeting and there were five people at the public meeting.

Commissioner Groepper stated the residents on Howie street are at risk because of increased traffic. There are four signatures on the petition that are from Howie Street and those four people attended the neighborhood meeting.

Commissioner Netschert prefers to table this issue so the people who signed the petition are notified about the specific details of the proposal.

Mayor Morrison asked if the major proposal was to remove the barrier during the wintertime and return it in the summer and Mr. Rundquist reported that was correct.

Tabling Motion

Commissioner Netschert moved to table this change to the traffic calming measures on South Howie pending notification of those people who signed the petition as submitted to the commission on December 13, 2001 and let them have ample time to comment. Commissioner Oitzinger seconded the motion. Motion fails. Commissioner Groepper, Commissioner Smith and Mayor Morrison voted no.

Motion

Commissioner Groepper moved to approve all four of the traffic calming changes on South Howie Street including the stop sign, as proposed by city staff. This will be a six-month trial period. The four calming changes are: 1. At the top of the hill, replace the existing barrier south a few feet to allow better driveway access for the property owner to the west. Combine this with reflective poles for better visibility to south bound vehicles. Lengthen the barrier to provide more of a constriction. 2. Investigate a placement of a stop sign at the top of the hill for further deterrent to excessive speeds and to allow a view of the south side of the hill. 3. Between the hill and the historic bridge on Howie Street, install an additional barrier to channel southbound, one-way traffic back to the west side of the road. 4. Remove the existing barricade on the north side of the hill during the winter months to allow two way traffic on the hill. Motion carries 4-1. Commissioner Netschert voted no.

The number of residential units for solid waste

CONSIDER FIRST PASSAGE OF AN ORDINANCE ALLOWING THE PUBLIC WORKS DIRECTOR TO DETERMINE THE NUMBER OF RESIDENTIAL UNITS FOR SOLID WASTE COLLECTIONS ASSESSMENT AND AMENDING HELENA CITY CODE 6-1-10 - SOLID WASTE.

Staff Report

Public Works Director John Rundquist reported standard residential solid waste assessments are currently applied uniformly to residential properties with 4 living units or less. For example, a 4-plex is assessed at four times the standard residential assessment of \$154 per year. In a case where a four-plex does not generate sufficient garbage to necessitate a large 300-gallon container, there is currently no recourse to obtain a lower rate. If they were eligible for a commercial account they would only be charged based upon the size of the

container and number of pick-ups per week.

Discussion

Commissioner Groepper stated the smallest commercial property container is equal to a residential property. When you do a change of use and don't generate any more garbage, the residential rate says you pay twice what you did as a single-family dwelling. This is a stop-gap measure that allows people that have changed use of their residential property to file an appeal with the Public Works Director to say that they haven't generated any more garbage and request to pay the same rate.

Motion

Commissioner Groepper moved approval for first passage of an ordinance and set a public hearing date of January 14, 2002. Commissioner Smith seconded the motion. All voted aye, motion carried. **Ordinance 2931**

***Amending
Chapter 4, Title 6
of HCC***

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 4, TITLE 6 OF THE HELENA CITY CODE - INDUSTRIAL WASTEWATER REGULATIONS.

Staff Report

Public Works Director John Rundquist reported amendment of current wastewater regulations is desirable to accomplish a number of needs identified by staff and our pretreatment consulting engineer to meet 40 CFR regulations. Also, consistent with recodification of Helena City code, it is desired to remove the applications fees from the ordinance and to set all fees by resolution. The Emergency Response Plan has been updated and needs adopted.

Discussion

City Manager Burton stated that the EPA and the Industrial Pre-treatment program have required significant changes in terms of how people access the treatment plant and the requirements that are required of existing services to the degree the city no longer allows them to dump waste into the sewer system.

Motion

Commissioner Groepper moved first passage of an ordinance amending Title 6, Chapter 4 of the Helena City Code - Industrial Wastewater Regulations and set a public hearing date for January 14, 2002. Commissioner Smith seconded the motion. All voted aye, motion carried. **Ordinance 2932**

***Annexation
Service Plan***

CONSIDER ADOPTION OF AN ANNEXATION SERVICE PLAN PROVIDING FOR EXTENSION OF SERVICES TO VARIOUS PARCELS OF PROPERTY.

Staff Report

Project Manager Hal Fossum reported the proposed plan reflects the sense of the city that the properties proposed for annexation are natural extensions of the city of Helena that are not presently located within its corporate boundaries, and that derive many benefits from proximity to the city without paying a fair share for municipal services. The plan provides for immediate extension of all city services to the properties. In cases where existing infrastructure is undeveloped to city standards, and in cases where properties are not already connected to city utilities, requirements that the properties achieve those standards would be deferred until:

- Further significant property development,
- The existing private (well or septic) systems fail, or

- Such time that the improvements are planned and financed on a neighborhood scale.

The exception to these deferments is for those properties that have prior agreements with regulatory agencies to complete utility connections and/or infrastructure improvements; i.e., this action does not preclude prior such commitments to install infrastructures as may be embodied in state building permits, prior adopted city resolutions of conditional annexation, etc.

The plan for annexation is intended to provide the maximum practicable flexibility in the phased attainment of infrastructure standards for sewer, water, and street system improvements, while immediately providing all city general services. Moreover, the plan identifies pressing fire hydrant needs and proposes that those hydrants be installed by the city. Any water meters the city deems necessary to measure sewer usage would also be installed at the city's expense.

Motion

Commissioner Smith moved to approve the proposed Annexation Service Plan for Surrounded and Served Properties. Commissioner Groepper seconded the motion. All voted aye, motion carried.

Purchase of Property from John Hurni

CONSIDER AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE TERMS OF PURCHASE AND COMPLETE THE PURCHASE OF LOTS 1-9 LOT 11 OF BLOCK 8, JOSEPH COX ADDITION; GENERALLY LOCATED WEST OF DAVIS GULCH.

Staff Report

Public Works Director John Rundquist reported John Hurni owns ten lots west of Davis Gulch Road. The lots are Lots 1-9 and 11 in Block 8 of the Joseph Cox Addition. Davis Gulch Road bisects Lot 1, the northern most lot. The eastern boundary of these lots overlaps property that the City purchased from Lois DeFord in 1996, thereby creating a boundary dispute between the two properties. In addition, the City's interest in the portion of Davis Gulch Road that crosses Lot 1 would be a prescriptive right of way and limited to the traveled portion of the road. John Hurni, owner of the ten lots, has offered to sell them all to the City for \$5,000. There is budget savings from the Fagan Property purchase that is available to make the purchase and it would come entirely out of gas tax. The Parks Department could use a portion of the property to develop a trail to connect with a public trail on BLM property located southwest of these lots.

Motion

Commissioner Groepper moved to authorize the city manager to negotiate the terms of and complete the purchase of ten lots for \$5000 from John Hurni and authorize the city manager to sign the contracts. Commissioner Smith seconded the motion. All voted aye, motion carried.

PUBLIC HEARNIGS

TCI Cablevision

- CONSIDER A REQUEST TO TCI CABLEVISION OF MONTANA TO PROVIDE A CAPITAL CONTRIBUTION IN THE AMOUNT OF \$25,000 FOR THE PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNEL.

Staff Report

Community Facilities Director Gery Carpenter reported in accordance with section 4.2 of the Franchise Agreement between the City of Helena and TCI

Cablevision of Montana, Inc. the City of Helena may "commence proceedings, which afford public participation and open meetings for the purpose of determining if the Franchising Authority should request the Grantee to provide additional public, educational and governmental access capital support up to \$25,000." HCTV has an agreement with the City of Helena for the administration and management of a cable television public access channel. They have expended and/or encumbered \$72,597.76 of the initial \$100,000.00 capital contribution on the acquisition of equipment leaving an encumbered balance of \$27,402.24. HCTV's equipment acquisitions and facility remodel needs for the next six months are \$47,000.00.

Discussion

Commissioner Smith asked about the nomen clature. Are AT&T and TCI one in the same or are they two subsidiaries of the same parent organization?

Mr. Carpenter reported the actual franchise agreement was with TCI Cablevision of Montana, Inc. AT&T bought out that interest.

City Attorney David Nielson stated that AT&T bought out TCI Cablevision, but they wanted the agreement kept with TCI Cablevision.

Commissioner Netschert expressed concerns originally about HCTV going out and engaging other entities such as the county or the state in getting further donations for their endeavors. To date, they haven't received any additional monies from any other entity, but they are engaged currently with at least Lewis & Clark County and perhaps even the state. Mr. Carpenter stated that information is accurate.

Public Testimony

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

Patty White, HCTV board member, stated that she was glad she could be here for Mayor Morrison and Commissioner Groeppers last meeting and thanked them for their four years of service to the community and stated that they have done an excellent job. Ms. White noted she assisted the city in setting up the franchise agreement with then TCI Cablevision. At that time, it was the intent of the agreement that this \$25,000 sum would be paid in this relative time frame in order to support the peg channel in getting started. At this point, significant purchases have been made. In order to continue moving forward with the final purchases and the construction of the studio, it is time that they have that \$25,000. Ms. White requested approval of making the request to TCI, but also to set a time frame. HCTV made the request to the city three months ago for additional payment and in order to continue moving forward in a timely manner, that money needs to come in so things can get going. Ms. White made a suggested motion that the commission move approval of making a request to TCI Cablevision of Montana to provide a capital contribution in the amount of \$25,000 for the public educational government access channel. She asked the motion include the request be made by December 21, 2001 and that it request AT&T or TCI make the payment by January 18, 2002.

Ms. White addressed Commissioner Netschert's questions and stated HCTV has been working with the county to see if they would also make a franchise agreement with AT&T, but they have not gotten on the county's agenda. The state is also moving forward with their broadcast of the legislature, but they are not to the point where they would solicit bids.

There being no other persons wishing to address the commission, the public portion of the hearing was closed.

Motion

Commissioner Smith moved the City of Helena to request that TCI Cablevision of Montana, Inc. provide the second capital contribution for public, educational and governmental access of \$25,000.00 and that the city make this request by December 21, 2001 and request payment to the city by TCI Cablevision of Montana by January 18, 2002. Commissioner Groepper seconded the motion. Motion carries 4-1 with Commissioner Netschert voting no.

***Low-Income
Rental Housing
Project***

B. CONSIDER IF A PROPOSED QUALIFYING LOW-INCOME RENTAL HOUSING PROJECT LOCATED ON PTARMIGAN LANE ("PHEASANTS GLEN") MEETS COMMUNITY HOUSING NEEDS.

Staff Report

Planner Belinda Waters reported that Rocky Mountain Development Council has put together a project designed to meet the housing needs of area residents having very low incomes with an array of special needs and disabilities. The project intends to utilize federal low-income housing tax credits, grants, and private permanent financing. They propose to construct a 32-unit, one-bedroom apartment complex utilizing low income housing tax credits. Senate Bill 167 provides that the local government having this type of proposed project within its jurisdiction hold a public hearing to solicit comments on whether the proposed qualifying rental housing project does meet community housing needs. Utilization of these tax credits will insure that rents of each housing unit will remain at 50% of area medium income. Staff recommended the commission recognize that the proposed low income housing tax credits project, Pheasants Glen, meets community housing needs.

Public Testimony

Mayor Morrison declared the public portion of the hearing opened and called for any persons wishing to address the commission.

Gene Leuwer, 1601 Jerome, Executive Director of Rocky Mountain Development Council appeared before the commission. The financing for this project, which will allow them to rent these one-bedroom units for about \$340 a month, requires four financing elements. One is a community development block grant, which Lewis & Clark County has applied for and received in the amount of \$500,000. Second is a home grant that RMDC has applied for and received from the State Department of Commerce in the amount of \$428,000. The third element is \$400,000 of financing from a private bank. The fourth element, which will provide about two million dollars of capital, will be derived from the sale of low-income housing tax credits. RMDC needs to apply to the State Board of Housing for an allocation of these tax credits. It is a competitive process and normally the board has more applications than they have credits available. The designation they would receive tonight, in terms of meeting community needs would be helpful to RMDC in competing for those tax credits. RMDC anticipates that half of the residents would have incomes below 30% of medium income which in Helena or Lewis and Clark County is \$9,950. The remaining 50%, if they are single, would have incomes below 16,550 annually. For couples, their combined income would be below \$18,900 to qualify for these units.

Charles Aagenes, Director of the Area Agency on Aging for Rocky Mountain Development Council, gave a handout to the commissioners that showed a summary of the population of Helena. The city has shown a fairly slow growth, but the Helena area is showing rapid growth. That growth includes the population of people over 65. One concern is the "at risk population" and that is primarily people who are over 65 and living alone. There is a fairly sizable number of people in Helena who fit in this household type of "at risk" population. People that are identified as living in poverty are at risk of having inadequate resources for food, housing, health care and other needs. By providing them a good, stable subsidized place to live, this project can improve their lifestyle.

There being no other persons wishing to address the commission, the public portion of the hearing was closed

Discussion

Commissioner Groepper disclosed he was a member of the Rocky Mountain Development Council Board of Directors as the city representative. He does not benefit in any way from his position on the board, therefore he will vote on the issue.

Motion

Commissioner Smith moved to recognize the proposed Low Income Housing Tax Credits project, Pheasants Glen, meets community housing needs. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Picotte Property

C. CONSIDER THE EXPENDITURE OF \$10,000 IN OPEN SPACE BOND FUNDS FOR THE PURCHASE OF THE PICOTTE PROPERTY GENERALLY LOCATED EAST OF THE LEWIS AND CLARK COUNTY FAIRGROUNDS.

Staff Report

Director of Parks and Recreation Randy Lilje reported OSBAC is recommending the expenditure of open space bond funds to acquire approximately 2.7 acres in Section 13, T10N, R4W in Lewis and Clark County described in Lots 5 through 21 and 29 through 48, Block 7 in the Woodlawn Park Addition (more commonly known as the Picotte property). Cost to Open Space Bond - \$10,000. Total cost for the property is \$25,000. The \$10,000 in open space funds will be matched by \$15,000 from the Last Chance Audubon Society, the Mikal Kellner Foundation, the Prickly Pear Land Trust, the Montana Audubon Society, and a donor who wishes to remain anonymous. Staff recommended approval to expend \$10,000 of the open space bond money and also to enter into a conservation easement with the Audubon Society as well as a maintenance agreement with them to help maintain the property.

Discussion

Commissioner Groepper asked if these properties were outside of city limits and Mr. Lilje reported they were.

City Manager Burton reported there have been conversations with the county to annex in the fairgrounds.

Public Testimony

Mayor Morrison declared the public portion of the hearing opened and called for any persons wishing to address the commission.

Janet Ellis, Program Director for Montana Audubon noted they are one of the initiators of this project. This is a platted subdivision with 35 lots. If approved, this could be a corner stone of open space near the fairgrounds and could potentially hook-up to the trail along Custer Avenue. The city gets free title and Montana Audubon would retain a conservation easement. Last Chance Audubon has committed to helping with the maintenance of the property. This is a good project because it is inexpensive, it lends diversity to the portfolio purchased by open space bonds and it could be a good trail connector.

Andy Beller, Executive Director of the Prickly Pear Land Trust stated the Land Trust fully supports this project and is backing that support with \$5,000 towards the purchase of the property. It is important that it provides a good catalyst for other projects in the area and it also is important to show the collaboration between other groups in the area such as the Mikal Kellner Foundation and the Audubon Society.

Betsy Griffing, President of the Last Chance Audubon Society concurred this project brings diversity to the open space portfolio. This is a beautiful piece of wetland and is a habitat that harbors many birds. This has been a cooperative effort between Montana Audubon, the Prickly Pear Trust, the Mikal Kellner Foundation and Last Chance Audubon. Because of that cooperative effort, this proposal is very cost effective. It is a \$25,000 piece of property that the city would be getting for \$10,000. It can be a continuation of the trail system so it provides educational as well as recreational opportunities. Last Chance Audubon has agreed to offer its ongoing clean-up and maintenance on an annual basis.

Paul Johnson, board member on Last Chance Audubon spoke on behalf of the Mikal Kellner Foundation. The purchase of the Picotte property would be an important wetland compliment to the duck pond at the fairgrounds. The properties are adjacent and the Kellner Foundation and the Growing Friends of Helena have expended considerable resources in upgrading the habitat, particularly for birds in the vicinity of the dunk pond. They see it as being a benefit to both people and wildlife and would urge the commission to approve the OSBAC recommendation.

There being no other persons wishing to address the commission, the public portion of the hearing was closed.

Discussion

Commissioner Netschert asked if the city has ever purchased properties with open space bond money outside the city limits? Mr. Lilje reported they have.

Commissioner Groepper asked if the county would maintain the streets that are county-plated? Mr. Lilje stated that the county would maintain these streets.

Motion

Commissioner Oitzinger moved approval to expend \$10,000 plus closing and realtor costs of Open Space Bond funds to acquire approximately 2.7 acres described as Lots 5-21 and 29-48 in Block 7 of the Woodland Addition, Section 13, T10N, R4W, Lewis and Clark County, Montana, and further to direct staff to enter into an easement and maintenance agreement for the property with the Last Chance Audubon Society. Commissioner Groepper seconded the motion. All voted aye, motion carried.

Fagan Property D. CONSIDER THE EXPENDITURE OF \$14,000 IN OPEN SPACE BOND FUNDS FOR REIMBURSEMENT TO PUBLIC WORKS FOR THE PURCHASE OF THE FAGAN PROPERTY ON DAVIS GULCH.

Staff Report Director of Parks and Recreation Randy Lilje reported OSBAC is recommending the expenditure of Open Space Bond funds to reimburse the City of Helena Department of Public Works for half of the purchase price for the acquisition of the Fagan property along the Davis Gulch Road. Cost to open space bond - \$13,785. This would enable a safer development of the bike/pedestrian trail through the narrow spot on Davis Gulch.

Discussion Commissioner Smith asked if the bike and pedestrian trail contemplated would go across Davis Gulch, through the Fagan property and then reconnect? Mr. Lile reported they are contemplating it would stay on the same side of the road rather than cross. It would be safer for the pedestrians and a good road can be developed through there that calms the traffic, but still widens it out so there is a nice passage and is safe for everybody.

Public Testimony Mayor Morrison declared the public portion of the hearing opened and called for any persons wishing to address the commission.

Andy Bower, Executive Director of Prickly Pear Land Trust testified that there have been substantial resources spent on the Davis Gulch Trail and it has become a very popular trail in the city trail system. Currently, trail users have to go back onto the road for a section and that is in the narrowest part of the road causing safety concerns. The purchase of this property would facilitate a safe passage through the area and make the trail even more attractive.

There being no other persons wishing to address the commission, the public portion of the hearing was closed.

Motion Commissioner Oitzinger moved approval to expend up to \$14,000 of open space bond funds for the Fagan property acquisition. Commissioner Groepper seconded the motion. All voted aye, motion carried.

Wildland Fire Mitigation on Mt. Ascension E. CONSIDER A \$7,250 MATCH FOR A \$20,000 FEMA GRANT FOR WILDLAND FIRE MITIGATION ON MT. ASCENSION.

Staff Report Director of Parks and Recreation Randy Lilje reported OSBAC is recommending the expenditure of Open Space Bond funds to match a \$20,000 FEMA grant with \$7,250 of Open Space Bond funds to do wildland fire mitigation work on Mount Ascension Park. This expenditure that OSBAC is recommending would come out of the maintenance allocation of the bond.

Public Testimony Mayor Morrison declared the public portion of the hearing opened and called for any persons wishing to address the commission.
There being no persons wishing to address the commission, the public portion of the hearing was closed.

Motion

Commissioner Oitzinger moved approval to expend \$7,250 of Open Space Bond funds to match a \$20,000 FEMA grant for wildland fire mitigation work on Mount Ascension Park. Commissioner Groepper seconded the motion. All voted aye, motion carried.

Bill Roberts

F. CONSIDER A RESOLUTION TO ESTABLISH FEES TO BE CHARGED FOR THE BILL ROBERTS MUNICIPAL GOLF COURSE FOR THE 2002 SEASON.

Staff Report

Director of Park and Recreation Randy Lilje reported setting the fees at this time would allow the sale of season tickets now so that golfers may make their plans earlier to play at Bill Roberts Golf Course. By keeping the season tickets at the 2001 level, the Golf Advisory Board hopes this will positively affect the number of season tickets sold to bring the number up to at least the historical average.

Discussion

Commissioner Groepper asked if this proposal would make the deficit less? Mr. Lilje reported they will gain ground in the deficit projection. They did better in the 2001 season than the 2000 season. By the end of fiscal 2002, the golf course should be in better shape.

Commissioner Groepper asked if there would be a deficit in 2002? Mr. Lilje reported there will be a deficit, it just won't be as great as at the end of 2001.

Commissioner Netschet asked about the use of credit cards to pay golf fees. They can be used to purchase items within the pro shop, but why can't they be used to buy punch cards, season passes and daily fees?

Mr. Lilje stated there is a fee, or a cost to the golf course, for allowing credit card use. It can be a substantial amount. For comparison purposes, the municipal golf course in Missoula spends about \$12,000 in credit card fees annually to allow that service. It is a very convenient service to the customer though and the board will consider it in the future.

Commissioner Netschet asked if any discounts were given for early purchases of the season passes or the punch cards similar to what they do at the local ski hills? Mr. Lilje stated they don't offer discounts currently and are not recommending any for this coming season. However, the board is very interested in doing that. They are interested in getting started even earlier next year so that we have a fee schedule adopted for 2003 by September or October at the latest. Season tickets for 2003 could be offered at a reduced cost.

Commissioner Oitzinger asked when the last increases were made and how much they were.

Mr. Lilje reported the last time the fees were increased were for the 2001 season which was 5% increase and before that, it was 2 years earlier and that was also a 5% increase. There was a string of 5% increases for 4-5 years previous to that.

Public Testimony

Mayor Morrison declared the public portion of the hearing opened and called for any persons wishing to address the commission.

Lori Lamson, chair of the Golf Advisory Board reported the board has been looking at the budget issues and they want to see the course on a sound financial footing. They've been looking at three aspects. The short term, the operating budget expenses and the longer capital type expenses and the revenue. Those are the three major factors in affecting the financial situation of

the board. There have been small cuts made to the operating expenditure budget. Marketing is very important and they are trying to successfully market the course.

Commissioner Groepper asked about the fee structure. Golf courses in other parts of the country have split fees. Has the Golf Board ever considered that aspect? Ms. Lamson stated at this time they are focused on marketing. After good budget reports, other ideas will be considered.

Dave Samson asked if there were any marketing efforts made between Fox Ridge and the other golf course in Helena to make a punch card good for rounds of golf at each course to increase multiple use by single golfers.

There being no other persons wishing to address the commission, the public portion of the hearing was closed.

Discussion

Commissioner Netschert was concerned about the rate increase last year and again this year. Many golfers who used to go to Bill Roberts now take their business elsewhere because they are frustrated with the fee increases. The fees should be kept the same and he is opposed to a fee increase.

Commissioner Groepper stated the enterprise is in the hole. Last year, the commission compromised to a lower fee structure at the recommendation of the Golf Board. This fee structure would still cost the golf course to end up with a deficit. If they don't increase the fees, where would they get the money to make up the shortfall if you freeze the rates at what they were last year?

Commissioner Netschert stated that last year, with the increase in fees, there was a 15% reduction in revenue. When they raised the prices, they lost revenue.

City Manager Burton stated that last year, they did lose sales in terms of the season passes, but overall, revenue increased.

Mayor Morrison stated they lost money last season because they were late setting the rates.

Motion

Commissioner Netschert moved to keep the fee structure for the 2002 season the same as what is currently adopted. Motion died for a lack of a second.

Motion

Commissioner Groepper moved approval of a resolution to establish fees to be charged for the Bill Roberts Municipal Golf Course for the 2002 season. Commissioner Oitzinger seconded the motion. Motion carried 3-2. Mayor Morrison and Commissioner Netschert voted no. **Resolution 11717**

***Annex Property's
in Areas I, II and III***

G. CONSIDER A RESOLUTION ANNEXING VARIOUS PARCELS OF PROPERTY LOCATED IN THREE AREAS OF LEWIS AND CLARK COUNTY INTO THE CITY OF HELENA, MONTANA. ALL OF THESE PROPERTIES ARE LOCATED IN THE T10N, R3W, PPM, LEWIS AND CLARK COUNTY, MONTANA. AREA I LIES IN THE SOUTHERN QUADRANTS OF SECTION 18, SITUATED NEAR CUSTER AVENUE BETWEEN MCHUGH LANE AND DREDGE DRIVE. AREA II LIES IN THE NORTHERN QUADRANTS OF SECTION 28, SITUATED ON AND NEAR AIRPORT ROAD BETWEEN BLAINE STREET AND B STREET. AREA III IS THE SOUTHERN QUADRANTS OF SECTION 28 AND GENERALLY SURROUNDS THE ESTABLISHED WAL-MART AND

ERNST PROPERTIES ON CARTER DRIVE, BILLINGS AVENUE,
GIBBON STREET, AND BLAINE STREET.

Staff Report

Project Manager Hal Fossum reported that on December 3, 2001, the City Commission adopted a resolution of intention to annex various parcels of property under the method set forth in section 7-2-4501 et seq. MCA for annexation of wholly surrounded property.

The proposed annexation is expected to encourage development and full utilization of established City infrastructure, promote property values, and encourage further development of the properties. The properties proposed for annexation are natural extensions of the City of Helena that are not presently located within its corporate boundaries, and that derive many benefits from proximity to the City without paying a fair share for municipal services.

These properties have been grouped into three distinct areas because of their location. Functionally, these are 35 separate proposals for annexation so they can be separated out. They all meet the state definitions of wholly surrounded properties. In addition, all of the properties are now reached by city, water and sewer services. Not all of the properties are on city water and sewer utilities, but all properties are reached by those utilities. All properties are at least reached by street maintenance services of the city. A majority of them already have street services already extending fully across their frontage. All due process has been satisfied and the properties are pre-zoned as required. The property owners have been duly notified.

Chuck Watters has a seasonal fireworks stand and he appeared before the commission at the December 3 meeting. Staff drafted a proposed amendment, the effect of which would be to defer the effective date of the annexation until just after the 4th of July season. Mr. Fossum handed out the proposed amendment to the commission. Staff did review the contract and found that Mr. Watters is under contract and has collected payments for the use of his property this past summer as a fireworks vending location.

Mr. Fossum received correspondence from Max Botz and Bob Braico. They own the property listed on the maps in Area II as number 16. Their property is 10 acres and was projected by the city in the tax impact estimates to be incurring a cost for street maintenance as high as \$3,600. Essentially, for developed property the street maintenance assessment caps at 10 acres and they have that plus a little bit more, so they receive none of the benefit of a cap. Staff found out the cap for vacant property on street maintenance assessment is only one acre. Mr. Fossum advised Mr. Botz and Mr. Braico that if they can get their property on to two tax cards, that could significantly reduce their tax impact. That may require a minor subdivision. Their property doesn't have any existing property lines that could be reconfigured to accommodate this goal.

Mr. Fossum has also had discussion with Mr. Lowell Hanson, who owns the two properties immediately to the west. Those properties are largely vacant and could benefit from a property line relocation.

Discussion

Commissioner Groepper asked about the numbering system. The resolution states there are 36 properties, but the motion says 35?

Mr. Fossum reported that the reason for the discrepancy is because of the request of the property owner. Property number 35 was zoned into two different classifications. That wasn't the initial proposal so for convenience reasons, they divided the property which is separately plated, into two separate properties and titled them 35A and 35B.

Commissioner Netschert stated that in regards of the concerns of the landowners whose properties are in question, what are the costs associated with the phasing in of taxes and services?

Mr. Fossum stated that under state law, a jurisdiction can't discriminate among property owners within taxing districts. When somebody is within the city, you can't impose a different tax rate upon them than they do every other like person within the city. It is difficult, under state law, to phase in city taxes.

Commissioner Netschert would like a list of requirements for the property owners that can be phased in over a period of time. .

City Manager Burton stated that on individual particular issues, they need to be dealt with on a case-by-case basis.

Public Testimony

Mayor Morrison declared the public portion of the hearing opened and called for any persons wishing to address the commission.

Attorney Michael Kakuk represented Ed Maronick who is the owner of Helena Sand and Gravel, Limerock Partners and Maronick Construction. On the map, his property is listed as parcels 20, 21, 22 and 23. Mr. Maronick's taxes would go up \$5,000 and he is not opposed to annexation, but would like this tabled for two weeks so his questions about annexation can get answered. Mr. Maronick stockpiles materials on parcels 20, 21 and 22 and then trucks transport the materials off, so those parcels fall under transportation guidelines and can't be annexed.

Commissioner Groepper stated that if the commission delays this issue for 30 days, would Mr. Maronick be able to produce all of the contracts he has had with the city for the past five years? People have hardships with the way the city taxes and charges fees and a number of citizens feel strongly that if you receive city benefits, you should pay the cost of those city benefits and the city residents should not have to carry you for things like roads, police and fire.

Mr. Kakuk will bring this issue to Mr. Maronick for discussion.

Jim Dusenberry, 1672 Sierra Road, owns parcels 31 & 33 on Carter Drive. He has a truck repair shop and leases that rent warehouse space from him. He does not oppose annexation. His concern is that he wanted a development agreement. He is in a unique situation as he's next to the railroad tracks, below the sewer and across the street from the water. This is a complex issue and now the city is annexing the whole process so he does not have a way out. It is \$250,000 to asphalt the parking lot and it was \$35,000 to install 450' of curbs and gutters. He is uncomfortable with verbal agreements and would like something in black and white. His taxes will go up \$2,200.

Chuck Gire owns block 24 which is on the Area III proposal. He has been there for 25 years and has lived in Helena at the same address for 37 years. He has a one truck operation and if this annexation goes through, he will have to move or sell. He has horses and his 87 year old father has lived in a trailer at that location for 20 years. Mr. Gire's operation is transportation which falls under MCA 7-2-4503. He has one truck and runs 5-6 states. It is a one-person operation so a minimum amount of water and sewer is used. He is opposed to the annexation.

There being no other persons wishing to address the commission, the public portion of the hearing was closed.

Discussion

City Manager Burton stated that if the commission goes ahead and annexes, the city standards are not immediately going to be forced upon the properties. The city would proceed forward with a development agreement.

Commissioner Oitzinger asked about the pre-zoning of the parcels and asked Mr. Fossum to discuss Mr. Gire's parcel which was number 24 and the existing use with his father's residence.

Mr. Fossum stated that property has been rezoned as a commercial light manufacturing property. In commercial light manufacturing zones, residential use is not permitted by right. The residents would become a non-conforming use and would be permitted to abide in place. The trailer home could stay there and it could be occupied by a different person. The right to continue that home abides. What is prohibited in a non-conforming use situation is the significant expansion of that non-conforming use. Any future development can't make the property more nonconforming than it does now, i.e., a substantial expansion couldn't replace the existing mobile home with a mobile home that is significantly bigger.

Commissioner Smith asked if there was written documentation that said full compliance with city regulations would not be imposed until there is further significant development of these properties?

Mr. Fossum stated it was in the annexation plan. In regards to infrastructure improvements, they were explicitly covered in the annexation plan. It does not include landscaping requirements, that new buildings meeting city building codes, parking areas be paved, etc. Those things are outside the realm of an annexation plan.

Mayor Morrison stated that in discussion with the City Manager, there would be agreements reached with the property owners in addition to the plan that was heard this evening. It will happen after the annexation which would provide additional assurance that the city will not ask a property owner to do a quarter of a million dollars worth of improvements.

City Manager Burton stated that in relationship to the annexation plan, it does state that in cases where existing infrastructure is undeveloped to city standards and in cases where properties are not already connected to city utilities, requirements that the properties achieve those standards would be deferred until further significant property development, the existing private well or septic systems fail or until such time as improvements are planned and financed on a neighborhood scale. Not every property requires an individual agreement.

Commissioner Oitzinger asked about exemptions due to industry and transportation.

City Attorney Nielsen has reviewed the exemption statute and there is one case that was out of Butte that defines industrial and the court took a fairly narrow interpretation of industrial in that case. In using the standard industrial classification manual, none of the three properties would qualify for that exemption. Some properties do receive water and sewer services and the city is not duty bound to continue those services. The right to use the water and sewer is linked to the city's ability to annex.

Commissioner Groepper asked about the transportation issue and if those properties are hooked up to city water and sewer?

Mr. Fossum reported that Mr. Gire is not hooked up to water and sewer services and Mr. Maronick has reported that he is not hooked up to those services.

Commissioner Netschert stated that parcel number 24 should be excluded from annexation.

Mayor Morrison asked about the legislation that was passed last session on annexation. Is there a possibility to phase in the street maintenance fee with that legislation?

City Attorney Nielsen stated he has read the statute and it works better for phasing in the annexation. It mechanically works the other way where you phase in the annexation and they pay a tax increment. He will review the statute and report back to the commission.

Commissioner Smith asked about the impact of the street maintenance assessment.

Mr. Fossum reported that Mr. Botz and Mr. Braico's taxes were going up a projected 50% based on the fact that they have 10 undivided acres, the absolute maximum that you can have without getting any benefit of the cap. In addition to that, they have a structure located on that 10 acres that uses one quarter of the property, so the whole 10 acres is considered developed. There is a cap on vacant property, at an acre. Staff estimates that they can segregate one quarter of that lot and put the other into a single undeveloped part, that street maintenance assessment would be reduced by about two thirds or about \$1,500.

Commissioner Groepper asked what basis or authority does the city have to give different treatments to people that are similarly situated, or wholly surrounded?

City Attorney Nielsen stated that technically, they are looking at each of the parcels as a stand-alone, wholly surrounded annexation procedure. Individual treatment would not trigger illegal discrimination. Wholly surrounded does not allow for protest and it does not have the full negotiation form that you have with the voluntary petition. The transportation arguments do not have merit.

Motion

Commissioner Smith moved approval of a resolution annexing various parcels of property in Lewis and Clark County, Montana, into the City of Helena, Montana, excluding number 24 in Area III. All properties to be annexed to the City are in T10N, R3W, PPM, Lewis and Clark County, Montana. Area I lies in the southern quadrants of Section 18, situated near Custer Avenue between McHugh Lane and Dredge Drive. Area II lies in the northern quadrants of Section 28, situated on and near Airport Road between Blaine Street and B Street. Area III is the southern quadrants of Section 28. The properties in question generally surround the established Wal-Mart and Ernst properties on Carter Drive, Billings Avenue, Gibbon Street, and Blaine Street. The annexations would be effective on or before January 1, 2002 for all affected properties except the property identified as property number 3 in Area I on the map. The annexation of that property which would be effective July 8, 2002. Commissioner Groepper seconded the motion. Motion carries 4-1 with Commissioner Netschert voting no.

**LeGrande Cannon
Boulevard**

H. CONSIDER A RESOLUTION TO VACATE A CLOSED PORTION OF THE RIGHT-OF-WAY OF LEGRANDE CANNON BOULEVARD ADJACENT TO AND OVERLYING THE SOUTHWEST PORTIONS OF LOTS 3, 4, 5 & 6 IN BLOCK W OF THE MAULDIN ADDITION.

Staff Report

Public Works Director John Rundquist reported the property owner adjacent to the portion of LeGrande in question is attempting to remedy some incomplete deeds for his property as well as the LeGrande right-of-way. Apparently, when the LeGrande property was deeded to the city, a portion of Block W was inadvertently omitted in the legal descriptions. In order to rectify the

ambiguity of our title to this portion of the right-of-way, the applicant is proposing some land swaps. Staff recommends approval of the resolution with the following conditions:

- Utility easements for the vacated property are retained in accordance with state statute.
- An amended plat is completed to transfer the properties
- Deeds are prepared and executed to transfer the properties
- The transfer of property will be a value for value exchange.

Public Testimony

Mayor Morrison declared the public portion of the hearing opened and called for any persons wishing to address the commission.

There being no persons wishing to address the commission, the public portion of the hearing was closed.

Motion

Commissioner Smith moved approval of the resolution vacating a closed portion of LeGrande Cannon Boulevard in the Mauldin Addition, subject to the conditions outlined above. Commissioner Groepper seconded the motion. All voted aye, motion carried.

***Base system
development fee
for wastewater***

- I. CONSIDER A RESOLUTION TO ESTABLISH A BASE SYSTEM DEVELOPMENT FEE FOR NEW WASTEWATER CONNECTIONS IN THE CITY OF HELENA.

Staff Report

Public Works Director John Rundquist reported the System Development Fee for wastewater utilities are a common way for new hookups to share in the cost of general benefit facilities such as treatment plants, pump stations and trunk lines. Helena has charged SDF's for new hookups to the water utility since 1986. Many of the larger communities in Montana have SDF's for sewer hookups, although they may call it by a different name. As required by state law, funds collected via Systems Development Fees must be set aside for expenditure only on general benefit facilities.

The commission approved modifications to Helena City Code 1-5-9 an 6-3 that eliminate the \$300 per acre sewer annexation fee and install a schedule of SDF factors that would apply to a base SDF enacted by resolution. The factors are determined by the customers water service meter size and the correct SDF would be calculated by multiplying the factor by the base SDF.

Based upon most recent construction costs, staff estimates that the unit capacity cost in Helena for wastewater to be in the range of \$1,400 per standard residential hookup. Normally, this would be the upper limit for a SDF assessment. The rate of fees charged by other cities varies widely. On the high side, Missoula's is set at \$1,200 and Kalispell charges \$1,581. On the low side, Great Falls charges \$245, Billings charges \$884 and Bozeman charges \$192.

Last summer, the Public Works and Community Development Departments met with area builders to discuss elimination of the annexation fee and proposed enactment of a SDF for wastewater. In general, most of the builders were not against enacting an SDF for wastewater hookups but thought that \$1,400 would be too high, but were not objectionable to a fee in the range of the existing Water SDF of \$484 for a single family residence.

To encourage connection to the city's sanitary sewer as opposed to installing a septic tank and drain field, connection fees and front foot sewer main costs should be comparable or less than the initial cost than an on-site disposal system. On site disposal systems for a single-family residence can range from

\$3,000 to \$15,000 depending upon site constraints. In comparison, the cost for sanitary sewer mains is typically in the range of \$30 per front foot for residential development. So, for 75 feet of frontage, a typical cost of sewer mains would be about \$2,250. On this basis, a SDF base of \$750 would be competitive with most on-site disposal systems.

Staff recommends that a Base Systems Development Fee for sewer hookups to be set at \$750 which is a price slightly higher than half of the unit capacity cost estimate of \$1400 per single family residential unit and competitive with on-site disposal systems.

Discussion

Commissioner Netschert spoke about fee comparisons with the city and the county. He used the overhead projector to show charts where there are discrepancies.

Mr. Rundquist reported when you compare urban infrastructure to rural infrastructure, some things tend to be left out of the equation. You don't get fire protection out of a well or protections of federal regulations on drinking water. You have to have the water tested for nitrates when it is first installed, but there is no guarantee the water out of a well meets federal regulations for drinking water. The city promises that with their water utility. At best, a well working septic system will discharge about 30 parts per million, nitrates, into the water supply. The standard the city treats wastewater to, is much higher in a wastewater treatment plant, so the environmental cost of being a part of a wastewater system that meets federal regulations and state regulations for treatment is better than a septic system.

Commissioner Netschert wanted to show the initial costs and how they might hinder people from wanting to build within the city versus some of the other areas that they could do it more affordably.

Public Testimony

Mayor Morrison declared the public portion of the hearing opened and called for any persons wishing to address the commission.

Bridget Holland, Executive Director of the Helena Builders Association noted she encourages development on vacant and under utilized land. The city should encourage new development in areas where infrastructure currently exists. The city should encourage new development contiguous to existing development in order to avoid the long terms cost to tax payers. If a community is to prosper, it must address residential issues. Business and industry that consider locating in Helena will assess the availability of housing for their employees to all salary levels. Population growth is expected in the demand for more housing of all types, especially housing that is affordable for low and moderate-income families. When public policies are developed concerning permits, fees, roads, utilities and land use controls, the cost for housing development should be evaluated to reduce or minimize costs whenever possible. The city could evaluate the impact on housing costs when making decisions on land use regulation, building codes, permits, fees, roads and utilities. With the shortage of lower cost housing in the community, it is essential that new construction provide more housing for low and moderate income residents. That is the growth policy that just passed. Adding \$ 750 does not comply with the growth policy. The building industry agrees that infrastructure expansion is very important. Ms. Holland recommended tabling this to allow for more discussion about costs and needs.

Commissioner Groepper asked what her groups position was with

Kalispell where they charge \$1,581? Ms. Holland stated it was very high, but the local people cannot afford to live in Kalispell. The same for Missoula where the people can't afford to live there and they have to move out of town.

Joe Mueller, 2002 Sweetgrass Road, testified and he realizes that the city needs to raise money to replace the systems and this fee was to cover the \$300 annexation fee. In his case, he has a project that is six acres at \$300 the total would be \$1,800. Under this proposal, if he put 18 units in at \$750, that would be \$13,500 which is 7½ times what it would have been. The upside to the city on this deal is huge. If 1,200 houses are built on the east side of town over the next 15-20 years, that is \$900,000 plus interest. He just purchased two permits which cost \$1,900 a piece in the Fountain Court Development. If you add \$750 to that, it is \$2,650. The \$2,650 vs. \$1,900 is a 40% increase in the cost of doing business. He recommended a compromise - \$500 for that fee and two years to get it to that point. \$250 in the first year, \$500 in the second year and also a sunset program to be able to look back and see if this worked.

There being no other persons wishing to address the commission, the public portion of the hearing was closed.

Discussion

City Manager Burton stated this is a policy decision on whether or not the city will charge a system development fee, what rate will the charge be and what the application of those funds would be. The \$300 per acre charge to annex into the city was eliminated because it was a prohibition, particularly to large parcels that don't want to annex and may only need hookups for one or two services, ie..the airport, the fairgrounds, the city's open space. This was put together years ago based upon a particular property owners request to come in and develop property. The current system development fee has been in place since 1986. There is a process where you have to establish what the maximum fee is by law and anywhere from 0 to that maximum fee is a policy decision by the governing body. It is important to look at the amount of money generated on the water side. The application of these funds on the system development fee for wastewater is the same for water and will allow the city to put trunk lines in the ground without subsidizing the expansion of that system by the existing rate payers. This helps to clean up areas that have contaminated water or other environmental constraints. This proposal is brought forth as a tool to be proactive in terms of trunk lines. It gives the city a way to partner with the developers for those very critical services of sewer and water.

Mayor Morrison stated this money does not go into operation and maintenance of the wastewater system. Its purpose is to build new systems which benefit new development. City Manager Burton stated that is correct, but it also allows for in-fill development.

Mayor Morrison asked if the system development fee had been in place several years ago, could the funding had gone to the new wastewater treatment plant upgrade? City Manager Burton stated that is correct and is mandated by law.

Mr. Rundquist stated that in the water fund, the systems development fees get accounted for on an annual basis as well as to where that money is spent. The Water System Development Fee went into the Phase I Master Water Plan Improvements which included the reservoir and pump station.

Mayor Morrison asked if they hadn't had that money, where would they have gotten money to build that system? Mr. Rundquist stated that the money for the Phase I came from a grant, the existing rate structure and a low-interest

loan.

Mayor Morrison asked if they had not had the system development money to add to it, would they have had to go to the existing rate payers and raise their fees? Mr. Rundquist stated that is correct.

Commissioner Netschert stated that if they can entice people to come into town, it should be an attractive offer. This \$750 does not encourage lower end or medium housing. It promotes higher-end housing which most people can't afford such as Whitefish and Kalispell.

Commissioner Oitzinger stated this is a totally responsible thing to do because it looks down the road for how we fund and stage in the improvements that the city needs for our water treatment facilities. Do we need to go to the whole \$750 or can we get there with a slightly less amount?

Commissioner Groepper stated it is a policy discussion. The commission has a responsibility to those people who have invested in the city already such as the senior citizens. The issue becomes what is the cost that one new property bears on our sewer system? We increase the fees for sewage to float a bond issue to rebuild the plant. How much more capacity did we get and what did it cost? You divide that capacity by what it costs and it tells how much it costs to put one more house on the line in capacity with today's dollars and that is \$1,500. Half of that is \$750. We are already meeting people halfway.

Commissioner Netschert stated that these people would be helping out the system through their monthly fees. The city originally paid for the upgrades to the treatment plant through the monthly fees, or a portion thereof. We have been able to do all the improvements through these years with what we've been able to generate regardless of this increase.

Motion

Commissioner Groepper moved approval of a resolution to establish a base systems development fee for new wastewater connections in the City of Helena, at \$750 per connection. Commissioner Smith seconded the motion. Motion carries 3-2. Commissioner Netschert and Mayor Morrison voting no.

Public Communications

PUBLIC COMMUNICATIONS

No persons came forward to address the commission.

Meetings of Interest

There were no meetings of interest.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 10:39 p.m this 17th day of December, 2001.

MAYOR

ATTEST:

CLERK OF THE COMMISSION

