

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
August 6, 2007
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, August 6, 2007 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present Mayor Smith indicated for the record that Commissioners Cartwright, Oitzinger, Peura, and Throssell were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present.

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 July 16, 2007 were approved as submitted.

Appointments APPOINTMENTS:
A. Helena Housing Authority
B. Intergovernmental Transit Committee
D. Public Art Committee
E. Zoning Commission

Mayor Smith asked for Commission concurrence on the following appointments:

Helena Housing Authority- Reappointment of Mary Lee Shepherd as the resident member of the Helena Housing Authority. The term will begin upon appointment and expire on August 1, 2009. Reappointment of Linda Vaughney to a first full term to the Helena Housing Authority. The term will begin upon appointment and expire on August 1, 2012.

Intergovernmental Transit Committee- Appointment of the following persons to the Intergovernmental Transit Committee: City Commissioner Cartwright, East Helena Council Member Anthony Strainer, RMDC Representative Walt Hanley, Helena Transit Council Representative Marlene Disburg, Transit System User Robert Maffit. The terms will begin upon appointment and will expire on August 6, 2010.

Public Art Committee- Appointment of Cheri Thornton to the Public Art Committee. The unexpired term will begin upon appointment and expire on December 31, 2009.

Zoning Commission- Appointment of Susan Wolcott to the Zoning Commission. The term will begin upon appointment and expire on September 30, 2010. Appointment of Timothy L. Meldrum as the alternate member of the Zoning Commission. The unexpired term will begin upon appointment and expire on September 30, 2008.

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

Motion **Commissioner Oitzinger moved approval of the appointments to the Helena Housing Authority, Intergovernmental Transit Committee, Public Art Committee and Zoning Commission.**
Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:

- A. Claims
- B. Consider final passage of Ordinance No. 3088 amending the official zoning map, described in Section 11-2-1 of the Helena City Code and adopted by reference, for a zone change from CLM (Commercial Light Manufacturing) District to B-2 (General Commercial) District for property legally described as Lot 3 & amended Lot 5a of the Raven Rock Subdivision, Helena, Montana **Ordinance #3088**
- C. Utility Bill Insert - L & C County Elections Department
- D. Authorize the City Manager to negotiate a contract with Mosaic Architecture, PC for the design and construction of the 15th Street Parking Structure
- E. Acceptance of FY06 US Department of Homeland Security Grant Program (HSGP) in the amount of up to \$10,000 for the maintenance of the HAZMAT trailer equipment
- F. A resolution declaring tangible property owned by the City of Helena to be surplus property and authorizing the disposal of that property (city-owned vehicles) **Resolution #19497**

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

Commissioner Cartwright asked item B be removed for further discussion.

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

Motion **Commissioner Peura moved approval of items A, C, D, E and F on the consent agenda.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

Item B Commissioner Cartwright referred to trees in the area of the zone change and stated the trees are currently alive but three look like they will die without changes to the irrigation system. This is an example of why the Commission and city staff need to hold discussions on the city's role in tree maintenance and landscaping.

Motion **Commissioner Cartwright moved approval of item B on the consent agenda.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

Bid Award BID AWARD:
A. Henderson Street Reconstruction, Project No. 06-13

Staff Report City Engineer Ryan Leland reported this project will reconstruct Henderson Street from approximately Hudson Street to Custer Avenue. The project will consist of storm water improvements, widening the street, adding curb and gutter and increasing the clearance on the

railroad grade separation from 12 feet 6 inches to 14 feet. The design of the project took longer than expected because the scope of the project was increased to include storm water improvements; which allowed the additional clearance at the railroad grade separation.

The city opened three bids on July 13, 2007. Helena Sand and Gravel, Inc., of Helena submitted the lowest bid of \$825,778 for the base bid including Additive Alternate No. 1. The base bid of \$789,838 is for the reconstruction of Henderson Street and storm water improvements. The Additive Alternate No. 1 bid of \$35,940 is for the replacement of the 20" water main that is located in the Brady and Henderson intersection. This main, over the years, has experienced several leaks within the intersection and this is an opportune time to replace it and avoid tearing up the new road. Mr. Leland recommended awarding the contract to the lowest responsible bidder, Helena Sand & Gravel, Inc. of Helena.

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

Motion Commissioner Throssell moved to award the base bid, plus Additive Alternate No. 1, for the Henderson Reconstruction Project, City Project No. 06-13, to the lowest responsible bidder, Helena Sand & Gravel, Inc., in the amount of \$825,778. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Oitzinger thanked citizens for attending their HCC Neighborhood Meeting.

Commissioner Peura stated he attended the District 2 meeting and thanked the HCC for their work. He encouraged volunteer board members to attend the Volunteer Appreciation Picnic on August 16, 2007.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Burton gave an overview of a recent meeting with the Fish, Wildlife and Parks Commission regarding implementation of the city's Urban Wildlife Management Plan. Commissioner Oitzinger asked if any citizens attended the meeting? Manager Burton stated Urban Wildlife Task Force (UWTF) Co-chair Matthew Cohn attended. Commissioner Oitzinger stated the plan indicated when deer are removed, permission would need to be sought for their removal on private property. Although premature, will there be an opportunity for a person to say they do not wish to have deer dispatched on their homesite? Manager Burton explained any activity on private property would require the permission of the landowner. Commissioner Oitzinger recommended a system where individuals may email or write to the city in advance of any dispatching and report whether or not they would permit removal on their property. Commissioner Cartwright commented he understood the deer would be dispatched in a central location and on public property. Commissioner Peura asked the plan be sent in electronic format to FWP for them to post on their website.

City Manager Burton invited Ryan Leland up to report on the Walking Mall Reconstruction Project. Mr. Leland showed pictures of the construction.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL
Martha Eberle, VISTA volunteer assigned to the HCC,
introduced herself to the Commission.

**Simmons Minor
Subdivision**

CONSIDER THE PRELIMINARY PLAT FOR THE SIMMONS MINOR SUBDIVISION CREATING FIVE LOTS FROM 13.787-ACRES LOCATED IN A CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT, GENERALLY LOCATED SOUTH OF HIGHWAY 12 (EUCLID AVENUE) AND WEST OF BROADWATER AVENUE WITH A PROPERTY ADDRESS OF 2707 BROADWATER AVENUE. **(TABLED FROM 7-16-07)**

Staff Report

City Planner Lucy Morell-Gengler reported the City Commission reviewed the preliminary plat for the Simmons Minor subdivision at the July 16, 2007 City Commission meeting. The motion to approve the subdivision was a tie vote of 2:2. The applicant agreed to table the decision until the August 6, 2007 City Commission meeting when five members of the City Commission were expected to attend.

The applicant is requesting approval of a minor subdivision creating 5 lots from property legally described as Tract B, COS #594623/B, Helena, Montana; generally located north of Highway 12 (Euclid Avenue) and southwest of Broadwater Avenue, with a property address of 2707 Broadwater Avenue.

Additional access to Highway 12 (Euclid Avenue) was identified as a concern by two of the Commissioners. The following conditions for amending the Findings of Fact for restricting access onto Highway 12 (Euclid Avenue) listed below were discussed:

Effect on Local Services

Transportation and streets

L. The adjacent landscaped median located in Highway 12 (Euclid Avenue) was financed by Community Transportation Enhancement Program (CTEP) funds. Proportional CTEP funds must be paid back if the median is reduced in size or otherwise changed. Returning some of this funding could have a negative impact on the provision of local services if the City had to pay back some of those funds. **(Condition #3)**

M. Reimbursement by the developer of any CTEP funds that must be repaid because of improvements to Highway 12 (Euclid Avenue) necessary to accommodate the Simmons Minor Subdivision could mitigate some of the impacts the subdivision might have to local services. **(Condition #3)**

Condition 3: The subdivider must reimburse any Community Transportation Enhancement Program (CTEP) funds that might be repaid because of improvements to Highway 12 (Euclid Avenue) necessary to accommodate the Simmons Minor Subdivision.

Helena Subdivision Regulations

G. §12-4-2 (3), Helena City Code states, “Where a proposed development contains an existing or proposed arterial or collector street, the city commission may require a local access street or provisions limiting access to the arterial or collector street.” **(Condition #5)**

H. The Greater Helena Area Transportation Plan SECTION 13.4, Corridor Preservation and Setback suggestions and the City of Helena Engineering Standards section 5.14 indicate limiting the number of conflict points or accesses is a basic principle of access management used to achieve a safer and more efficient arterial roadway.

I. The submitted preliminary plat shows access for Lots 2, 3, 4, and 5 exists onto Broadwater Avenue; thus, access to Highway 12 (Euclid Avenue) is not essential for these lots.

J. The applicant has indicated a desire to have an access from Lot 2 to Highway 12.

An additional access to Highway 12 from this subdivision could have a significant impact on the functionality and safety of Highway 12.

K. Additional access from the subdivision to Highway 12 would have to demonstrate to the City of Helena and MDT the access would not adversely impact safety or impact to the functionality of the arterial road.

L. Prohibiting direct vehicular access onto Highway 12 (Euclid Avenue) from Lots 2, 3, 4, and 5 through a restriction contained on the final plat or other document filed or recorded in the Lewis and Clark County Clerk and Recorder, or providing an access to Highway 12 (Euclid Avenue) approved by the City of Helena and MDT demonstrating the access would not adversely impact safety or the functionality of the arterial road; could mitigate some of the subdivisions impact to Highway 12 (Euclid Avenue). **(Condition #5)**

Condition 5: Lots 2, 3, 4, and 5 must be prohibited from having direct vehicular access onto Highway 12 (Euclid Avenue) through a restriction contained on the final plat or other document filed or recorded in the Lewis and Clark County Clerk and Recorder unless an access design is approved by the City and MDT.

Ms. Morell-Gengler recommended approval of the preliminary plat, as it would provide for infill development consistent with current CLM zoning.

Public Works Director John Rundquist reported the issue of access using Highway 12, relative to this subdivision, was discussed with MDT. There is a gap in the median the developer proposes to use to access the opposing side of the highway. MDT stated that gap is not wide enough to accommodate a full movement intersection for the Simmons property and would not support an intersection at that point without major modifications to the median. MDT indicated they would support a restriction related to access applied by the city even though

they administer access to the highway; there is precedence with a similar situation in Bozeman.

Commission comment

Commissioner Peura asked if the city could request a speed limit reduction in the area to 35 miles per hour? Director Rundquist explained the city could request a speed limit study but MDT would make the determination to reduce the speed or not. Commissioner Throssell referred to Broadwater Avenue and asked for the width of the right of way (ROW). Ms. Morell-Gengler explained the ROW is 60 feet wide everywhere except between the Brewery building and the Bottling Works building. Commissioner Throssell asked where the section of Broadwater Avenue to the west intersects? Ms. Morell-Gengler stated Williams Street, which is a county street and is not paved. Commissioner Throssell asked if an analysis has been done by city emergency services related to the 35 foot width of the dirt road? Ms. Morell-Gengler stated emergency services indicated it would be preferable that area be brought up to city standards but since it is located in the county it is not within the city's ROW. Commissioner Cartwright referred to Condition #3, the repayment of CTEP funding, and asked if that means the median plantings have to come out or is it in case they need to come out? Ms. Morell-Gengler stated any changes to the median that would require amendments to the CTEP funding, whether it be removal of the trees or pavement; or if access were granted and the access requires reconfiguration of the median, the applicant would be responsible for that payment. Commissioner Cartwright asked Ms. Morell-Gengler if it is likely changes to the median, including landscaping, would need to be made for a left turn bay or width? Ms. Morell-Gengler stated for full access, changes would need to be made for visibility. MDT indicated the way the access is currently designed it would not be adequate to allow access to Lot 2. Commissioner Cartwright referred to a road at the edge of Skelton Subdivision on North Montana; there are several businesses near the corner of Custer and Montana that are accessed by a frontage road. He asked if that road is public or privately owned? Ms. Morell-Gengler commented it is staff's understanding it is a city road.

Public comment

Mayor Smith called for public comment.

Greg Wirth, Northland Engineering, representing the applicant; spoke on access issues and asked that Condition #5 not be included in conditions for approval. He stated the applicant would cooperate with the city for the best access.

Discussion

Commissioner Oitzinger asked Mr. Wirth for alternative options for access that would not disturb the median. Mr. Wirth gave the example of a "right turn in, right turn out only" approach; a left turn bay would not be necessary. Commissioner Peura asked if the applicant would support a reduction of the speed limit in the area? Mr. Wirth stated a lower speed limit would benefit the characteristics of the applicant's approach and create a more desirable situation. Commissioner Cartwright referred to Condition #5 and asked for clarification that it require the applicant put a restriction on the plat or provide access approved by the city and MDT. The Commission would not be requiring a restriction on the plat; it is one of the alternatives available to the applicant. Ms. Morell-Gengler concurred.

Commissioner Peura stated this is an opportunity to get the

speed limit lowered in the area. He indicated he would support the subdivision and Condition #3, but would not support a condition limiting access to Lot 2.

Commissioner Cartwright concurred with Commissioner Peura's comments related to reducing the speed limit in the area. However, the CTEP Project was designed to be a gate to the city and he is concerned that if Condition #5 isn't included there will be no handle on what happens to the gateway.

Motion

Commissioner Cartwright moved approval of the preliminary plat for the Simmons Minor Subdivision creating 5 lots to be located in a CLM (Commercial Light Manufacturing) District, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Facts, including conditions 3 and 5. Commissioner Throssell seconded the motion.

Comment

Mayor Smith indicated he would not support Conditions #3 or #5, as developers shouldn't have to pay the city back every time they change an island or median.

Vote

Motion failed 2-3 with Commissioners Oitzinger, Peura and Mayor Smith voting no.

Motion

Commissioner Peura moved approval of the preliminary plat for the Simmons Minor Subdivision creating 5 lots to be located in a CLM (Commercial Light Manufacturing) District, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Facts, including condition 3 if the CTEP Project is disturbed. Commissioner Oitzinger seconded the motion.

Comment

Commissioner Peura spoke in support of Condition #3. Commissioner Cartwright concurred with Commissioner Peura. Commissioner Throssell stated a narrow dirt road does not provide adequate ingress and egress for city emergency services. He referred to access issues created 30 years ago and commented he does not want to make those same mistakes now.

Vote

Motion carried 3-2 with Commissioner Throssell and Mayor Smith voting no.

Commissioner Peura asked city staff to express the Commission's concern regarding the speed limit to MDT. City Manager Burton noted the issue would be placed on Administrative Meeting agenda for discussion.

Franchise Agreement & Ordinance

CONSIDER FIRST PASSAGE OF AN ORDINANCE AUTHORIZING THE GRANTING OF A FRANCHISE AND THE CONSTRUCTION, OPERATION, REGULATION, AND CONTROL OF A CABLE COMMUNICATION SYSTEM WITHIN THE CITY OF HELENA.

Staff Report

City Attorney David Nielsen reported Bresnan Communications is the only cable television provider operating in Helena at this time. Under the authority of the Cable Communications Policy Act of 1984, the

city granted a non-exclusive franchise to TCI in 1999 to use city right of way to provide cable television service. Subsequently, through various transfers, that franchise was assigned to Bresnan. The city receives 5% of the gross revenue from cable television services under that franchise agreement. The developer of the Nob Hill Subdivision had the entire subdivision wired with fiber optic cable so that each house could receive telephone, television, and Internet services through one fiber optic cable to the house. The Nob Hill developer contracted with 3 Rivers Telephone Cooperative to provide these services to the homes. Since the Bresnan franchise agreement contains a "favored nations clause" that says if the City gives a more favorable franchise to another party, Bresnan is entitled to the same treatment as 3 Rivers for franchise fees for a cable television franchise.

3 Rivers is requesting the city grant a non-exclusive franchise to 3 Rivers to provide cable television services within the City of Helena. Under the franchise agreement, 3 Rivers would pay the same franchise percentage as Bresnan - 5% and will contribute capital assets to HCTV (PEG channel) in a proportional amount that is greater than Bresnan's contribution.

Attorney Nielsen recommended approval of first passage of the ordinance and noted it would allow for competition between cable television providers and avoids putting the Bresnan franchise agreement at risk if 3 Rivers is granted more favorable franchise terms.

Commission comment Commissioner Throssell asked if 3 Rivers would be limited to provide services to Nob Hill or if they could provide services to other areas of town. Attorney Nielsen explained they would not be limited and could provide service wherever fiber optic line is installed.

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

Motion **Commissioner Peura moved approval of first passage of an ordinance granting a non-exclusive franchise to 3 Rivers Telephone Cooperative to provide cable television services within the City of Helena pursuant to the franchise agreement negotiated with 3 Rivers and set a public hearing date of August 20, 2007.**

Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3089**

Res. of Intention to Annex

CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA TRACT A AS SHOWN ON COS #477740/T, LEWIS AND CLARK COUNTY, MONTANA AND ESTABLISH CONDITIONS OF ANNEXATION; PROPERTY IS GENERALLY LOCATED EAST OF WILKERSON STREET AND SOUTH OF TRICIA STREET (THE FRONTAGE ROAD) AND HIGHWAY 12 EAST.

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR PRE-ZONING TO B-2 (GENERAL COMMERCIAL) DISTRICT, PRIOR TO ANNEXATION, FOR 5.259 ACRES. LEGALLY DESCRIBED AS TRACT A AS SHOWN ON COS #477740/T, LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED EAST OF WILKERSON STREET AND SOUTH OF TRICIA STREET (THE FRONTAGE ROAD) AND HIGHWAY 12 EAST.

Staff Report

City Planner Kathy Macefield reported the property owner has requested annexation by petition for 5.259 acres, generally located east of Wilkerson Street and south of Tricia Street (the frontage road) and Highway 12 East. The adjacent Tricia Street right-of-way (ROW) was previously annexed to the city. The Helena Zoning Commission unanimously recommended approval (4:0 vote) for pre-zoning the property as a B-2 (General Commercial) District on July 17, 2007.

Ms. Macefield recommended approval of the resolution of intention to annex as the property is located adjacent to the city limits and infrastructure can be extended to serve the property, making efficient use of land, infrastructure, energy and other resources. This proposal does not create any individually wholly surrounded properties.

On July 17, 2007 the Helena Zoning Commission unanimously recommended approval (4:0 vote) for the adoption of an ordinance for pre-zoning to B-2 (General Commercial) District, prior to annexation as described in Section 11-2-8 (D) of the Helena City Code, for undeveloped property containing 5.259 acres. Legally described as Tract A as shown on COS #477740/T, Lewis and Clark County, Montana; generally located east of Wilkerson Street and south of the frontage road which is located south of Highway 12 East. All uses permitted in the B-2 zoning district could be located on the property if these zoning proposals are approved. The proposal is accompanied by a petition for annexation of the same property.

Ms. Macefield recommended approval of the pre-zoning and noted this proposal represents infill development, and efficient use of energy, infrastructure and resources. It is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses.

Public Testimony

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

Jeff Downhour, representing applicant, Mosaic Architecture; notified the Commission he was available to answer questions.

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

Discussion

Commissioner Cartwright asked if the applicant would be applying for sign variances or what their signage plan is? Mr. Downhouwer stated he is unsure; the applicant will use a national sign package. The preliminary plans show one major sign with additional signs located on the building itself.

Motion

Commissioner Throssell moved approval for a resolution of intention to annex 5.259 acres shown as Tract A on COS #477740/T, Lewis and Clark County, Montana; subject to the four conditions stated in the resolution. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19498**

Motion

Commissioner Peura moved approval for first passage of an ordinance pre-zoning to B-2 (General Commercial) District, prior to annexation as described in Section 11-2-8 (D) of the Helena City Code, for undeveloped property containing 5.259 acres legally described in the ordinance. Commissioner Throssell seconded the motion. All voted aye, motion carried. **Ordinance#3090**

B. CONSIDER A RESOLUTION INCREASING THE FEES CHARGED BY THE HELENA CIVIC CENTER. (PUBLIC HEARING CONTINUED FROM 7/16/07)

Staff Report

Community Facilities Director Gery Carpenter reported the current fee schedule was adopted prior to the 2005-2006 season. This spring a survey of other state facilities was conducted showing some rental rates below other facilities in the surrounding area. The Civic Center Board's Fee Committee in conjunction with Civic Center staff reviewed the policy and recommended changes. The Civic Center Board approved the proposed schedule at their April 4, 2007 meeting. The proposed rates are at or below the rates charged by similar facilities in the state.

An increase of \$50/day is proposed for weekend rental rate (Friday-Sunday) for the Ballroom from the current rate of \$600 to \$650. The proposal in rental rate for the Auditorium would change from "7% of ticket sales, with a minimum charge of \$550 and an additional facility surcharge of 10% of room rental per event" to "7% of ticket sales with a minimum charge of \$650 per event". The full facility rate for convention use would change from \$825 to \$900 per day.

In addition, some equipment fees are proposed to change: 1) rental of standard metal folding chairs from \$.25 each/day to \$.35 each/day with weekly rates changing from \$.75 each/week to \$1.15 each/week; 2) temporary risers increasing from \$10/riser/day to \$12/riser/day with the proposed weekly rate changing from \$30/riser/week to \$36/riser/week; 3) rental of ficus trees increasing from \$2 each/event to \$3 each/event and 4) rental of both pedestals and art doors increasing from \$10each/event to \$15/each/event. The wording for the "rear video projector and screen" rental charge would change to state "screen only" rental since the projector's age does not allow it to be used with current technology.

Director Carpenter recommended approval of the fee increase and noted a yearly review of the schedule allows smaller, more regular changes to the fee schedule, while allowing us to keep at market value with the other area facilities. Clients indicate they prefer this to larger, less frequent changes.

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 Throssell moved approval of a resolution to increase the fees charged by the Civic Center and that the new fee schedule be effective September 1, 2007. Commissioner seconded the motion. All voted aye, motion carried. **Resolution #19499**

C. CONSIDER ONE OF TWO ALTERNATE RESOLUTIONS THAT SUBMIT TO THE QUALIFIED ELECTORS OF THE CITY OF HELENA, MONTANA, IN EITHER A SINGLE QUESTION OR QUESTIONS FOR EACH PROJECT THE ISSUING OF GENERAL OBLIGATION BONDS IN ONE OR MORE SERIES IN AN ORIGINAL AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED SEVEN MILLION EIGHT HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$7,850,000.00) (THE "BONDS") FOR THE PURPOSE OF FINANCING THE COSTS OF

THE FOLLOWING IMPROVEMENT AND REPAIR PROJECTS: (I) THE DESIGN, CONSTRUCTION, EQUIPPING, AND IMPROVEMENTS TO CENTENNIAL PARK CONSISTENT WITH THE CENTENNIAL PARK MASTER PLAN (AS CURRENTLY IN EXISTENCE AND HEREAFTER AMENDED); (II) THE DESIGN, RENOVATION, EQUIPPING, AND IMPROVEMENTS TO THE MEMORIAL PARK POOL AND RELATED AQUATIC FACILITIES; AND (III) THE DESIGN, RENOVATION, EQUIPPING, AND IMPROVEMENTS TO KINDRICK-LEGION FIELD AND RELATED FACILITIES; AND PAYING COSTS ASSOCIATED WITH THE ISSUANCE OF THE BONDS.

Staff Report

Parks & Recreation Director Randy Lilje reported the City/County Parks Board is recommending a general obligation bond issue be put on the November 2007 ballot to include Centennial Park Development, Memorial Park Swimming Pool Renovation and Improvements, and Kindrick–Legion Field Improvements. As the July 11, 2007 administrative meeting, staff presented the cost estimates for the subject projects that may be considered for a general obligation bond vote this November. Mr. Lilje referred the commission to the list of improvements, costs of improvements, and estimated annual residential costs based on market values.

The bonds would be paid back over twenty years. This means that there would be an assessment to Helena property owners on an annual basis over that period. As requested by the City Commission, there are two alternative resolutions for the ballot. One resolution presents the ballot question as one question to vote yes or no on all three projects. The other resolution presents the question where the individual may vote on each one of the projects either yes or no.

Director Lilje recommended approval of either of the proposed resolutions and stated the bond would make progress toward long-range goals for parks and recreation in Helena as identified by the Helena Comprehensive Parks, Recreation, and Open Space Plan and recommended by the City/County Parks Board. The bond would also give the citizens of Helena the opportunity to decide on these projects.

Mayor Smith acknowledged substitute whereas #12 for the record: WHEREAS, the Kindrick-Legion Field Project includes, but is not limited to, the design, construction, renovation, and equipping of improvements to Kindrick-Legion Filed consisting of ballfield lights, ballfield renovations, clubhouse, maintenance facility disabled persons accesses, improvements to parking and vehicle circulation, new bleachers and other improvements that will increase the functionality and safety of Kindrick-Legion Field.

Administrative Services Director Tim Magee gave a power point presentation of the General Obligation Bond impact on voters including an explanation of the tax record versus the “real” market value of a home.

Public Testimony

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

Pete Brown, 423 5th Avenue; spoke in support of the improvements as one bond.

Matt Elsasser, 126 North Jefferson; spoke in support of the climbing wall included in the bond.

Greg Wirth, 1101 8th Avenue; spoke in support of the bond, specifically improvements to Memorial Park Pool.

Tygen Ovehurst, 629 2nd Street; spoke in support of the bond, specifically Centennial Park.

Janet Brooke, 1716 5th Avenue; urged the Commission to support the bond projects as one resolution.

Jim Pelligrini, president of the Helena Softball Association; spoke in support of the bond issue.

Joe Underkofler, General Manager of the Helena American Legion Baseball Program; spoke in support of improvements to Kindrick-Legion Field.

Colleen Murphy, 1012 Wilder Avenue, Skatepark Improvement Group Board Member; spoke in support of expanding the skatepark and urged the Commission to include all of the proposed improvements in one resolution.

Ron White, 335 West Lawrence; spoke in support of the bond as one resolution.

John Potlinski, 602 Peosta Avenue; spoke in support of the bond.

Barb Kinnery, 713 North Warren; spoke in support of the projects as one bond resolution.

Dave Hughes, 305 Pine, President of Brewer's Booster Club; spoke in support of the improvements to Kindrick-Legion Field and urged the Commission to include the improvements in one resolution.

Tom Flannigan, Milwaukee, Wisconsin, Milwaukee Brewers; spoke in support for improvements to Kindrick-Legion Field.

Jerry Spencer, City/County Parks Board; spoke in support of all improvements and asked the Commission to include them in one resolution.

Ellen Feaver, 901 Floweree; spoke in support of all the proposed improvements.

Jim Mckewen, 10 Cherry Avenue; spoke in support of the bond as one referendum.

Paul Fetz, General Manager of Helena Brewers; urged the Commission to support the improvements to Kindrick-Legion Field.

John Kotson, 727 Bridgeview Court, City/County Parks Board; spoke in support of one ballot initiative.

Steve Turner, Rimini; spoke in support of improvements to Memorial Pool.

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

Commission comment

Commissioner Peura indicated he would support all of the projects being included on one resolution. He spoke of the project as a great opportunity to expand recreation in Helena, especially youth recreation. Commissioner Oitzinger concurred with Commissioner Peura's comments.

Motion

Commissioner Oitzinger moved approval of a resolution submitting to the qualified electors of the City of Helena in a single question for each project the issuing of general obligation bonds in one or more series in an original aggregate principal amount not to exceed seven million eight hundred fifty thousand and no/100 dollars (\$7,850,000.00) (the "bonds") for the purpose of financing the costs of the following improvement and repair projects: (i) the design, construction, equipping, and improvements to Centennial Park consistent with the centennial park master plan (as currently

in existence and hereafter amended); (ii) the design, renovation, equipping, and improvements to the Memorial Park Pool and related aquatic facilities; and (iii) the design, renovation, equipping, and improvements to Kindrick-Legion field and related facilities; and paying costs associated with the issuance of the bonds.

Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19500**

Commissioner Throssell indicated he would support the bond issue and commented the public will also be voting on the city's direction in park and recreation facilities in the community for the future. This is a sizeable bond issue and ongoing maintenance costs haven't been discussed. Given the city's limitations on revenue, this will be the project; neighborhood parks and other park facilities won't be able to be funded. In voting and approving this bond, citizens will be guiding the Commission and city's direction for the foreseeable future.

Commissioner Cartwright referred to the funding amount and stated in the context of bond issues, it is not that much. He gave the history of the Commission's work on reducing the cost of the proposal; there has been concern for fiscal responsibility. Commissioner Cartwright then gave an overview of some of the proposed improvements and spoke in support of them. He indicated he would support the motion.

Mayor Smith thanked the City/County Parks Board for their work on the bond and commented it is encouraging to see so much support for the improvements through public comment.

Friendly amendment

Commissioner Cartwright offered a friendly amendment to amend the resolution to include substitute whereas #12. Commissioner Oitzinger accepted the amendment.

Vote

All voted aye, motion carried. **Resolution #19500**

D. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP DESCRIBED IN SECTION 11-2-1 OF THE HELENA CITY CODE AND ADOPTED BY REFERENCE FOR A ZONE CHANGE FROM R-2 (SINGLE-FAMILY RESIDENTIAL) TO R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT FOR PROPERTY GENERALLY LOCATED NORTH OF COLE AVENUE AND SOUTH OF THE ALLEY BETWEEN NATIONAL AND DODGE AVENUES.

E. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A MEDICAL OFFICE FACILITY IN A R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT; GENERALLY LOCATED NORTH OF COLE AVENUE AND SOUTH OF THE ALLEY BETWEEN NATIONAL AND DODGE AVENUES, WITH A PROPERTY ADDRESS OF 1018 COLE AVENUE.

Staff Report

Ms. Macefield reported On Tuesday, July 17, 2007 the Zoning Commission was unable to provide a recommendation, due to a tie vote of 2:2, for the adoption of an ordinance amending the Official Zoning Map described in Section 11-2-1 of the Helena Zoning Ordinance, in reference to multiple properties, for a zone change from R-2 (Single-Family Residential) to a R-3 (Multi-Family Residential) District. Legally described as Lots 1-6, Block 43, Grand Avenue Addition, Helena,

Montana; generally located north of Cole Avenue, south of the alley, between National and Dodge Avenues. The staff recommendation was for approval of the proposal.

Montana law (76-2-305 MCA) states if 25% of the property owners within 150 feet of a proposed zone change object in writing, a 2/3 vote of the governing body is required to approve a zone change over the written objections. As of July 25, 2007, only 2 out of 12 adjacent property owners (approximately 17%) had submitted written protests. Therefore, the number of submitted written protests does not meet this voting requirement.

This zone change application is accompanied by a request for a conditional use permit (CUP) to allow the existing 3,855-square foot church to be converted to a medical office facility in the R-3 District, to be located on the southeastern portion of the block (Lots 1-4). The accompanying CUP application is dependent upon approval of the zone change.

Ms. Macefield recommended approval of the proposed zone change and noted this proposal represents infill development, and efficient use of energy, infrastructure and resources. It is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses.

Regarding the resolution granting a Conditional Use Permit (CUP), on Tuesday, July 17, 2007 the Zoning Commission was unable to provide a recommendation, due to a tie vote of 2:2, for a resolution granting a conditional use permit (CUP) to allow a 3,855-square foot medical office facility) with 8-12 employees located on the southeastern portion of the block. Business hours would typically be 8:00 a.m. - 5:00 p.m., Monday-Friday. No significant architectural changes are currently proposed to the existing structure. The property is legally described as Lots 1-4, Block 43, Grand Avenue Addition, Helena, Montana; generally located north of Cole Avenue, south of the alley, and east of Dodge Avenue with a property address of 1018 Cole Avenue. Staff is recommending approval for the CUP subject to one condition related to exceeding the maximum number of onsite parking spaces.

Ms. Macefield noted this CUP application is contingent upon approval of the applicant's proposal for a zone change from R-2 to R-3 District for the south half of the block (Lots 1-6).

Commission comment

Commissioner Throssell asked if the two lots that would be fenced off would also be zoned R-3? Ms. Macefield stated yes, that is the proposal. Commissioner Cartwright referred to installation of sidewalks and asked for more information. Ms. Macefield explained the applicant must ask for variance or install sidewalk on Dodge and Cole at the time they receive a building permit for the remodel of the building. Installation of the remaining sidewalk on Cole and National Avenue would be required when building permits were issued for residential uses on those properties. A variance for the installation of the sidewalks would be considered under separate action at a later date.

Commissioner Cartwright stated the neighborhood is concerned about increased traffic and the applicant is concerned about needing to remove landscaping because there is not room to put a sidewalk in. What would it take for the city to allow a sidewalk to be placed in what is currently a street? City Manager Burton explained under the ordinance there is a couple of ways to allow that situation. The ordinance speaks to the prevalence of the neighborhood in one case and

in the other, the ordinance allows the Commission to chose a curbside or boulevard sidewalk based on the circumstances. Commissioner Throssell asked if the property is granted a specific use for a medical office, if that changed would another use need to be permitted? Ms. Macefield stated yes.

Public Testimony

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

Larry, 905 Cole; spoke of concerns with traffic in the area.

Tony Prothero, 3264 Harness Loop, Intermountain Engineers, representing the applicant; addressed concerns for parking and noted it is very important to the applicant to prevent spillover into the neighborhood. He stated the applicant is sympathetic to pedestrian issues and requirements and willing to work toward resolving the issues. He commented the current zoning prevents a lot of uses.

Darryl Alm, 1029 Cole Avenue; expressed concern for increased traffic.

Rosemary Shively, 815 Cole; spoke in opposition to the zone change and CUP because of the possibility of increased traffic.

Randy Kaiser, 1007 Cherry Avenue; expressed concern for increased traffic in the area and does not believe all six lots need to be changed to R-3 zoning.

Jim McKeowen, 1003 Cherry Avenue; spoke in opposition to the zone change and CUP for traffic concerns.

Evalena Hemry, 915 Cherry; reiterated concerns for increased traffic and vehicle accidents in the neighborhood. She requested a light be installed at Cole and Montana Avenue and speed bumps installed in the area.

Kim Clouse, 2303 National Avenue; urged denial of the zone change and CUP for traffic reasons.

Carol Wilcock, 3130 Stillwell Drive, applicant; urged the Commission to support the proposal and expressed her desire to work with the neighborhood.

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

Discussion

Commissioner Peura asked for the uses by right in R-2 and R-3 zoning. Ms. Macefield stated R-3 zoning allows single-family residential, mult-family residential and churches. R-2 zoning allows single-family residences only. Commissioner Cartwright asked Ms. Macefield for the width of Cole Avenue. Ms. Macefield stated Cole Avenue has a 60-foot wide right-of-way. He asked for the width of the pavement itself. Ms. Macefield stated she was unsure. He recommended Lots 5 and 6 remain as R-2 zoning. Commissioner Cartwright stated the problem with a transition zone from CLM zoning across Dodge Avenue into the residential district is that R-2 zoning is so uncommon on that part of town. Can the Commission expect a single-family residence to be built on Dodge and Cole? There used to be houses in the area that came out with the Rock Hand Hardware parking lot.

Mayor Smith stated he watched this hearing before the Zoning Commission. He feels like in the past he's voted for changes in lots of neighborhoods around Helena and supported growth and progress and deferred to business decisions. But in this case, this is a neighborhood that is intact and of considerable size. He indicated he would not support the CUP and zone change.

Commissioner Peura stated in reviewing the zone change criteria, the Commission needs to be concerned about lessening congestion in the streets. After looking at the allowable uses in an R-3 District versus an R-2 District, he has concerns with the increased traffic that would come from the zone change and CUP. He referred to zone change criteria #8 related to the character of the district and its peculiar suitability for particular uses, and stated there is no compelling reason to change the zoning to R-3. He also spoke of criteria #9, conserve building values, and stated the more zoning changes that occur, the more the character of the district is whittled away at, which does not conserve building values.

Motion

Commissioner Peura moved denial for first passage of an ordinance amending the Official Zoning Map described in Section 11-2-1 of the Helena Zoning Ordinance, in reference to multiple properties, for a zone change from R-2 (Single-Family Residential) to a R-3 (Multi-Family Residential) District, as legally described in the ordinance. Commissioner Throssell seconded the motion. All voted aye, motion carried.

Since the request for a zone change failed, no action was taken on the application requesting a CUP.

F. CONSIDER THE PRELIMINARY PLAT FOR THE PROPOSED WILLOWS TOWNHOUSES SUBDIVISION CREATING 32 RESIDENTIAL LOTS AND ONE LOT FOR STORM WATER DETENTION FROM 4.66 ACRES LOCATED IN A R-O (RESIDENTIAL OFFICE) DISTRICT; GENERALLY LOCATED EAST OF MCHUGH LANE AND NORTH OF ROAD RUNNER DRIVE.

Staff Report

City Planner Naren Garg reported on July 17, 2007 the Consolidated Planning Board held a public hearing for a major subdivision/preliminary plat, to be known as Willows Townhouses subdivision; legally described as Lots 1 and 2, Block 9 in the Skelton Section Addition. The Planning Board unanimously recommended conditional approval (7:0 vote) for the preliminary plat of the Willows Townhouses Major Subdivision creating 32 residential lots and 1 lot for stormwater detention from 4.66 acres and to adopt the Findings of Fact and the conditions conditioned therein.

Mr. Garg recommended approval of the preliminary plat as development at the proposed urban density could lower some of the pressure to develop property in the county and, as a result, reduce sprawl. The proposal would provide duplex townhouse style housing units, which would increase the diversity of housing types in the city. The proposed subdivision would facilitate the city transportation network and encourage a more walkable development.

Public Testimony

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

Jerry Grebenc, Stahly Engineering, representing the applicant; spoke in support of the preliminary plat.

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

Motion

Commissioner Cartwright moved conditional approval for the preliminary plat for the Willows Townhouses Major Subdivision creating 32 residential lots and 1 lot for stormwater detention from 4.66 acres, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Facts. Commissioner Throssell seconded the motion. All voted aye, motion carried.

G. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW 2,150 SQUARE FEET OF GENERAL OFFICE SPACE WITHIN THE HELENA GLASS AND STOVE BUILDING LOCATED IN AN R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT, LOCATED AT 401 NORTH RODNEY STREET.

Staff Report

Zoning Officer Elroy Golemon reported on July 17, 2007 the Helena Zoning Commission unanimously recommended approval (4:0 vote) for a resolution granting a Conditional Use Permit (CUP) to allow 2,150 square feet of general office space within the Helena Glass and Stove building located in an R-3 (Medium Density Residential) District. For property legally described as all of Lots 1, 2, 3, 4 and the south 17.5 feet of Lot 5 in Block 51 of the Original Townsite of the City of Helena, Montana, Helena Montana, as referenced in Book M pages 9344 and 9345 of the Book of Deeds; generally located east of North Rodney Street and north of 8th Avenue with a property address of 401 North Rodney Street.

The proposed CUP would allow 2,150 square feet of general office space within the Helena Glass and Stove Building. The building is located in an R-3 (Medium Density Residential) District at 401 North Rodney Street. The proposed office use is for a property management business with minimal clientele that responds to phone in requests for service to contracted properties. The proposed operation could have up to three employees, and the proposed hours of operation are Monday through Friday 8:00 am to 5:30 pm.

Mr. Golemon recommended approval of the CUP and stated this proposal will allow a use that would be more appropriate to the residential area and would have a lesser impact than the current non-conforming use has on the residential area.

Commission comment

Commissioner Throssell asked for clarification if approval of this CUP would result in two businesses in operation in one building? Mr. Golemon stated yes, one active business and one that needs a CUP to maintain operation. The non-conforming use permit for Helena Glass and Stove was established in 1971. Mayor Smith asked if there are any other properties in town that house two businesses granted by CUP? Mr. Golemon stated not to his knowledge. Commissioner Oitzinger stated this is an unusual situation and asked if the owner is aware he could not refer the proposed office space back to the glass shop? Mr. Golemon stated yes. Commissioner Throssell asked if the use were granted is the only constraint how many employees would fit in the 2,000 square feet? City Attorney Nielsen stated that is correct.

Public Testimony

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

Mike Nelson, 1425 Ohio, representing applicant; stated the intent is to clarify the word "office" related to the 1971 language. The CUP will

legitimize the word "office" and should not be affected by the fact that a glass shop already operates there. The applicant has no intention of giving up the remainder of the property for use as a glass shop.

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

Discussion

Discussion was held on whether or not the applicant understood the property identified for the CUP would not revert back to a glass shop if the office use were vacated. Mr. Nelson indicated he understood.

Motion

Commissioner Cartwright moved approval for a resolution granting a Conditional Use Permit (CUP) to allow 2,150 square feet of general office space within the Helena Glass and Stove building, located in an R-3 (Medium Density Residential) District, for property legally described in the staff report, subject to the following conditions:

Parking

The parking area access must be from North Rodney Street only.

Timeframe

All conditions and required improvements must be completed within one year and before utilizing property for the new use.

Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19501**

Public Communications

PUBLIC COMMUNICATIONS

There were no public communications given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, August 15, 2007, and the next Commission Meeting is Monday, August 20, 2007.

There will be a special City Commission Meeting with the Helena Housing Authority Board of Directors on Monday, August 13, 2007 at 3:30 p.m. The annual City/County Volunteer Appreciation Picnic will be held on Thursday, August 16, 2007 at 5:00 p.m. at Memorial Park.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 10:25p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission