

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 21, 2004
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 21, 2004, at 6:00 p.m., in the Old Supreme Court Chambers, Room 303, State Capitol Building.

Members Present

Mayor Smith indicated for the record that Commissioners Oitzinger, Cartwright, Parriman, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Jacki Pierson were present. Others present were Anne Pitchette representing the Youth Advisory Council and Justin Trafton representing the Helena Citizens Council.

Pledge of Allegiance

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

Minutes

The minutes of the regular city commission meeting of June 7, 2004 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Second passage of Ordinance #2993 – amending Chapter 1 of Title 7 of the Helena City Code to provide and pay for street maintenance.
- C. Second passage of Ordinance #2994 – amending Section 8-11-13 of the Helena City Code to clarify angle parking
- D. Second passage of Ordinance #2995 – amending Sections 11-11-2 and 11-12-2 of the Helena City Code to allow small breweries as a permitted use in the B-2 (General Commercial) and B-3 (Central Business) Districts
- E. Second passage of Ordinance #2996 – amending Section 11-8-2 of the Helena City Code to allow art studios and personal and professional services in R-O Zoning Districts
- F. Second passage of Ordinance #2997 – amending Sections 11-10-2 and 11-21-5 of the Helena City Code to allow museums, art galleries, live performance theaters, antique stores, small personal repairs, and the uses allowed in R-O Districts in B-1 Districts
- G. Release of Reversionary Clause in a Deed Transferring Tax Deed Property
- H. Resolution and construction agreement for the US 12 Frontage Road realignment

City Manager Tim Burton recommended approval of the claims.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Pouliot moved approval of items A through G on the consent agenda. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Motion

Commissioner Pouliot moved to table item H on the consent agenda to the call of the City Manager. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Bid Award

BID AWARD:

A. 11th Avenue Sidewalk Construction, City Project No. 99-18 – (**Tabled from June 7, 2004**)

Staff Report

City Engineer Ryan Leland reported this construction project, which was tabled on June 7, 2004 in order to receive the local match, will install sidewalks along a portion of 11th Avenue, from Fee Street to California Street. The project scope includes the installation of 8011 square feet of sidewalk. Three bids were opened on April 20, 2004. Lapke Construction of Simms Montana submitted the lowest bid in the amount of \$149,377.00.

This project is a Community Transportation Enhancement Program (CTEP) project with approximately 80% of the funds coming from the Montana Department of Transportation and the remaining 20% match provided by the adjacent property owners. The budget amount of \$137,990 is available for the project. Because the bid amount is greater than the budget amount, three work change directives have been agreed upon. The work change directives will decrease the bid amount by \$11,800, which brings the construction cost of the project to \$135,577.

Mr. Leland recommended awarding the work to Lapke Construction.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Commissioner Pouliot asked if the final cost of the CTEP project is \$135,577.00? Mr. Leland concurred and explained the bids came in higher than expected.

Motion

Commissioner Parriman moved to award of City Project No. 99-18 to the lowest, responsible bidder, Lapke Construction of Simms, Montana for \$135,577.00. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Oitzinger stated she would be out of town on business June 26th through July 5th. She wanted to check with staff and the commission regarding the June 28th Special City Commission Meeting on if a vote would be held that night? Mayor Smith stated no action would be taken during that meeting, his recommendation would be to vote on July 12th during the regular city commission meeting. Commissioner Oitzinger stated in that case she asked to be excused from the June 28th Special City Commission Meeting. The commission concurred.

Commissioner Parriman stated he welcomed the Indian Alliance Second Annual Art Fund Raiser and stated he enjoyed it. He mentioned tonight is opening night for the Helena Brewers and he is looking forward to the season and wished the team luck.

Mayor Smith stated the voters of Helena voted down the local government review ballot issue. There were 4,215 votes opposed.

Commissioner Pouliot explained the people are happy with the form of government and he is pleased.

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 Tim Burton mentioned he spoke with the Brewers owner and he wanted to pass on his appreciation to city staff for the improved stadium.

HCC Communications HELENA CITIZENS COUNCIL COMMUNICATIONS

Justin Trafton stated during the Helena Citizens Council May 26th meeting, all districts were represented, and two recommendations were formed. HCC's first recommendation would be for the city commission to pass an ordinance to clarify the installation of mailboxes stands, consistent with federal and state letter carrier code, to be classified under Title 7-4-2, para. F5. The concern has to do with mailboxes being constructed in the public right-of-way. The second HCC recommendation related to HCTV and stated the HCC supports the activities of HCTV and encourages the city commission to continue it's support. Including the negotiations of a long-term contract that adequately funds the important activities of HCTV in our community.

Commissioner Cartwright asked regarding a recent email regarding these issues and mentioned discussing it at an administrative meeting. Mr. Trafton was unsure on the outcome of those emails.

Mayor Smith mentioned he has reviewed the information and agreed to discuss it further at an administrative meeting.

East Slope

CONSIDER A FINAL PLAT FOR EAST SLOPE MINOR SUBDIVISION CREATING 3 LOTS FROM LOT 4, BLOCK 1, OF THE EAST PARK NUMBER ONE ADDITION, CONTAINING 63,178 SQUARE FEET, IN THE R-O (RESIDENTIAL-OFFICE) DISTRICT; GENERALLY LOCATED WEST OF COLONIAL DRIVE AND NORTH OF BROADWAY, WITH A PROPERTY ADDRESS OF 2615 COLONIAL DRIVE, HELENA, MONTANA

Staff Report

City Planner Lucy Morell-Gengler reported on May 17, 2004, the city commission gave conditional preliminary plat approval for the minor subdivision of Lot 4, Block 1, of the East Park Number One Addition. The subdivision would create 3 lots in the R-O (Residential-Office) District ranging in size from 16,807 to 26,043.57 square feet. The subject property currently contains an office building with dental and physical therapy offices which would be located on proposed Lot 4A.

Preliminary plat approval was subject to several conditions, which have been completed.

Ms. Morell-Gengler recommended approval of a minor subdivision/final plat creating three lots from approximately 63,178 square feet.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Parriman moved approval of the final plat for the East Slope minor subdivision creating 3 lots from 63,178 square feet, located in the R-O (Residential0Office) District; legally described as Lot 4, Block 1, of the East Park Number One Addition generally located west of Colonial Drive and north of Broadway, with a property address of 2615 Colonial Drive, Helena, Montana.

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

Quail Run

CONSIDER A FINAL PLAT FOR THE QUAIL RUN MAJOR SUBDIVISION CREATING 20 RESIDENTIAL TOWNHOUSE LOTS FROM LOTS 3 AND 4, BLOCK 3 OF THE SKELTON ADDITION,

CONTAINING 3.03 ACRES IN A R-O (RESIDENTIAL-OFFICE)
DISTRICT; GENERALLY LOCATED WEST OF ROAD RUNNER DRIVE
AND SOUTH OF PTARMIGAN LANE

Staff Report

City Planner Kathy Macefield reported the city commission gave preliminary plat approval for the Quail Run Subdivision, creating 20 townhouse lots, on September 8, 2003. This property is located in an area surrounded by other duplex style townhouse and condominium development, and other vacant property. Water and sewer mains, hydrants, and a paved internal street with curb and gutter have been installed; the property taxes are paid and current.

The following items have been submitted: financial guarantee for miscellaneous water and sewer appurtenances, sidewalk, wheel chair ramp, chip seal and street signs; a certification letter from DEQ providing approval for water, sewer, and stormwater drainage; and an abstract of title.

Ms. Macefield recommended approval subject to the following conditions:

I. Local Services and Public Health And Safety

Vehicular access must be restricted from Lots 1A, 10B, 9B, 9A, 8B, 8A, and 7B onto Road Runner Drive, and from Lots 7A and 7B onto Ptarmigan Lane, both local collector streets, to minimize vehicular and pedestrian conflicts. An access restriction for these lots must be stated and graphically shown on the final plat.

II. The Survey Requirements Provided For In Part 4 Of This Chapter

The final plat for this subdivision provided to the City on acceptable digital formats for archival and mapping purposes.

III. Helena Subdivision Regulations

A. Design Standards

The subdivision and final plat must comply with Chapter 4 (Design Standards, Improvements) of the Helena Subdivision Regulations and roadway pavement sections must be submitted for approval by the City.

B. Improvement Installation

All of the following improvements shall be installed or the improvements shall be financially guaranteed in accordance with Section 12-4-3 and 12-4-4 of the Helena Subdivision Regulations:

- 1) Water, sewer and streets designed and constructed to City standards, including streets, curbs, and gutters; sidewalks; streetlights; and water and sewer mains, manholes, fire hydrants, and other appurtenances.
- 2) Sidewalk in the pedestrian access between Lots 2B and 3A.

IV. Easements

A 15-foot wide pedestrian easement must be installed with a sidewalk between Lots 2B and 3A to connect to the existing 15-foot wide pedestrian easement that accesses Hummingbird Court to the west. Maintenance responsibility must be clearly identified in the covenants.

V. Final Plat Filing

A. The subdivision approval is effective for up to three years in accordance with 76-3-610 MCA.

The preliminary subdivision plat is approved based upon the submitted preliminary plat, and the final plat is subject to compliance with the findings and conditions for approval.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Parriman moved approval for the final plat of Quail Run Subdivision creating 20 townhouse lots in the R-O District, generally located west of Road Runner Drive in the Skelton Addition, subject to the conditions outlined above. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

US Highway 12/18 St.

CONSIDER A RESOLUTION AND CONSTRUCTION AGREEMENT FOR US 12 FRONTAGE ROAD REALIGNMENT. (TABLED FROM JUNE 7, 2004) – Memorandum of Agreement

Staff Report

Public Works Director John Rundquist reported the intersection of the Frontage Road on the south side of US 12 and 18th Street is problematic as the intersection is so near to the traffic signal at US 12 and 18th Street. Traffic movement from the Frontage Road through the signal to westbound US 12 is nearly impossible during peak traffic hours and creates a safety issue.

MDT proposes to realign the frontage road to move the intersection south to where Cannon Street and 18th Street currently intersects. Concurrently, Community First Bank is proposing to construct a new branch building in the area of the proposed realignment. The amended plat with right-of-way vacations will be brought forward to the city commission for approval under separate action at a future date.

The agreement assures an understanding of the right-of-way dedications, vacations, and utility easements necessary to facilitate the road relocation. Under the agreement, MDT will install the frontage road realignment and maintain this route with their forces. The city will assume responsibility for any future reconstruction.

Mr. Rundquist recommended approval of the memorandum of agreement.

Discussion

Commissioner Pouliot asked how this item differs from consent agenda item H? Mr. Rundquist explained this item was misnamed on the agenda and should be referred to as a memorandum of agreement.

Mayor Smith asked if North Street had been vacated? Mr. Rundquist concurred and explained the commission approved a resolution of intention and tonight a public hearing would be held associated with the resolution.

City Attorney David Nielsen stated he would recommend the commission not take action on this particular item until after the commission considers the vacation of North Street. Mayor Smith mentioned calling for public comment on this particular item and if there were no comments, he would prefer, taking action. Mr. Nielsen concurred.

Public Comment

Mayor Smith asked for public comment, none was received.

Andy Skinner, 1325 Marshall Lane, North Street property owner, stated this is his first knowledge of this proposal and stressed the importance of business and neighborhood involvement. He feels the businesses would be impacted and it might be better to cut through the middle, make a trade with the landowner to allow him to assume North Street and make a more straight approach.

Chuck Hanson, 2105 N. Montana, Suite 201, engineer with Thomas Dean & Hoskins, representing the First Community Bank of Glendive. He explained the Department of Transportation has been working on this proposal for some time. The idea behind this project is to realign the approach a little farther to the south and give adequate

distance for stacking at the signal on 18th Street. As part of this project First Community Bank has been working with MDT on a property swap and is looking at building a bank on that location. This proposal is pivotal to their ability to build a bank at that location. Mr. Hanson stated they are supportive of the North Street right-of-way closure.

Discussion Mayor Smith recommended holding this memorandum of agreement over and proceed to a public hearing, having to do with this proposal.

Motion **Commissioner Pouliot moved to table the memorandum of agreement for the US 12 Frontage Road realignment with the Montana Department of Transportation.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Res. Parking Dist. CONSIDER A RESOLUTION OF INTENTION TO SET FEES FOR ESTABLISHMENT OF RESIDENTIAL PARKING DISTRICTS

Staff Report Public Works Assistant Director Phil Haulk reported the city commission asked staff to calculate the costs incurred to create residential parking districts. These costs were discussed at the June 2, 2004 administrative meeting. This resolution of intention sets a \$100.00 non-refundable fee to process the petition and a \$2.25 per lineal foot charge to install needed signage. Both fees are payable upon submission of a petition with the \$2.25 charge refundable if the district is ultimately not approved.

Mr. Haulk recommended approval of a resolution of intention and set a public hearing date on July 12, 2004.

Discussion Commissioner Parriman asked regarding the procedures for prior requested Type B Residential Parking District? Mr. Haulk stated the city has always required the petition. Commissioner Parriman asked if an individual pays the fees or is it spread out among the neighborhood? Mr. Haulk stated it does not say who needs to pay the fee but it still requires a petition.

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

Motion **Commissioner Parriman moved approval of a resolution of intention to set fees for the establishment of residential parking districts in the city of Helena and set a public hearing date of July 12, 2004.** Commissioner Cartwright seconded the motion.

Discussion Commissioner Oitzinger stated she would be resisting this motion because there may be residential parking districts that are more meritorious than the existing ones. The real cost associated with the parking districts is maintenance, police and signage. Commissioner Oitzinger explained she could see a "zero sum" solution for residential parking districts and designating some in order to redesignate more. The approach of charging a more meritorious district just because the past city commissions may have not been wise in establishing some in the past doesn't seem fair to her.

Commissioner Pouliot explained for same reasons

Commissioner Oitzinger stated, he would be voting no.

Mayor Smith explained he would be supporting this motion because there are way to many residential parking districts for the police department to cover. He feels there should be a public hearing.

Vote

Motion carried 3:2 with Commissioner Oitzinger and Commissioner Pouliot voting no. **Res. #19118**

Water/Sewer Service

CONSIDER AN APPLICATION TO ENLARGE THE WATER AND SEWER AREA TO SERVE TRACT 1 OF COS #3049004; LEGALLY DESCRIBED AS A TRACT OF LAND LOCATED IN THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 16, T10N, R3W, PRINCIPAL MERIDIAN, LEWIS & CLARK COUNTY, MONTANA

Staff Report

John Rundquist reported the proposal is for Prickly Pear Simmental Ranch, Inc. to lease the property to West States Development. West States Development is planning to develop the property with a movie theatre, restaurants, and a retail store, known as the Queen City Complex. In order to develop the property both water and sewer will have to be extended, which will also require the enlargement of the water and sewer service area. The city of Helena has the capacity in both the water and wastewater treatment systems, and in the distribution system.

Mr. Rundquist recommended approval of the application.

Discussion

Commissioner Parriman asked why, at the time of the previous annexation, did the city not automatically expand the water and sewer service area? Mr. Rundquist explained he is unsure when this property was annexed but at some point in time the city commission acted to create water and sewer service boundaries that were independent of the city limit boundaries, for the mere reason that the city did not have the capabilities to serve some of the outlying areas. Commissioner Parriman asked if, currently the city has plenty of capability to supply water and sewer to all the areas that are in the city limits? Mr. Rundquist concurred.

Commissioner Parriman asked if there are certain areas in town that are still experiencing this that are not inside the water and sewer service area and would it be appropriate to include all the areas that are in the city proper? Mr. Nielsen explained, years ago, the city sometimes annexed property that they could not serve by water and sewer. In 1979 the law was changed to say if property was annexed the city had to provide those essential services. The city then established a separate water and sewer boundary area, which defined where actual mains could be served without installation and new infrastructure. In that ordinance, when the present commission annexes, the water/sewer service boundary is automatically extended. This proposal was annexed before the code provision was in effect and it did not have the water and sewer mains available for it. Commissioner Parriman asked if it would be appropriate to take care of all the remaining property facing this situation? Mr. Nielsen explained the reason the commissions in the past have not simply expanded the water and sewer service boundary area to fit the annexed areas is because some of those areas do not have water and sewer mains. The way of leveraging and getting the effected property owners to install those mains has been through this process of including them within that expanded service boundary area. If it were expanded to the boundaries of the city, there would not be legal leverage to help install the water and sewer mains through the effected property owners.

Commissioner Cartwright stated this property is fairly close to the wastewater treatment plant, which occasionally stinks and he is worried the city could be sued because of this smell. Mr. Rundquist explained the city has gone through an extensive process to control those odors and he hopes the developer is aware and proceeds in full knowledge of

that. Commissioner Cartwright stated he would feel more comfortable if there were something more concrete, stating the developer understands that the location may occasionally be effected by the odor. Commissioner Cartwright asked if there is anything the city can do to protect the investment at the wastewater treatment plant? Mr. Nielsen explained the city could protect that investment by zoning. Commissioner Cartwright stated he would like a written statement from the developer stating he recognizes the potential problem.

Mayor Smith asked if the commission would be reviewing a preliminary or final plat given the zoning around the parcel? Mr. Rundquist stated no.

Commissioner Pouliot stated there were some difficulties providing water and sewer to this property and he asked who pays for that? Mr. Rundquist stated the developer would pay for all utility extensions to serve the site.

Commissioner Cartwright asked who would pay for the operational expenses? Mr. Rundquist stated there would be a sewer lift station associated with the development. The city would own the force main but that the property owner would own and operate the sewer lift station for their purposes. On the water side, the city would own and maintain all hydrants and mains leading to hydrants. The change of ownership occurs at the water service tap.

Public Comment

Mayor Smith asked for public comment.

Sanna Yost, 4507 Porcupine Drive, Senior Engineer with Morris & Maierle, Inc., representing West States Development. Ms. Yost asked the commission for approval.

Robert Rule, 1400 11th Avenue, Suite B, stated since the odor improvements began at the wastewater treatment plant there is a considerable difference in the air quality. He stated he understands there is potential for odor problems and he is okay with it.

Motion

Commissioner Pouliot moved approval of the application to enlarge the water and sewer service area to Tract 1 of COS#3049004 contingent on the approval of the Infrastructure Plan by the Public Works Department. Commissioner Oitzinger seconded the motion.

Discussion

Commissioner Cartwright asked Mr. Nielsen what would be required of the developer for legal purposes? City Attorney David Nielsen explained a letter in writing. Mr. Rule stated he would provide the city with a letter.

Vote

All voted aye, motion carried.

**Street Main.
Boundaries**

CONSIDER A RESOLUTION EXPANDING THE BOUNDARIES OF STREET MAINTENANCE DISTRICT #1 FOR FISCAL YEAR 2005

Staff Report

Administrative Services Director Tim Magee reported the city commission desires to alter the boundaries of Street Maintenance District #1 to include all streets, alleys and property within the exterior corporate limits of the city of Helena.

Mr. Magee recommended approval of the resolution to allow for new maintenance assessments, which would provide an equitable method to accomplish and pay for maintenance.

Public Comment

Mayor Smith asked for public comment, none was received.

- Motion** **Commissioner Cartwright moved approval of a resolution expanding the boundaries of Street Maintenance District #1 for fiscal year 2005.** Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #19119**
- Street Main. Assessment** CONSIDER A RESOLUTION OF INTENTION TO LEVY AN ASSESSMENT UPON ALL PROPERTY IN STREET MAINTENANCE DISTRICT #1 TO DEFRAY THE COST OF PROVIDING STREET MAINTENANCE FOR FISCAL YEAR 2005
- Staff Report** Administrative Services Director Tim Magee reported each year the city commission must levy and assess the street maintenance charges in order for them to be placed on the upcoming tax bills. For FY 2005:
1. Changes are proposed in both the rates and assessment methodology for Street Maintenance.
 2. The Street Maintenance Districts #1 boundary is being changed to encompass the entire city.
 3. All of the previous area in Street Maintenance District #2 will now be part of Street Maintenance District #1, and SMD #2 will no longer be assessed.
- Mr. Magee recommended approval of the resolution of intention and to set a public hearing date of July 12, 2004.
- Discussion** Commissioner Cartwright asked regarding the options? Mr. Magee stated Option E would be the most flexible. Commissioner Pouliot asked regarding Option E; the way that it remains revenue neutral is that the flat rate for residential goes from \$92.22 to \$93.12? Mr. Magee concurred.
- Public Comment** Mayor Smith asked for public comment. **Ed McHugh, 9 Cloverview Drive**, spoke in favor of the proposal and handed out the Helena Property Owners Association amendment to the commission. **Andy Skinner, 1325 Marshall Lane**, stated there is a serious problem regarding Pebble Garden Mobile Home Court. There are almost 100 units that need to be relocated and somebody has got to provide these services. He stated the costs cannot keep escalating because people on fixed income will have no place left to go. **Steven Skinner, 805 N. Lamborn**, stated he supports the Helena Property Owner's Association amendment for the proposal and the rationale for their support is due to inequities, which they feel are present in the existing fee structure. To be competitive with the other large mobile home courts, within the city, his parent's mobile home court is at a disadvantage when it is averaged out for the per monthly street maintenance assessment on each mobile home space. Mr. Skinner urged the commission to support the HPOA's amendment.
- Motion** **Commissioner Oitzinger moved approval of a resolution of intention to levy an assessment Option 3 upon all property in Street Maintenance District #1 to defray the cost of providing street maintenance for fiscal year 2005.** Commissioner Parriman seconded the motion.
- Discussion** Commissioner Cartwright stated he would be supporting the proposal because he feels it needs more discussion. He's more convinced by the argument that the mobile home parks provide maintenance for roads that are open to the public.

Mayor Smith stated he would not be supporting the proposal at this time.

Vote

Motion carried 4:1 with Mayor Smith voting no. **Res. #19120**

SID #418

CONSIDER A RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 418 FOR MCHUGH DRIVE; RESPREADING ASSESSMENTS AGAINST CERTAIN PROPERTIES

Staff Report

Accounting Supervisor Brandi Pierson reported on July 21, 2003, the city commission adopted the resolution of intention and on September 22, 2003 adopted the resolution creating SID No. 418. Pursuant to the Resolution of Intention, the properties in the District are to be assessed based upon lineal front footage.

When the resolution creating the district was adopted, Anderson Development, LLC owned two lots of real property in the District. Following the date of adoption of the resolution creating the District, the original lots have been subdivided into 83 legal lots. As a result, the assessments for the costs of the improvements and incidental costs as described in the resolution of intention need to be respread across the subsequently created lots in a fair and equitable manner.

It was determined that a fair and equitable manner of respreading the lineal frontage assessment across the subsequently created lots was by the area methodology based on the total square footage that each subsequently created lot bears to the total square footage of all subsequently created lots, only the square footage of the portion of the subsequently created lot that was within the original lots will be assessed.

Ms. Pierson recommended approval of the resolution relating to SID #418 for McHugh Drive.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Pouliot moved approval of the resolution relating to SID #418 for McHugh Drive; respreading assessments against certain properties. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19121**

Bonds (SID 413&418)

CONSIDER A RESOLUTION RELATING TO \$645,825.00 POOLED SPECIAL IMPROVEMENT DISTRICT BONDS, SERIES 2004 (SPECIAL IMPROVEMENT DISTRICT NOS. 413 AND 418); AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF

Staff Report

Accounting Supervisor Brandi Pierson reported on March 22, 2004, the city commission passed a resolution to create SID #413 – Tamarack Street.

On September 22, 2003, the city commission passed a resolution to create SID #418 – McHugh Lane.

The total estimated costs of the improvements, including incidental costs; to be financed by the Districts is \$645,825. The costs of the improvements are to be paid from the proceeds of the bonds, which are to be payable primarily from special assessments to be levied against property in the Districts, which property will be specially benefited by the improvements in the amount not less than \$645,825.

If this resolution is approved, the bonds will be sold in a public competitive sale. Staff will open the sealed bids at noon on July 12,

2004. The results of the bid opening will then be presented to the city commission at the regular meeting on July 12, 2004.

Ms. Pierson recommended approval of the resolution relating to \$645,825 pooled SID bonds, Series 2004 (SID #413 & 418).

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Mayor Smith asked if there are monetary advantages from pooling these two SID's. Ms. Pierson concurred. Mayor Smith asked when the commission would know. Ms. Pierson explained the city would get lower interest rates because the bond is a higher amount than if the city were to do them separately. Mayor Smith asked if it is quantifiable that the saving realized through this pooling? Ms. Pierson stated it is mostly quantifiable for Tamarack. Usually for an SID, the bond council charges the city about \$12,000, financial advisors charge about \$7,500, then each has to pay a paying agents and a resister, which is around \$250. Now that those costs are combined the charges are a lot less.

Commissioner Cartwright asked if the only people who receive savings are those living within the district? Ms. Pierson stated the only people who would be assessed for the SID's are the benefiting property owners. The SID costs will be included on their tax bills.

Motion

Commissioner Oitzinger moved approval of the resolution authorizing the issuance, calling for the public sale and authorizing the pledge of the revolving fund to the security of SID #413 & 418.

Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Res. #19122**

Motion

Commissioner Oitzinger moved approval to authorize the City Manager to enter into a negotiated sale underwriting agreement with D.A. Davidson & Co. Commissioner Pouliot seconded the motion.

All voted aye, motion carried.

Public Hearings

Skinner Mobile Home

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION AMENDING RESOLUTION #7985 FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW THE EXPANSION OF THE SKINNER MOBILE HOME PARK LOCATED IN A R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT FOR PROPERTY LEGALLY DESCRIBED AS LOT 9, BLOCK 4 AND LOT 16, BLOCK 5 OF THE PHOENIX ADDITION, HELENA, MONTANA; GENERALLY LOCATED NORTH OF PHOENIX AVENUE BETWEEN HANNAFORD AND OAKES STREETS

Staff Report

City Planner Belinda Waters reported in July 1975, the applicant received a conditional use permit from the city commission to operate this mobile home park. This CUP described the property as portions of Blocks 4, 5, 6, and 7 in the Phoenix Addition.

On June 8, 2004, the Helena Zoning Commission recommended approval of a resolution amending Resolution #7985 for a Conditional use Permit (CUP) to allow the expansion of the Skinner Mobile Home Park located in a R-3 (Medium Density Residential) District.

Since the original CUP for the mobile home park was granted, the applicant has acquired two additional lots that are located adjacent to the existing mobile home park. This amendment would allow the two additional lots to be incorporated into the existing mobile home park. Both lots are 50 feet wide by 140 ½ feet long, 7,025 square feet each, and are vacant and undeveloped.

Ms. Waters recommended approval of a resolution amending Resolution #7985 for a Conditional use Permit (CUP).

Public Testimony

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

Steven Skinner, 805 N. Lamborn, explained they would be using the storage units for their tenants only and urged the commission for their approval.

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

Motion

Commissioner Cartwright moved approval of a resolution amending Resolution #7985 for a Conditional Use Permit (CUP) to allow the expansion of the Skinner Mobile Home Park located in a R-3 (Medium Density Residential District). The expanded property is legally described as Lot 9, Block 4 and Lot 16, Block 5 of the Phoenix Addition, Helena, Montana; generally located north of Phoenix Avenue between Hannaford and Oakes Streets.

Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19123**

North Street

B. CONSIDER A RESOLUTION TO VACATE UNDEVELOPED NORTH STREET RIGHT-OF-WAY, LYING SOUTH OF LOTS 1-8 IN BLOCK 31 AND NORTH OF LOTS 4-8 IN BLOCK 32, IN THE CITY PARK ADDITION, HELENA, LEWIS AND CLARK COUNTY, MONTANA

Staff Report

City Engineer Ryan Leland reported the intersection of the Frontage Road on the south side of US 12 and 18th Street is problematic as the intersection is so near to the traffic signal at US 12 and 18th Street. Traffic movement from the Frontage Road through the signal to westbound US 12 is nearly impossible during peak traffic hours and creates a safety issue.

MDT proposes to realign the frontage road to move the intersection south to where Cannon Street and 18th Street currently intersects. Concurrently, Community First Bank is proposing to construct a new branch building in the area of the proposed realignment.

North Street is currently vacant land between the MDT frontage road and the adjacent land. The traffic currently uses the Frontage Road ROW instead of the North Street ROW.

Mr. Leland recommended approval of the resolution to vacate North Street right-of-way.

Discussion

Commissioner Pouliot asked if changes would be made to the Frontage Road itself? Mr. Leland stated the Frontage Road would be realigned. Mr. Burton explained MDT wanted to realign because of the traffic safety issues.

Mayor Smith asked regarding property owners knowledge of the proposal. Mr. Leland explained staff has been in conversation with those property owners and explained there are property owners who won't be disrupted. Mayor Smith asked if the bank currently owns the property or are they in the process of acquiring it? Mr. Leland stated he believes the bank owns all the property at this time.

Commissioner Parriman asked if the bank would buy the street from the city, once vacated? Mr. Leland explained it is set up for them to buy the property at fair market value or there could be a land swap. The bank would be dedicating right-of-way in the same square footage in order for MDT to realign the Frontage Road. Commissioner Parriman

asked what would happen to the property on the backside of the easement area? Mr. Leland explained there would be a T intersection. Commissioner Parriman asked if the city would be vacating the other

side of North Street? City Attorney David Nielsen explained the reason the south half of the street was not vacated was because the city reversed to the adjacent property and they pay as a fee, the fair market value of that property and the property owner has not participated in this transaction.

Public Testimony

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

Chuck Hanson, 2105 N. Montana, Suite 201, stated he was representing First Community Bank of Glendive and explained this property is important to the bank as a portion of their parking and access and they are in support of the resolution to vacate this right-of-way.

Andy Skinner, 1325 Marshall Lane, stated he has a vested issue in this proposal because he owns property, assuming he would have an access down the Frontage Road. MDT has a high concentration of traffic that causes a problem at that intersection and rather than sign and signal it and cure the problem, the proposal is going to close the street that accesses the businesses in that area. Secondly, the bank will completely saturate the whole corner at the expense of the property down below. Mr. Skinner stated Cannon Street has a high volume of children and the street is not up to standards. He feels this project is something that shouldn't be rushed into and stated there should be more discussion.

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

Motion

Commissioner Cartwright moved approval of the resolution to vacate North Street Right-of-Way. Commissioner Pouliot seconded the motion.

Discussion

Commissioner Parriman asked if MDT would be bringing Douglas and Cannon Street up to city standards? Mr. Rundquist stated MDT is proposing to totally reconstruct Douglas and Cannon Street and make a full intersection where Cannon intersects 18th Street. However, it will not include curb and gutter at this point in time, the bank will construct that associated with their property frontage improvements. Mr. Rundquist stated the truck drivers already use Cannon Street as an alternative route because the Frontage Road is so hard to negotiate. Commissioner Parriman stated he has concerns regarding no curb and gutter along Cannon and Douglas Street and asked if the city could negotiate with MDT to get that done and have the bank, as a private entity, take care of the other side or the street? Mr. Rundquist concurred and explained the city is already in those negotiations. The first proposal received from MDT showed a plan with curb and gutter on both sides. The final proposal received did not have curb and gutter and the city has been working on that. Commissioner Parriman stated this project is a public safety project and as Mr. Skinner mentioned the city may be creating more public safety issues in relation to a busier street along Cannon Street.

Commissioner Oitzinger encouraged continued negotiations but will support the proposal.

Commissioner Cartwright stated having an easier access to the Frontage Road would actually improve the values of the properties east of Douglas Street because there are people who don't want to go there because the traffic is so bad. Secondly, Cannon Street being close to residential properties; it looks like there's room on the north side the alignment could move a bit north, making a wider boulevard on the south and in fact giving a better intersection with the road coming off the MDT side. Commissioner Cartwright stated he didn't realize the agreement

was still in negotiations and he mentioned tabling this motion until the city has an idea of what the proposal is.

Substitute Motion

Commissioner Cartwright moved to table the resolution to vacate North Street Right-of-Way to the call of the City Manager.

Commissioner Oitzinger seconded the motion. Motion carried 3:2 with Commissioner Pouliot and Mayor Smith voting no.

Discussion

Mayor Smith asked Mr. Skinner if his suggestion was a traffic signal light is installed at the intersection of Cannon and 18th Street? Mr. Skinner concurred.

Type B Res. Parking

C. CONSIDER A RESOLUTION ESTABLISHING A PORTION OF LESLIE AVENUE IN THE CITY OF HELENA AS A TYPE B RESIDENTIAL PARKING DISTRICT

Staff Report

City Engineer Ryan Leland reported residents have requested a Residential Parking District (residents only) for Leslie Avenue from Benton Avenue to Madison Avenue between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday.

Mr. Leland recommended tabling the resolution establishing a Type B Residential Parking District.

Public Testimony

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

Joe Carter, 29 Quartz Circle, stated he is representing his mother, who lives in the Leslie Avenue area. He explained she has had many problems regarding parking and is in favor of the residential proposal. He asked how the fees would be handled?

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

Discussion

Commissioner Pouliot asked if the fee is paid one time or annually? Mr. Leland stated the fee is a one-time fee; however there is a \$5.00 permit, which must be purchased annually. Commissioner Pouliot asked how that fee would be paid? Mr. Leland explained the fee is set up to spread amongst all the homeowners, which is a \$100, plus \$2.25 per lineal front footage.

Commissioner Parriman stated the commission has discussed the inequity of prior districts not paying and asked regarding maintenance districts for all the Type B Districts in city limits, for the expense of replacing signs and added expense of the Police Department? Mr. Leland stated the commission could set up a different fee; however, it was not addressed and this proposal grandfathered all previous Type B Districts in.

Motion

Commissioner Pouliot moved approval of a resolution to establish a Type B Residential Parking District for a portion of Leslie Avenue and set a public hearing for July 12, 2004.

Commissioner Oitzinger seconded the motion. Motion failed 2:3 with Commissioner Cartwright, Commissioner Parriman and Mayor Smith voting no.

Motion

Commissioner Cartwright moved to table a resolution to establish a Type B Residential Parking District for a portion of Leslie Avenue and set a public hearing to the call of the City Manager. Commissioner Parriman seconded the motion.

- Discussion Mayor Smith asked Commissioner Cartwright if it was his intention for the commission to have a public hearing on the fees and the public hearing on the resolution establishing the districts on the July 12, 2004 city commission meeting? Commissioner Cartwright concurred. Mr. Leland explained staff requested tabling to better correlate with the fee and the creation of the district at the same time.
- Vote Motion Carried 3:2 with Commissioner Oitzinger and Commissioner Pouliot voting no.
- Cannon St. Name Change** D. CONSIDER A RESOLUTION CHANGING THE NAME OF CANNON STREET ON THE EAST SIDE OF THE CITY OF HELENA TO NORTH STREET
- Staff Report City Engineer Ryan Leland reported as a result of MDT's proposal to realign the frontage road moving the intersection south to where Cannon Street currently intersects, emergency services brought up the fact that there are currently two Cannon Streets and the city should change the name of Cannon Street on the east side of Helena. The other Cannon Street is located on the west side of Helena Between Euclid and Choteau.
Mr. Leland recommended tabling of the resolution changing the name of Cannon Street on the east side of Helena to North Street so there are not two North Streets.
- 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 Parriman moved approval of a resolution changing the name of Cannon Street on the east side of Helena to North Street. Motion died for a lack of second.
- Motion** Commissioner Cartwright moved to table a resolution changing the name of Cannon Street on the east side of Helena to North Street. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.
- Annual Appropriations** E. CONSIDER A RESOLUTION TO AMEND THE ANNUAL APPROPRIATIONS IN THE BUDGET FOR FISCAL YEAR 2004
- Staff Report Budget Manager Robert Ricker reported budget amendments are summarized as follows:
1. \$20,440 for unanticipated employee retirement costs in the Helena Area Transit System (HATS) fund, to be funded 50% from General Fund cash reserves and 50% from Section 5311 federal grant funding.
2. \$12,100 to provide for overtime costs in the fire Department to cover a staffing shortage due to the absence of two firefighters on medical leave.
Mr. Ricker recommended approval of a resolution amending Res. #12003 and setting the annual appropriations for the city of Helena.
- 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 Pouliot moved approval of a resolution to amend Res. #12003, and setting the annual appropriations for the city of Helena, Montana in the fiscal year 2003-2004 budget.

Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19124**

Garbage & Refuse Commercial

F. CONSIDER A RESOLUTION ESTABLISHING CHARGES FOR COLLECTION AND DISPOSAL OF RESIDENTIAL GARBAGE AND REFUSE IN THE CITY OF HELENA, MONTANA, FOR FISCAL YEAR 2005

Staff Report

Budget Manager Robert Ricker reported the city commission passes a resolution annually establishing charges for Commercial Sanitation. The resolution includes all changes that are currently being utilized by Commercial Sanitation and includes them on one resolution. The Public Works Department is not recommending any increase in FY2005 charges for Commercial Sanitation.

Mr. Ricker recommended approval of a resolution to establish a rate matrix for service charges for commercial collection and disposal of garbage and refuse.

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 Oitzinger moved approval of a resolution to establish a rate matrix for service charges for commercial collection and disposal of garbage and refuse in the city of Helena for fiscal year 2005.

Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Res. #19125**

Garbage & Refuse Residential

G. CONSIDER A RESOLUTION SETTING FEES TO BE CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION FOR FISCAL YEAR 2005

Staff Report

Budget Manager Robert Ricker reported the city commission passes a resolution annually establishing charges for Residential sanitation. The proposed resolution includes all charges utilized by Residential Sanitation and includes them on one resolution. The Public Works Department is not recommending any increases in FY2005 charges for Residential Sanitation.

Mr. Ricker recommended approval of a resolution to establish charges for collection and disposal of Residential garbage and refuse in the city of Helena, Montana for fiscal year 2005.

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 Pouliot moved approval of a resolution to establish charges for collection and disposal of Residential garbage and refuse in the city of Helena, Montana for fiscal year 2005.

Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19126**

**Garbage & Refuse
Transfer Station**

- H. CONSIDER A RESOLUTION SETTING FEES TO BE CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION FOR FISCAL YEAR 2005

Staff Report

Budget Manager Robert Ricker reported the city passes a resolution annually establishing charges for the Transfer Station. The Public Works Department is recommending a \$.75 reduction in the tipping fee charged for disposal at the Transfer Station. This reduction is made up from a \$1.75 reduction in the County tipping fee due to refunding landfill bonds and a \$1.00 increase in the city tipping fee in order to cover operating expenses, bond coverage requirements, and equipment reserve goals.

Mr. Ricker recommended approval of a resolution setting fees to be charged for disposal of garbage and refuse at the city of Helena Transfer Station for fiscal year 2005.

Discussion

Commissioner Parriman asked why the \$.75 reduction couldn't be left alone this year in order to create a cash reserve? Assistant Public Works Director Phil Hauck explained to determine this rate he works with the customers, Lewis and Clark County and the Scratch Gravel Landfill District. He stated it never hurts to have more then less; however, there is a balance between the county and the city.

Public Testimony

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

Ed McHugh, 9 Cloverview Drive, stated those who have to pay the tipping fees would appreciate that reduction and the city being more economic as can be. The city has reserves everywhere. Mr. McHugh feels it is ridiculous because the city is in competition with the City-County Sanitation, a privately owned company.

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

Motion

Commissioner Oitzinger moved approval of a resolution setting fees to be charged for disposal of garbage and refuse at the city of Helena Transfer Station for fiscal year 2005. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #19127**

Levying/Assessing

- I. CONSIDER RESOLUTIONS TO LEVY AND ASSESS THE FOLLOWING ANNUAL CHARGES FOR FISCAL YEAR 2005:
1. STREET LIGHTING DISTRICTS
 2. STORM WATER UTILITY
 3. TREE PLANTING AND MAINTENANCE DISTRICT
 4. SPECIAL IMPROVEMENT DISTRICTS (SID'S)
 5. SIDEWALK IMPROVEMENT PROGRAM

Discussion

Commissioner Cartwright stated he had a discussion with Director of Parks and Recreation Randy Lilje regarding what condition the city's trees would be in and there was a slight disagreement; however he would support the \$10 fee this year but the city might want to raise it next year to make up for the damage we'll see over the winter.

Staff Report

Budget Manager Robert Ricker reported each year the city commission must levy and assess the above annual charges in order for them to be placed on the upcoming tax bills.

Street Maintenance – Street Lighting Districts assessments are based upon the anticipated cost of electric utility bills and administrative services. **Res. #19128**

Storm Water Utility – The Storm Water Utility Resolution anticipates no increase in the rate or change in the method of assessment. **Res.**

#19129

Tree Planting and Maintenance District – The proposal is to keep the assessment rate the same at \$10 per GEO code or parcel. **Res. #19130**

Special Improvement Districts (SID's) – The SID assessments are for outstanding debt. New SIDs or advance payments of assessments will automatically create related budget adjustments. **Res. #19131**

Sidewalk Improvement Program – The Sidewalk Improvement Program Resolution shows the total amount of annual assessments that will be placed on the tax bills for the 2001 and prior programs. **Res.**

#19132

Public Testimony

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

Ed McHugh, 9 Cloverview Drive, stated the McHugh Mobile Home Park is assessed a heavy assessment for stormwater utility and he would like consideration on making a change with that. The problem is they are being assessed for an impervious area and all their streets are being assessed where no streets, by the citizens of Helena, are being assessed. He feels it is totally unfair. Mr. McHugh explained his streets are built up to city standards and they are paying for those streets where no other citizen in Helena is paying for them.

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

Motion

Commissioner Oitzinger moved approval of the resolution to levy and assess the following annual charges: Street Lighting District, Storm Water Utility, Tree Planting and Maintenance District, Special Improvement Districts (SID's), and Sidewalk Improvement Program. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

HPC Budget

J. CONSIDER A RESOLUTION TO APPROVE THE PROPOSED BUDGET OF THE HELENA PARKING COMMISSION FOR FISCAL YEAR 2005

Staff Report

Budget Manager Robert Ricker reported state law (7-14-4615, MCA) requires the Helena Parking Commission report transactions and financial affairs and the city commission approve the budget of any appointed board.

Mr. Ricker recommended approval of a resolution to approve the proposed budget of the Helena Parking Commission.

Public Testimony

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

Hal Fossum, 1209 Stuart Street, stated he is the Director of the Helena Parking Commission and is in support of the proposal.

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

Motion

Commissioner Parriman moved approval of the resolution to approve the proposed budget of the Helena Parking Commission for Fiscal Year 2005. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19133**

BID Budget K. CONSIDER A RESOLUTION TO LEVY AN ASSESSMENT FOR THE CITY OF HELENA BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2005

Staff Report Budget Manager Robert Ricker reported on July 24, 2000, the city commission passed Res. #11542 which recreated the BID for an additional ten years. State law (7-12-1132) requires the BID to submit it's budget and work plan to the city commission for consideration and approval of the related assessment to support the district.

Mr. Ricker recommended approval of the resolution to levy an assessment for the city of Helena Business Improvement District.

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

Hal Fossum, 1209 Stuart Street, stated he is the Director of the Downtown Helena BID and is in support of the proposal.

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

Motion Commissioner Parriman moved approval of the resolution to levy an assessment for the city of Helena Business Improvement District (BID) and to approve the proposed work plan and budget of the Business Improvement District for fiscal year 2005.

Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #19134**

9-1-1 Budget L. CONSIDER A RESOLUTION TO APPROVE THE PROPOSED BUDGET OF THE 9-1-1 FUND FOR FISCAL YEAR 2005

Staff Report Budget Manager Robert Ricker reported State Law (7-6-4035) requires that the city commission approve the budget of any appointed board. The 9-1-1 Fund fall under the direction of the Support Services Division Board which has presented the proposed budget to the city commission for consideration.

Mr. Ricker recommended approval of the resolution to approve the proposed budget of the 9-1-1 fund for fiscal year 2005.

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 Pouliot moved approval of the resolution to approve the proposed budget of the 9-1-1 fund for fiscal year.

Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #19135**

Support Services Budget M. CONSIDER A RESOLUTION TO APPROVE THE PROPOSED BUDGET OF THE SUPPORT SERVICES DIVISION FOR FISCAL YEAR 2005

Staff Report Budget Manager Robert Ricker reported State Law (7-6-4035) requires that the city commission approve the budget of any appointed board. The Support Services Division has presented its proposed 2005 budget to the city commission for consideration.

Mr. Ricker recommended approval of the proposed budget of the Support Services Division.

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 Cartwright moved approval of the resolution to approve the proposed budget of the Support Services Division for fiscal year 2005. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19136**

Tax Revenue

N. CONSIDER A RESOLUTION TO BUDGET ADDITIONAL PROPERTY TAX REVENUE FOR FISCAL YEAR 2005

Staff Report

Administrative Director Tim Magee reported the proposed budget includes tax revenue increases for:

1. the CPI-U inflation factor of 0.97%, or \$39,665;
2. the tax revenue authorized but not levied in the prior year totaling \$275,568;
3. the increase in group benefit premiums of \$30,697; and
4. the projected State Personal Property Tax Reimbursement decrease of \$8,396.

The total General Fund property taxes of \$4,926,493 do not even cover the \$6,235,326 cost of Police and Fire services. Property tax revenue growth has not kept up with inflation, and has caused the city to limit services that the community has asked for and needs.

Mr. Magee recommended approval of the resolution to budget additional tax levy revenue.

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 Oitzinger moved approval of the resolution to budget additional tax levy revenue. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Res. #19137**

Final Budget

O. CONSIDER A RESOLUTION TO ADOPT FINAL BUDGETS, BUDGET AUTHORITIES AND ANNUAL APPROPRIATIONS FOR FISCAL YEAR 2005

Staff Report

Administrative Director Tim Magee reported the city commission received a preliminary budget presentation on May 3, 2004. There have been a series of budget work sessions. Mr. Magee reviewed the possible amendments.

Mr. Magee recommended approval of the resolution to adopt the final budget.

Public Testimony

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

Marty Baumann, 2014 Lockett Avenue, stated he is the President with the Board of Directors with the Helena Television Collation, a non-profit corporation that is the parent organization of Channel 11. Mr. Bowman acknowledged those attending from the Board of Directors. Mr. Bowman stated HCTV is eager to craft another 5-year contract with the city that would be mutually satisfying.

Steven Maly, 802 Power Street, stated he is the Executive Director with the HCTV. Mr. Maly stated the \$100,000 in the FY 2005 budget is not enough to adequately meet their needs. The HCTV is

much more active and engaged in serving the community than they were in 2000. He knows this year's allocation could have been less but it needs to be more. HCTV has never requested or received General Fund support. The contract with the city is funded exclusively from Franchise Fee Revenues and all Franchise Fee Revenues, collected from Bresnan Communications to date, have been derived directly and exclusively from cable television subscribers. HCTV is dedicated to returning as much value to Helena's cable TV community as they possibly can; through consistently good programming that reflects their civic and other community related interests. Their mission and contractual obligations to city/county/state extend well beyond coverage of meetings. They are confident they can attract people to cable, increase the flow of Franchise Fee Revenues, and generate increased public interest and involvement in the local civil society. HCTV and the city are currently in negotiating the renewal of a second multi-year contract. He assured the commission that the monies they are seeking are based on realistic projects of operating and capital costs and that they are substantially more than the amount in the FY 2005 budget. They are asking for an adequate share of the revenue and they believe that many cable subscribers are unaware that more than half of the sir-charge they pay each month is allocated to General Fund expenditures, not HCTV. He is also confident that the Franchise Fee Revenues the city would be collecting in the next few years will be more than enough to meet HCTV's needs and obligations. In the past year, HCTV has procured multi-year contracts with Lewis and Clark County and the State of Montana. The net effect is that the funds that HCTV is seeking from city Franchise Fee Revenue constitutes about 40% of their total annual requirements. HCTV needs to keep growing in order to keep that pace and to be better than they have been. He thanked all those that are in support of HCTV.

Michael Hankins, 5775 Lincoln Road W, stated HCTV gave the veterans and the homeless veterans a program called Voices of the Veterans. Mr. Hankins relayed some success stories related to the HCTV programming and asked the commission to support the HCTV program.

Liz Ganzs, 710 Harrison Avenue, stated she is speaking tonight as a member of HCTV and as a representative staff member of the Holter Museum. She is speaking in support of HCTV's funding request and further explained her opposition.

Bob Holmes, 822 Breckenridge, stated his is supporter of HCTV and an enthusiastic viewer. He urged the commission to support the HCTV funding.

Patty White, 914 N. Benton Avenue, stated she was a city commission 5 years ago when the franchise agreement was implemented. She explained it was always understood that a portion of the franchise money would go to supporting a community cable channel in Helena and over time HCTV would look for additional funding sources. Ms. White listed many of HCTV's activities and programming opportunities. She urged the commission to support the additional funding request.

Val Cannon, 431 S. Cooke, stated he is a member of HCTV and supports the idea of increasing the budget for HCTV.

Philip Curtis, 101 N. Last Chance Gulch, listed HCTV's unique experiences and projects, which he is involved in at HCTV. He further explained his support for the additional funding to HCTV.

Jerry Hutch, 1111 E. State Street, stated he is an elected representative, District 7 with Helena Citizens Council. Mr. Hutch stated a recommendation was formed at the last HCC meeting and presented to the city commission on the full and continued support of the city commission to HCTV.

Melissa Anderson-Clarke, 3855 Kim Drive, stated she is volunteer for HCTV. She believes HCTV is wonderful for this community and supports the additional funding.

Linda Stohl, 426 S. Montana Avenue, stated HCTV is not asking for general funds revenues. She stated HCTV's franchise fees generated over \$200,000 and the Bresnan Cable customers pay those fees. Ms. Stohl explained HCTV couldn't be seen unless you're a paying Bresnan Cable, which is where the franchise fund comes from.

Martin Holt, 576 3rd Street, stated the people that HCTV helps are the reason the franchise fees were instituted by federal statute to save some of the media for community based information services, rather than have it all be commercial. He further explained his support for the additional funding.

Joe McClain, 1828 Choteau Street, stated she is an employee of HCTV. She read a letter from a member of HCTV, Lowel Bartels and submitted it for the record.

Scott Cryton, 421 Monroe, stated this is a unique situation within the state capital and the product that comes from the public television station is qualitatively superior to anything else that is happening around the state. He further explained his support for the additional HCTV funding.

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

Motion

Commissioner Pouliot moved to increase HCTV's budget to \$115,500. Commissioner Oitzinger seconded the motion.

Discussion

City Manager Tim Burton stated more clarification on the motion is needed and stated the \$100,000 represents an 18% increase over the existing contract amount of \$85,000 that will conclude financially this calendar year. The contract ends in August and the financial portions of the contract end in December. The \$125,000 increase represents a 47% increase and the motion and the intent is that's the base line for contract discussions beginning in January, which means there is no proposed contract for the commission's consideration.

Commissioner Cartwright asked, in order to raise that fund would it be offsetting another fund? City Manager Tim Burton stated that would be up to the commission; however, regardless of the testimony that this is not general funded, it is general fund money and will affect the city's bottom line. If this motion passes and there is a \$15,500 impact, the commission's choices are to either cut elsewhere or return to the cash balance and appropriate more than that.

Commissioner Parriman asked regarding the available cash revenues? Mr. McGee explained there are funds available and explained that process.

Vote

Motion carried 3:2 with Mayor Smith and Commissioner Parriman voting no.

Discussion

Commissioner Cartwright stated he would like to see HCTV funded at an adequate amount, he understands Mr. Burton's observation that it's hard to negotiate a budget when it is already set. He encouraged the city staff and HCTV that if money could be found from other sources that go into the pot as well.

Motion

Commissioner Oitzinger moved to increase the line item by \$6,250 which would be it to \$18,750 for the half-time Historic Preservation Officer. Commissioner Motion dies for a lack of second.

Discussion

Commissioner Pouliot stated the city, for the last two to three years, have been in a market based pay plan and it has raised salaries, in some cases considerable. He hadn't realized the majority and the biggest percentages of the raises were at the management level as opposed to the entry level. He stated he would not be supporting the proposed salaries in this budget and asked what the cost of living increase that the city employees are receiving? Administrative Services Director Tim Magee explained the cost of living, built into this budget, is 1.9% based upon the CPIU in December. Commissioner Pouliot stated the Independent Record indicated in the private sector wages were raising an average of 2.4% and/or 2.6% and further explained how he believes that in Helena Montana a salary of \$50,000 with benefits is very adequate. Commissioner Pouliot explained if the salaries are between \$50,000 and \$60,000, the employees should receive the proposed increase or 3%, which ever is lesser. And employees between \$60,000 and \$70,000 should receive the proposed increase or 2%, which ever is lesser. And \$70,000 and above the employees receive a cost of living increase.

Motion

Commissioner Pouliot moved the city employees receive the proposed increase or 3%, which ever is lesser. Motion died for a lack of second.

Discussion

City Manager Tim Burton reiterated the history, which lead up to the proposal that is represented in the 2005 budget.

Commissioner Cartwright stated he would like to have an independent review of the market based scheme and asked regarding market based performance.

Motion

Commissioner Cartwright moved the commission review the impact of implementing the market based pay plan. Commissioner Pouliot seconded the motion.

Discussion

Commissioner Oitzinger stated she feels it is absolutely crucial that the commission be extremely careful in the human resources decisions.

Commissioner Parriman stated the market based pay plan costs the city more money to have done and asked if there is any cost associated with the review of the market based pay plan? Mr. Burton stated the city budget and spent around \$40,000. Commissioner Parriman stated he was pleased with the results and won't be supporting the motion.

Mayor Smith stated he would not be supporting the motion. Commissioner Cartwright stated his hope was to look at the implementation of the market based pay plan to see what the plan has

done for the city of Helena and for the kind of performance that's coming from the staff.

Vote

Motion failed 3:2 with Commissioner Oitzinger, Commissioner Parriman and Mayor Smith

Motion

Commissioner Oitzinger moved to reduce the local government study commission to zero. Commissioner Cartwright seconded the motion. Motion carried.

Discussion

Commissioner Parriman asked several questions regarding the proposed capital items for 2005.

Motion

Commissioner Oitzinger moved approval of the resolution relating to final budget as amended. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #19138**

Public Communications

PUBLIC COMMUNICATIONS
No report was given.

Meetings of Interest

MEETINGS OF INTEREST
Mayor Smith stated the next regular city commission meeting would be held on July 12, 2004 in the City/County Building, Room 330 and the next regular Administrative Meeting would be held on July 7, 2004 in the City/County Building, Room 326.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 10:30p.m.

Mayor James E. Smith

ATTEST:

Clerk of Commission