

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 28, 2008
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, January 28, 2008 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, Elsaesser, Oitzinger and Peura were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were the newly elected HCC members.

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 January 7, 2008 were approved as submitted.

State of the City Address STATE OF THE CITY ADDRESS
Mayor Smith presented the 2008 State of the City Address. A copy is attached to these minutes as part of the official record.

HCC Oath of Office OATH OF OFFICE- HELENA CITIZENS COUNCIL
The following newly elected members of the Helena Citizens Council were given the oath of office and sworn-in by Mayor Smith: District #1 – Matthew Cohn, Dave Dalthorp, Kent Schlosser; District #2 – Lynne Boone, David Scrimm, Rebecca Ridenour; District #3 – Dave Fish, George Hoff; District #4 – Jim Tucker, Jr.; District #5 – Ole Olson, Harlan Rudolf, Marshall Gingery, Ben Sutter; District #6 – James Penner, Justin Trafton; District #7 – Janet-Hess-Herbert, Ellen Bell, Bob Habeck, Brian Olsen.

Proclamation PROCLAMATION:
A. Radon Action Month

Mayor Smith read the Radon Action Month proclamation and presented it to County Commissioner Ed Tinsley. Commissioner Tinsley thanked Mayor Smith for the proclamation and spoke on the importance of radon detection in homes.

Appointments APPOINTMENTS:
Mayor Smith made the following recommendations for the 2008 City Commission appointments and the Global Climate Change Task Force:

A. City Commission Appointments:
MAYOR PRO TEM
Sandy Oitzinger

ADA COMPLIANCE COMMITTEE
Two-year term – expires September 1, 2009
James E. Smith

BOARD OF ADJUSTMENT

Three year term - expires December 31, 2009
Paul Cartwright

AUDIT COMMITTEE

One-year term - expires December 31, 2007
Sandy Oitzinger
James E. Smith
Alan Peura

BUSINESS IMPROVEMENT DISTRICT BOARD OF DIRECTORS/HELENA PARKING COMMISSION

No specific term
Alan Peura

CITY COUNTY ADMINISTRATION BUILDING BOARD OF DIRECTORS

One-year term - expires December 31, 2007
Matt Elsaesser
City Manager Tim Burton - standing member

CITY-COUNTY BOARD OF HEALTH

No specific term
Alan Peura

CITY-COUNTY PARKS BOARD

No specific term
James E. Smith

CITY-COUNTY WEED BOARD

No specific term
Matt Elsaesser

CIVIC CENTER BOARD

No specific term
Sandy Oitzinger

FIRE SERVICE REVIEW COMMITTEE

One year term - Expires January 29, 2008
Sandy Oitzinger

GLOBAL CLIMATE CHANGE TASK FORCE

One year term – Expires February 2009
Alan Peura

HELENA CHAMBER OF COMMERCE LIAISON

No specific term

LOCAL GOVERNMENT COMMITTEE

James E. Smith

INFORMATION TECHNOLOGY COMMITTEE

No specific term
Paul Cartwright

INFRASTRUCTURE COMMITTEE

No specific term
Sandy Oitzinger

MONTANA BUSINESS ASSISTANCE CONNECTION

No specific term
Sandy Oitzinger

MONTANA LEAGUE OF CITIES AND TOWNS

No specific term
James E. Smith

PRE-RELEASE SCREENING COMMITTEE

No specific term
Alan Peura

PUBLIC ART COMMITTEE

No specific term
Matt Elsaesser

ROCKY MOUNTAIN DEVELOPMENT COUNCIL

No specific term
James E. Smith

TRANSPORTATION COORDINATING COMMISSION

One year term - expires December 31, 2007
Paul Cartwright
Matt Elsaesser

TRANSIT COMMITTEE

Three year term – expires July 1, 2010
Paul Cartwright

B. Global Climate Change Task Force - Appointment of Stan Bradshaw, Ben Brouwer, DD Dowden, Nancy Hall, Anna Jones-Crabtree, Patrick Judge, Kristine Knutson, HCC member Rebecca Ridenour and City Commissioner Alan Peura.

Terms will begin upon appointment and the task force will sunset in twelve months from and after its first meeting date.

Commission comment Commissioner Peura thanked Mayor Smith for the process of seeking input and recommendations from the Commission for the Global Climate Change Task Force. He spoke of the large number of applicants and the volunteer spirit in the Helena community.

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

Motion **Commissioner Peura moved approval of the Global Climate Change Task Force appointments as outlined above.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

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

Motion **Commissioner Peura moved approval of the 2008 City Commission appointments as outlined above.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

**Confirmation of
Police Officer**

CONFIRMAITON OF POLICE OFFICER
A. Officer Shawn Lashway

Police Chief Troy McGee introduced and gave the background of Officer Shawn Lashway. Chief McGee recommended confirmation of Shawn Lashway as a Police Officer with the Helena Police Department. Officer Lashway addressed the Commission and thanked the City and Chief McGee for the opportunity to serve on the Helena Police Department.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Peura moved approval for the confirmation of Shawn Lashway as a Police Officer with the Helena Police Department. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Animal Control Officer

Police Chief Troy McGee introduced newly hired Animal Control Officer Jennifer Robinson. Officer Robinson was previously employed as a Records Clerk with the Helena Police Department. Officer Robinson thanked the city for the opportunity to serve as the Animal Control Officer.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Final passage of Ordinance 3093, amending Title 11 (The Zoning Ordinance) of the Helena City Code by adding a new Chapter 41 to be known as the Wildland Urban Interface District. **Ordinance #3093**
- C. Consultant services contract amendment, Interstate Engineering, Inc., for the Memorial Park Swimming Pool Project
- D. Rejection of bids for a new front-end loader for the Solid Waste Division
- E. Golf Course Irrigation Line (City Project No. 05-09) - Change Order #2
- F. Utility bill insert - Rocky Mountain Development Council/Head Start

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

Commissioner Cartwright asked that item E be removed for further discussion.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved approval of consent agenda items A through D and item F. Commissioner Peura seconded the motion. All voted aye, motion carried.

Item E

Commissioner Cartwright referred to problems with the as-built drawings for the Custer Avenue project and asked how the errors occurred. City Engineer Leland explained typically the inspector on the project does the as-built drawings, this project was a city project performed in the early 90's. The irrigation line was an afterthought and was never on the plans to begin with, so when the inspection was performed the location of the line was not communicated correctly to the CAD employee.

- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Cartwright moved approval of consent agenda item E.** Commissioner Peura seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Cartwright referred to snow removal related to the sidewalk ordinance and businesses not in compliance on Last Chance Gulch. He encouraged businesses and citizens to remove their snow completely so they don't block sidewalks and crosswalks. He also spoke of a fire near Shepherd, Montana in December and referred to the South Hills area. He noted homeowners need to recognize if they live further into the hills the fires are harder to fight and understand the risk they are taking when they build in those areas. Commissioner Cartwright stated he would be very reluctant to annex any additional property along the south hills from the interchange to the Reber PUD because it could create dangerous conditions.
Commissioner Oitzinger thanked Mayor Smith for his State of the City address and spoke of the great turnout for the HCC.
Commissioner Peura thanked Mayor Smith for his State of the City address and thanked the HCC members for their willingness to serve on the council.
- Report of the City Attorney** REPORT OF THE CITY ATTORNEY
No report given.
- Report of the City Manager** REPORT OF THE CITY MANAGER
A. Henderson Project Closeout – City Manager Burton invited City Engineer Ryan Leland forward to give a report on the closeout of the Henderson Avenue Project. City Engineer Leland gave a power point presentation on the completion of the project. He noted the project was completed under budget.
- Report from the Helena Citizens** REPORT FROM THE HELENA CITIZENS COUNCIL
HCC Chair Justin Trafton gave an overview of HCC projects over the past two years. The HCC conducted city-wide meetings, served on several city boards and task forces and added a VISTA volunteer. He thanked the City Clerk's Office, City Manager Burton and City Attorney Nielsen for their assistance to the HCC.
Chair Trafton reported the next regular HCC meeting will be held on Wednesday, January 30, 2008 and noted the meetings are televised on HCTV. The next set of district meetings will be held on February 28, 2008 at 6:30p.m. There are vacancies in Districts 1, 2, 3, 4, and 6; interested persons can submit an application listing their reasons for wanting to join the HCC to Martha Eberle at meberle@ci.helena.mt.us or by mail to 316 N. Park, Helena MT 59623.
Commissioner Oitzinger thanked Chair Trafton for his service to the HCC. Commissioner Elsaesser thanked Chair Trafton and expressed his excitement to work with the new council members.
HCC Member Marshall Gingery thanked the 2007 HCC Officers and city staff for their work over the past year.
- G.O. Bonds** CONSIDER A RESOLUTION RELATING TO \$7,850,000 GENERAL OBLIGATION BONDS (PARKS AND RECREATION PROJECTS), SERIES 2008; AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF.

Staff Report

City Controller Glenn Jorgenson reported the citizens of the city authorized by ballot the issuance of \$7,850,000 General Obligation Bonds to finance improvements to Centennial Park, Memorial Park Swimming Pool and Kindrick-Legion Field. This resolution gives staff the authority to incur the costs of issuance and perform the work necessary to issue the bonds. Furthermore, it authorized the Mayor, City Manager and Administrative Services Director to negotiate and approve the final sale and form of the bonds. Voter approval and this resolution provides the authority to establish the related expenditure budget.

The bond sale is anticipated to be March 12, 2008 after the bids are tabulated and the city's financial advisor provides their recommendation. The resolution authorizes staff to work with Ben Johnson, Kennedy & Graven, Chartered, P.C., as bond council and P. Jonathan Heroux, Piper Jaffrey & Co., as financial advisor. Contracts with both firms for this issue are in the process and will be presented to the Commission for ratification in the near future.

Staff requests authorization to work with the city's bond counsel and financial advisor to prepare the bonds for sale. Also, staff requests authorization for the Mayor, City Manager and Administrative Services Director to have the authority to approve the final sale of the bonds. Mr. Jorgenson noted the original resolution distributed in the packet had been revised to include language that complies with Montana's Cultural and Recreation Act. New pages of the resolution outlining the changes were given to the Commission.

City Controller Glenn Jorgenson recommended approval of the resolution relating to \$7,850,000 General Obligation Bonds (parks and recreation projects), Series 2008; authorizing the issuance and calling for the public sale thereof.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Cartwright moved approval of a resolution relating to \$7,850,000 General Obligation Bonds (parks and recreation projects), Series 2008; authorizing the issuance and calling for the public sale thereof. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Resolution #19542**

SID 408

CONSIDER A RESOLUTION OF INTENTION RELATING TO \$113,836.65 FOR THE CITY OF HELENA SPECIAL IMPROVEMENT DISTRICT NO. 408 BOND; FIXING THE FORM AND DETAILS AND PROVIDING FOR THE EXECUTION AND DELIVERY THEREOF AND SECURITY THEREFORE

Staff Report

Administrative Services Director Tim Magee reported on July 31, 2006 the City Commission passed Resolution 19389 creating Special Improvement District No. 408 to install curbs, gutters, sidewalks, paving, storm water drains, and other appurtenances for the reconstruction of Granite Street between Knight Street and US Highway 12.

The Helena School District is the only property owner included in SID 408. Staff is requesting a loan authorization amount of \$113,836.65 to finance through the INTERCAP loan program. The amount borrowed is the actual amount spent on the project plus law mandated 5% revolving fund contribution. If approved, the special assessments for the repayment of this loan will be payable over a term not exceeding three years, in equal semi-annual payments, together with interest as set by the INTERCAP Program.

INTERCAP loans are a variable interest rate loan program with a new rate set each year in February effective for the next fiscal year. The City has participated in the INTERCAP program several times and the interest rates charged have been favorable when compared to other types of borrowings.

Director Magee recommended approval of the resolution of intention authorizing the INTERCAP Loan and setting the terms and conditions of the loan for the Granite Street Special Improvement District No. 408 and set a public hearing date for February 25, 2008.

Commission Comment Commissioner Cartwright asked within what parameters the INTERCAP loan's interest is adjusted each year? Director Magee explained it is adjusted based on their investment portfolio; there is no guaranteed limit and what they need to charge is based upon the market.

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

Motion **Commissioner Peura moved approval of the resolution of intention authorizing the INTERCAP Loan and setting the terms and conditions of the loan for the Granite Street Special Improvement District No. 408 and set a public hearing date for February 25, 2008.**
Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Resolution #19543**

Hauser Boulevard CONSIDER A DEVELOPMENT AGREEMENT FOR ENLARGEMENT OF SERVICE AREA FOR LOTS 14,15, AND 16 IN BLOCK 180 OF THE BRADFORD ADDITION; GENERALLY LOCATED SOUTH OF HAUSER BOULEVARD AND EAST OF LAUREL STREET WITH A PROPERTY ADDRESS OF 1733 HAUSER BOULEVARD

Staff Report Planner Leroy Golemon reported the owners of 1733 Hauser Boulevard are seeking to re-establish connection to city water service. The applicant's property at 1733 Hauser Boulevard is not contiguous to the City of Helena. Therefore, the owners of 1733 Hauser Boulevard are required by Section 6-5-4 of Helena City Code to enter into a Development Agreement for Enlargement of Service Area.

City water mains are adjacent to the applicants' property in Hauser Boulevard and Laurel Street. The subject property has two service connections to the water main located in Hauser Boulevard. City water service was discontinued to this property when the structures located on the lot were removed or demolished. The property owners have constructed a new single-family dwelling on the subject property and are seeking to re-establish connection to city water service.

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

The conditions outlined in the agreement would prevent any further subdivision of the property without review and approval for the City Commission and will promote the orderly development of the area of the city. The Development Agreement for Enlargement of Service Area to the private property is consistent with city policy.

Planner Golemon recommended approval of a Development Agreement for Enlargement of Service Area for property legally described in the attached agreement for property, located in Lewis and

Clark County, Montana, and extend services to the property as shown on Exhibit "A" attached to the Development Agreement.

City Manager Burton stated for many reasons he authorized city staff to allow the applicants to hook up to city water a couple of weeks ago; this is a nunc pro tunc decision.

Public Comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Oitzinger moved approval of a Development Agreement for Enlargement of Service Area for property legally described in the agreement for property, located in Lewis and Clark County, Montana, and extend services to the property as shown on Exhibit "A" attached to the agreement. Commissioner Cartwright seconded the motion.

Commission Comment

Commissioner Peura stated he is very comfortable with the agreement as it complies with city policy and noted he is also comfortable with City Manager Burton's decision to move forward with the service because of the situation.

Vote

All voted aye, motion carried.

Zone Change – Boyce Addition

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359 AND AMENDING THE OFFICIAL ZONING MAP THEREOF FOR A ZONE CHANGE FROM CLM TO B-2 DISTRICT FOR BLOCKS 15, 21 AND 22, BOYCE ADDITION; GENERALLY LOCATED NORTH OF PROSPECT AVENUE AND SOUTH OF BILLINGS AVENUE BETWEEN GIBBON AND MARKET STREETS

Staff Report

Planner Kathy Macefield on June 4, 2007 the Helena City Commission held a public hearing and tabled action on Ed Maronick's request for an ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map thereof for a zone change from CLM (Commercial-Light Manufacturing) to B-2 (General Commercial) District in reference to multiple properties, legally described as Block 15 (Quit Claim deed M27, Page 3282), and Blocks 21 and 22 (M20, Page 4823), Boyce Addition; and the closed and vacated portion of Butte Avenue (Resolution #1979-4), and vacated Missoula Avenue located between Blocks 15 and 22 (Resolution 1991-86), Helena, Montana; generally located north of Prospect Avenue and south of Billings Avenue between Gibbon and Market Streets.

The Helena Zoning Commission had recommended denial (3:2 vote) for the adoption of this ordinance on May 8, 2007. The staff recommendation had been approval for the zone change. The 2007 application had also included rezoning for a portion of Block 20 located to the west; rezoning this property is no longer included with this zone change proposal. As a result, all references to the original rezoning proposal have been deleted from the attached summary of the Zoning Commission public hearing.

The City Commission had tabled action pending the outcome of a traffic impact study. The September 2007 Maronick Property Traffic Impact Study states: Gibbon Street and Prospect Avenue – It is anticipated...that the southbound left turn will be eliminated by MDT due to safety concerns.... In discussions with MDT, the proposed layout of the Capitol Interchange is not conducive to another signal in close proximity. ...The traffic impacts...are seen mainly at the Gibbon Street

approach and do not substantially lower the level of service for vehicles on US 12/Prospect Avenue.

18th Street and Prospect Avenue - ...Signal timing and/or signal hardware would need to be modified to include protected left turn phases for north and southbound approaches. ...The new South Hills connection east of Janet Street will take tremendous pressures off this intersection for predominant flows during the peak hour commutes. No further mitigation is recommended.

The proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses.

Planner Macefield stated the Helena Zoning Commission recommended the following motion:

Denial for first passage of an ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map thereof for a zone change from CLM (Commercial-Light Manufacturing) to B-2 (General Commercial) District in reference to those multiple properties, legally described in the staff report.

Alternate Motion:

Approval for first passage of an ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map thereof for a zone change from CLM (Commercial-Light Manufacturing) to B-2 (General Commercial) District in reference to those multiple properties, legally described in the ordinance.

Commission Comment

Commissioner Peura noted the traffic study stated upgrades to the signal at 18th Street and Prospect would be needed and asked who would fund the upgrades and when they would be performed. Ms. Macefield explained the signals are controlled by MDT and they would decide when the improvements would occur. Commissioner Peura asked if the timeframe for MDT's decision would be related to the Commission's decision tonight? Ms. Macefield stated there is no development planned for the subject property; once the property is developed, MDT would be more assertive about their review of the intersections. Commissioner Peura asked City Attorney Nielsen if the Commission could add conditions to approval of the zone change stating the developer be responsible for the payment of the upgrade of the signal timing and signal hardware when MDT decides the improvements are necessary? Attorney Nielsen explained conditions cannot be added to zone change requests.

Commissioner Cartwright asked if a development were proposed for the area after the zone change, what is the likelihood that the development would have to pay for the signal light? Ms. Macefield reiterated the intersection is controlled by MDT, if system development fees were implemented in the future the city may be able to address the cost issue but presently it's controlled by MDT. City Manager Burton stated the question tonight is zoning, and the Commission either agrees or disagrees with the proposal. In terms of development it is hard to answer questions as staff isn't sure what is going to happen. Typically access to a state highway is approved or denied by MDT and usually, because improvements are required, those improvements are conditioned upon those permits. He noted he cannot predict whether or not a permit will be needed in the future for the development. The Commission will be able to weigh in on the traffic improvements if and when the property goes through subdivision review.

Commissioner Cartwright expressed concern that if a type of development went in that generated enough traffic going down 18th Street that a light would need to go in, that MDT could require the city to fix those traffic problems.

Commissioner Elsaesser asked for more information on the closed and vacated streets in the area. Ms. Macefield reported in 1978 the eastern portion of Missoula Avenue, and Butte Street were closed and vacated by the County Commission. At that time the half-portions of the street went to the adjacent blocks. Commissioner Elsaesser asked what would be the primary street access for Block 21? Ms. Macefield stated Blaine Street, which has not yet been installed to city standards.

Commissioner Cartwright asked if the Zoning Commission has reviewed the traffic study? Ms. Macefield stated no.

Public Comment

Mayor Smith called for public comment.

Patricia Burke, Stahly Engineering, 3530 Centennial Drive; gave detailed information related to the traffic study. As far as the intersection of Gibbon Street and Highway 12, MDT would not make an official statement on the left turn, as there isn't any development being truly built. With the new configuration of the capital interchange, MDT would not allow a signal at Gibbon Street and Highway 12. MDT mentioned the left turn coming out of Gibbon Street and going east on Highway 12 would be the most likely thing to be closed due for safety reasons. Ms. Burke stated typically when a development is proposed; MDT reviews the traffic at that time and place conditions on the development. Most of the time, the developer is required to pay for those improvements. If the level of service is lowered below level C, MDT will instigate improvements that must be completed. Those improvements are typically the same as listed in the traffic study. Ms. Burke also explained the trip generation amounts.

Steve Netschert, 665 South Davis, representing the applicant; spoke of the history of the proposed zone change. He noted the original proposal included Block 16 to the east; that block is not included in the current proposal. He spoke in support of the zone change and urged the Commission to support the ordinance.

Ed Maronick, property owner; stated he has provided all of the additional information the Commission requested in May and asked for Commission approval.

Discussion

Commissioner Cartwright asked Ms. Burke what form of communication MDT used to state they could not make an official statement on the traffic study. Ms. Burke explained she received an email from Jim Skinner of the MDT Planning Department. He referred to funding improvements to the traffic light and asked if a development comes in and creates sufficient traffic to impact an intersection three blocks away, does MDT in standard practice look to that development to pay for the improvements? Ms. Burke stated based on her experience with other traffic studies, if increased traffic impacts MDT's system, they define where the limit is going to be.

Commissioner Peura referred to the trip generation figures in the study and asked for the impact of CLM versus B-2 zoning in terms of new trips and the impact on some of the Levels of Service, in particular the Gibbons intersection. Ms. Burke stated as part of the study, the current impacts are compared with ten years in the future, with no changes or new development. She referred to the Gibbons and Prospect Avenue intersection and explained with the development there would be a little breakdown in service in the morning, but the service

would remain at an acceptable level. In the evening service would breakdown to an unacceptable level. Commissioner Peura asked for the number of new trips that B-2 zoning could be anticipated to create versus CLM zoning. Ms. Burke stated approximately 1900 average daily trips; in the morning 250 new trips and in the evening 164 new trips. Commissioner Peura asked which type of development has the higher trip generation, retail development or office development? Ms. Burke stated retail development. Commissioner Elsaesser asked if the traffic study included Billings Avenue? Ms. Burke stated no, the current condition of Billings Avenue did not make it a viable option.

Commissioner Peura asked Ms. Macefield if the three platted parcels are separate so that anticipated projects by right would be three separate projects without the need for future Commission decision related to vacations? Ms. Macefield explained a portion of Missoula Avenue has already been closed and vacated so conceivably you could have development occur on those two blocks together. There is still a platted right-of-way (ROW) that separates Blocks 21 and 22; if that was to be incorporated into a development it may require a street closure and vacation.

Commissioner Oitzinger asked if there is a demand for CLM property of this size? Ms. Macefield stated staff hasn't had many requests from applicants for CLM type zoning. She noted in this property, the individual blocks are around three acres and are fairly small in terms of large-scale development.

Commissioner Elsaesser asked for the potential impact to the corner of Gibbons and Billings at the northeast corner of the Walmart property? Ms. Burke stated that area wasn't analyzed. Commissioner Elsaesser asked what were the main intersections analyzed in the study. Ms. Burke stated the approach coming out of the property onto Gibbons and Highway 12 and also 18th Street and Highway 12.

Commissioner Peura asked if the proposal could be sent back to the Zoning Commission for review now that the traffic study has been completed. City Attorney Nielsen stated the Commission could require the Zoning Commission review the new traffic study. Commissioner Peura asked Mr. Maronick to speak on the suggested review by the Zoning Commission. Ed Maronick, applicant; gave the history of the annexation and zoning of the property. He requested the Commission vote on the proposal, as not being able to market the property for sale or rent is costing them a lot of money in taxes. Commissioner Cartwright asked when the gravel plant previously located on the property was closed? Mr. Maronick stated he was unsure, but believes it was in 1999. He added there is currently a light on 18th Street with turn signals.

City Manager Burton stated in 2000 or 2001 there were 38 wholly surrounded properties that the City Commission was providing sewer and water services to. This property was one of two that protested annexation but were receiving city services. At the time, there was a sand and gravel operation in place, which equated to CLM zoning. He confirmed Mr. Maronick opposed the zoning through his attorney and the City Commission listened to the debate and made the decision.

Mayor Smith urged the Commission to make a decision on the proposed zone change. Commissioner Cartwright commented he also believes a decision should be made. His original concerns regarding traffic have been dealt with; therefore, he is comfortable supporting the zone change. He reiterated there is an email from MDT on the left out onto Highway 12 and testimony stating MDT practice would make sure the city wouldn't be left funding traffic light improvements. Commissioner Elsaesser expressed concern for traffic impacts to the residential areas surrounding the property and stated he would not support the zone

change unless there was more extensive study of the residential impacts.

Commissioner Cartwright asked what control the city has over people cutting across country to get to the property. City Attorney Nielsen stated the property is in the county, as such if people have established a trail there may be a prescriptive ROW established, which the county would deal with as a county road. If that ever became subdivided, the landowner would have to deal with it, in getting a release or extinguishment of the ROW. He referred to the map and noted there is plenty of developed ROW. If the property were ever developed out to the north it would not be a major chore to construct the roads within the platted ROW and the prescriptive ROW would go away for non-use.

Motion

Commissioner Cartwright moved approval for first passage of an ordinance amending City of Helena Ordinance No. 2359 and amending the Official Zoning Map thereof for a zone change from CLM to B-2 District for Blocks 15, 21 and 22, Boyce Addition; generally located north of Prospect Avenue and south of Billings Avenue between Gibbon and Market Streets. Commissioner Oitzinger seconded the motion.

Commission comment

Commissioner Peura stated he would not support the motion, as he believes the Zoning Commission should review the traffic study. Commissioner Elsaesser stated he believes the B-2 Zoning would be appropriate but he still has concerns with traffic.

Vote

Motion carried 3-2, with Commissioners Peura and Elsaesser voting no. **Ordinance #3094**

Comment

Commissioner Cartwright commented the Commission should take full advantage of review by city boards and commissions but this proposal has been reviewed enough it could be expedited.

HATS FY09 Budget

CONSIDER THE PROPOSED OPERATING BUDGET FOR THE HELENA AREA TRANSIT SERVICE (HATS) AND HELENA TROLLEY AND AUTHORIZE STAFF TO COMPLETE AND SUBMIT THE FY09 SECTION 5311, JOB ACCESS REVERSE COMMUTE (JARC), NEW FREEDOMS, AND STATE TRANSADE GRANT APPLICATIONS AND TRANSPORTATION COORDINATION PLAN.

Staff Report

Transportation Superintendent Ed Robinson reported the FY2009 Section 5311 Transportation Assistance Grant is a primary funding source for the HATS bus system. In FY2009 HATS will be requesting \$570,760 in 5311 operating funds and \$79,000 in capital funds for a new bus to support the Head Start Program. In addition, HATS will be requesting funding of \$112,925 through the Job Access Reverse Commute Grant. As the state designated lead transit agency for the Helena area, HATS will also include in it's grant applications requests for grant funding from several other agencies. Rocky Mountain Development Council will be applying for a New Freedoms grant of \$75,052, a JARC grant of \$7,482, and a TransAde grant of \$34,509. The Montana Independent Living Project is applying for a New Freedoms grant in the amount of \$23,392, and Spring Meadow Resources for a new bus under the 5311 grant of \$47,300. Applications are due by February 1, 2008. Public notice of the grant requests was advertised January 1, 2008 and January 8, 2008.

The proposed budget is based on historical costs. Projected costs for new services have been included in the preliminary budget.

This budget incorporates some recommendations identified in the 2007 Greater Helena Area Five Year Transit Plan Update.

Superintendent Robinson recommended approval of the proposed operating budget for the Helena Area Transit Service (HATS) and Helena Trolley and authorize staff to complete and submit the FY09 Section 5311, Job Access Reverse Commute (JARC), New Freedoms, and State TransAde grant applications and transportation coordination plan.

Commission comment Commissioner Cartwright noted HATS is in negotiations with the state to expand trolley service and ridership. Commissioner Peura commended state government for their willingness to partner with the city to expand public transit. Mayor Smith and Commissioner Elsaesser concurred with Commissioner Peura and Cartwright's comments. Commissioner Oitzinger spoke in support of the state creating a bus pass program.

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

Motion **Commissioner Cartwright moved approval of the proposed operating budget for the Helena Area Transit Service (HATS) and Helena Trolley and authorize staff to complete and submit the FY09 Section 5311, Job Access Reverse Commute (JARC), New Freedoms, and State TransAde grant applications and transportation coordination plan.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Vacate Portions of Davis Street CONSIDER A RESOLUTION OF INTENTION TO VACATE PORTIONS OF THE DAVIS STREET, LIVINGSTON AVENUE, BILLINGS AVENUE, 16TH STREET, AND HOBACK STREET RIGHTS-OF-WAY AND THE PLATTED ALLEYS BETWEEN BLOCKS 27 AND 32 OF THE CHESSMAN AND DAVIS CENTRAL ADDITION #1, BLOCKS 12,13,18 AND 23 OF THE LOCKEY ADDITION, AND TRACT D OF THE BURLINGTON ADDITION, ALL IN THE CITY OF HELENA, MONTANA.

Staff Report City Engineer Ryan Leland reported the Helena School District has petitioned the City of Helena to vacate the above rights-of-way in order to clean up School District and City property boundaries. Along with the vacation the School District will dedicate ROW to the City of Helena that is currently used for 15th Street. Also, the City of Helena has existing water, sewer, and storm mains in the Davis Street and Livingston Street ROW. If the city approves the vacation an easement will be maintained for all the utilities.

City Engineer Leland recommended approval of the resolution of intention to vacate portions of the Davis Street, Livingston Avenue, Billings Avenue, 16th Street, and Hoback Street Rights-of-way and the platted alleys between Blocks 27 and 32 of the Chessman and Davis Central Addition #1, Blocks 12,13,18 and 23 of the Lockey Addition, and Tract D of the Burlington Addition, all in the City of Helena, Montana and set a public hearing date for February 11, 2008.

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

Motion **Commissioner Cartwright moved approval of a resolution of intention to vacate portions of the Davis Street, Livingston Avenue, Billings Avenue, 16th Street, and Hoback Street Rights-of-way and the platted alleys between Blocks 27 and 32 of the Chessman and Davis Central Addition #1, Blocks 12, 13, 18 and 23 of the Lockey**

Addition, and Tract D of the Burlington Addition, all in the City of Helena, Montana and set a public hearing date for February 11, 2008. Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19544**

Resolution of Intent CONSIDER A RESOLUTION OF INTENTION TO ANNEX LOTS TO BE KNOWN AS TRACT B1-A AND LOT 11-A OF THE RED LETTER MINOR SUBDIVISION, THE FRACTION LODE MINING CLAIM, AND THE TIGER LODE MINING CLAIM, ALL LOCATED IN LEWIS AND CLARK COUNTY INTO THE CITY OF HELENA AND TO ESTABLISH CONDITIONS FOR ANNEXATION; PROPERTY IS GENERALLY LOCATED SOUTH OF GOLD RUSH AVENUE BETWEEN WINSCOTT LANE AND CRYSTAL DRIVE.

Public Hearings

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT PROPERTY TO BE KNOWN AS TRACT B1-A OF THE RED LETTER MINOR SUBDIVISION, LEWIS AND CLARK COUNTY, CONTAINING APPROXIMATELY 1.5 ACRES PRIOR TO ANNEXATION INTO THE CITY OF HELENA; PROPERTY IS GENERALLY LOCATED SOUTH OF GOLD RUSH AVENUE BETWEEN WINSCOTT LANE AND CRYSTAL DRIVE .

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO PLI (PUBLIC LANDS AND INSTITUTIONS) DISTRICT PROPERTY TO BE KNOWN AS LOT 11-A OF THE RED LETTER MINOR SUBDIVISION, THE FRACTION LODE MINING CLAIM, AND TIGER LODE MINING CLAIM, ALL IN LEWIS AND CLARK COUNTY, PRIOR TO ANNEXATION INTO THE CITY OF HELENA; PROPERTY IS GENERALLY LOCATED SOUTH OF GOLD RUSH AVENUE BETWEEN WINSCOTT LANE AND CRYSTAL DRIVE.

Staff Report

Planner Elroy Golemon reported on August 08, 2005, the City of Helena entered into a Buy/Sell Agreement with Richard and Betti Hill for the purchase of two parcels of property. The Buy/Sell allowed the City of Helena to close on the purchase of the parcels at different times and provides the City of Helena with options on when to close and the configuration of the parcels. Tract B1 containing approximately 9.19 acres was purchased from Mr. and Mrs. Hill for \$120,000. Government Lot 11 could not be purchased at the same time as Tract B1. Mr. and Mrs. Hill and the City of Helena agreed to delay the purchase or reconfiguration of Government Lot 11 for 18 months. According to the terms of the Buy/Sell Agreement a smaller lot to be known as Tract B1-A will be created adjacent to the City of Helena's jurisdictional boundary and will contain an amount of land equal to Government Lot 11, which contains approximately 1.5 acres. The Hills will acquire Tract B1-A and have requested a zoning designation identical to the zoning designation of the adjacent properties located in the city and capable of receiving city services. The City of Helena would acquire Government Lot 11 through Relocation of the common boundary between Tract B1 and Government Lot 11, creating Lot 11-A. The new lot 11-A, the Fraction Lode Mining Claim and the Tiger Lode Mining Claim will be retained as open space properties by the City of Helena.

The applicants are requesting annexation of lots to be known Tract B1-A of the Red Letter Minor Subdivision and as Lot 11-A of the Red Letter Minor Subdivision and for two additional undeveloped properties known as the Fraction Lode Mining Claim, and the Tiger Lode Mining Claim all located in Lewis and Clark County.

Signed petitions for annexation in accordance with § 7-2-4601, MCA, have been received from Mr. and Mrs. Hill and the City of Helena, owners of the property. Whenever more than 50 percent of property owners petition for annexation, the City Commission may approve or disapprove the petition upon its merits.

Staff recommends approval for a resolution of intention to annex into the City of Helena the lots to be known as Tract B1-A and Lot 11-A of the Red Letter Minor Subdivision, the Fraction Lode Mining Claim, and the Tiger Lode Mining Claim all located in Lewis and Clark County Montana; and establish conditions of Annexation:

1. Taxes and Assessments: Taxes and assessments shall be paid and current at the time of filing the Resolution of Annexation.
2. Amended Plat: The amended plat creating the new lots to be known as Tract B1-A and Lot 11-A of the Red Letter Minor Subdivision must be filed with the Lewis and Clark County Clerk and Records office.
3. Completion of Conditions: The property owner must notify City Planning in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within one (1) year of the date of approval of this Resolution of Intention, the City is under no obligation to annex the property and may discontinue any City services being provided to the property.

The applicants are requesting pre-zoning prior to annexation for a portion of Tract B1 of the Red Letter Minor Subdivision, Lewis and Clark County, to be known as Tract B1-A of the Red Letter Minor Subdivision upon filing of the amended plat. The property is generally located south of Gold Rush Avenue between Winscott Lane and Crystal Drive.

On December 11, 2007, the Helena Zoning Commission unanimously recommended approval for the adoption of an ordinance for a pre-zoning designation prior to annexation to R-2 (Single Family Residential) District for the property to be known as Tract B1-A of the Red Letter Minor Subdivision.

Also, the Helena Zoning Commission unanimously recommended approval for the adoption of an Ordinance for a pre-zoning designation prior to annexation to PLI (Public Lands and Institutions) District for the lot to be known as Lot 11-A of the Red Letter Minor Subdivision, the Fraction Lode Mining Claim, and the Tiger Lode Mining Claim.

The subject properties for Mr. and Mrs. Hill and the City of Helena are undeveloped and currently do not receive city services.

There is no ROW adjacent to the properties being annexed. The access easement located adjacent to the west property line will be annexed as part of Tract B1-A and Lot 11-A.

Mr. Golemon recommended approval of the ordinances pre-zoning the property.

Commission comment

Commissioner Peura referred to concerns over dust in the area and asked if the annexation could require a condition that would require the applicant to waive the right to protest a dust abatement district to address the unpaved road that extends the length of the property. City Attorney Nielsen stated yes, a waiver of protest for some sort of dust control could be applied.

Commissioner Cartwright asked on a dust control district, would it apply to a majority of the property owners or a majority of the area? City Attorney Nielsen stated he would need to research the issue and report back to the Commission as half of the subject road lies in Lewis & Clark County, which would require a Rural Improvement District/Special Improvement District combination. Commissioner Cartwright referred to the private drive and asked if it is located on B1 and B1-A. Mr. Golemon explained the 60 foot wide access and utility easement does run on the west side of the lots. Commissioner Cartwright asked if the city would be responsible for the maintenance of the easement once the property is annexed; it is possible that the subdivision in Jefferson County would take care of the plowing and maintenance at no cost but if there are public nuisances created by our property, would the city be liable for the nuisances, dust in particular? City Attorney Nielsen stated no, the easement is private and goes across the property. It becomes a burden on the property, not a benefit. Any maintenance will be the responsibility of the people that have the legal right to use the road. The city, as the property owner, has no obligation to maintain the road. Commissioner Cartwright stated the city has numerous ordinances and regulations to try and keep one property owner from infringing on the right of another property owner. Now that the easement will be within the city would other city property owners now try to impose a different obligation on the holders of the easement? Attorney Nielsen stated no because the easement is for the benefit of the property owners above the subject property, not for the benefit of the city. It's not a city street and doesn't give the citizens of Helena a right to use it, except at the invite of the people who own it. The fact that city government owns it doesn't convert the easement to any sort of public road and does not incur an obligation on the citizens to improve it or give them any additional rights. Commissioner Cartwright asked if the easement holders, by virtue of moving the easement from the county to the city, set themselves up for some potential challenge they wouldn't have had when it was entirely in the county. City Attorney Nielsen stated no, the annexation is a neutral factor.

Commissioner Elsaesser asked how the city would be involved as a party if the easement were improved or vehicle use of it increased substantially? Attorney Nielsen explained he would need to look at the easement; there are rights to make certain improvements to it but the city would not be a party to the improvements. There are certain improvements that could be done without the city's approval.

Public Testimony

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

Bob Haseman, 2447 Gold Rush Avenue; spoke in opposition to the annexation unless the road is paved.

Rich Fabiano, 2401 Gold Rush Avenue; urged the Commission to require the road be paved as a condition of annexation.

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

Commission comment

Commissioner Cartwright stated clearly there is a dust problem and he wishes there was a way to deal with it. There was a misstatement in saying the city is giving city services to Mr. Hill; this is part of a larger land swap where the city picked up a fair amount of land below the appraised value. He commented he believes the residents that use the road would like to do the right thing. He referred to fire and stated the better the road the easier it is to get equipment in and out. He asked City Manager Burton if there is a way to negotiate improvements

with the easement holders? Manager Burton stated he could visit with Lewis & Clark County to see whether they determine it's a public road or private road due to more than two properties being on the road. If the county is interested in forming a dust abatement district, perhaps the city can do something similar to the McHugh SID.

Commissioner Elsaesser asked when the R-2 lot is developed, would the property owner then be required to pave the road? Attorney Nielsen stated the applicant would not have to pave the road beyond where it is paved now and gave the history of the land swap with Mr. and Mrs. Hill. Commissioner Elsaesser asked what could be done to ensure pedestrian access to the open space lot? Attorney Nielsen explained if the land swap goes through, there is access to it right off the road.

Commissioner Peura spoke of the proposed waiver to create a dust abatement district. Attorney Nielsen stated right now there is no public road for dust abatement. If that condition was included in the approval of this resolution of intention it could be applied once the road shows up. Commissioner Peura asked if the proposed district could address an easement? Attorney Nielsen explained those details would need to be worked out with Lewis & Clark County. Commissioner Peura spoke in support of the resolution of intention and the pre-zoning with the opportunity to require dust abatement although it cannot be guaranteed.

Mayor Smith spoke of mag chloride treatments to the unpaved portion of Davis Gulch and asked if that is what would be used to treat this area? He also asked if paving, curb and guttering the road would be more affordable than a mag chloride treatment? City Manager Burton stated a dust abatement district would provide mag chloride treatments rather than pavement or some other type of development. He commented it's not black and white relative to the way the road is governed and the proposed condition will either work or it won't and the property owner will comply based upon the condition.

Commissioner Peura commented the addition of the one lot to be developed is not likely to contribute any further to the problem the neighborhood is already having. This proposal is an opportunity for a win-win and at worst there is no loss because the traffic that is causing the problem is going to happen there anyway, whether the proposal is approved or not. By approving it, the Commission is using the only leverage available to try to address the dust problem.

Motion

Commissioner Peura moved approval of a resolution of intention to annex into the City of Helena the lots to be known as Tract B1-A and Lot 11-A of the Red Letter Minor Subdivision, the Fraction Lode Mining Claim, and the Tiger Lode Mining Claim all located in Lewis and Clark County, Montana; and establish conditions of annexation including the condition that the applicant waive the right to protest a dust abatement district related to any adjacent ROW or easement. Commissioner Cartwright seconded the motion.

Comment

Commissioner Cartwright stated he is willing to annex this property because it will result in a large amount of open space for the city and that kind of trade is worth considering. He urged the adjacent and subject property owners to recognize and deal with the dust problems. Commissioner Oitzinger stated this is a tough proposal because the resolution wouldn't have passed without the dust abatement condition but she is concerned the property owner won't be happy with the condition.

There was Commission consensus to ask City Manager Burton to move forward with discussions with Lewis & Clark County regarding the dust abatement district.

Vote All voted aye, motion carried. **Resolution #19545**

Motion **Commissioner Peura moved approval for first passage of an ordinance pre-zoning to a R-2 (Single Family Residential) District prior to annexation for property legally described as Tract B1-A of the Red Letter Minor Subdivision, Lewis and Clark County, Montana, located in Section 5, Township 9 North, Range 3 West, Lewis and Clark County, Montana; generally located south of Gold Rush Avenue between Winscott Lane and Crystal Drive.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3095**

Motion **Commissioner Peura moved approval for first passage of an ordinance pre-zoning to a PLI (Public Lands and Institutions) District prior to annexation for property legally described as Lot 11-A of the Red Letter Minor Subdivision, the Fraction Lode Mining Claim M.S. 5493, and the Tiger Lode Mining Claim M.S. 4920 all of Lewis and Clark County, Montana, located in Sections 4 and 5, Township 9 North, Range 3 West, P.M.M., Lewis and Clark County, Montana; generally located south of Gold Rush Avenue between Winscott Lane and Crystal Drive.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3096**

Comment Commissioner Peura noted only one single family home will be developed on lot B1-A.

C. CONSIDER A RESOLUTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 216 ALONG THE STREETS AND AVENUES IN PARTS OF THE COTTONWOOD WEST SUBDIVISION.

Staff Report Administrative Services Director Tim Magee reported the Commission on January 7, 2008 passed a resolution of intention to create Special Improvement Lighting District (SLD) No. 216.

The proposed facilities will consist of 9 units, with underground wiring, fiberglass or metal poles for 14-foot mounting heights, and glass enclosed acorn luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$5,979 with the estimated cost being \$.01229 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the City to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Director Magee recommended approval of the resolution creating Special Improvement Lighting District No. 216.

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, the public portion of the hearing was closed.

Commission Comment Commissioner Cartwright spoke in opposition to the use of acorn lights and area method of assessment. Commissioner Elsaesser urged staff and applicants to comply with the dark skies ordinance and energy efficiency. Mayor Smith noted a review of the lighting ordinance is on the Commission's work list.

Motion Commissioner Peura moved approval of the resolution creating Special Improvement Lighting District No. 216 along the streets and avenues in parts of the Cottonwood West Subdivision. Commissioner Oitzinger seconded the motion. Motion carried 4-1, with Commissioner Cartwright voting no. **Resolution #19546**

D. CONSIDER A RESOLUTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 217 ALONG THE STREETS AND AVENUES IN PARTS OF THE GOLDEN ESTATES PHASE IV SUBDIVISION.

Staff Report Administrative Services Director Tim Magee reported the Commission on January 7, 2008 passed a resolution of intention to create Special Improvement Lighting District No. 217.

The proposed facilities will consist of 32 units, with underground wiring, fiberglass or metal poles for 14-foot mounting heights, and glass enclosed acorn luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$21,315 with the estimated cost being \$.013 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the City to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Director Magee recommended approval of the resolution creating Special Improvement Lighting District No. 217.

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, the public portion of the hearing was closed.

Motion Commissioner Peura moved approval of the resolution creating Special Improvement Lighting District No. 217. Commissioner Oitzinger seconded the motion. Motion carried 4-1, with Commissioner Cartwright voting no. **Resolution #19547**

Comment City Manager Burton stated the lights proposed for use in SLD No. 216 and SLD No. 217 comply with the city's lighting ordinance.

E. CONSIDER A RESOLUTION TO DECLARE AS SURPLUS AND AUTHORIZE THE SALE OF REAL PROPERTY OWNED BY THE CITY OF HELENA.

Staff Report Director Tim Magee reported the City of Helena currently owns a piece of property located between Harrison Avenue and Park Avenue. The property is legally described as Lots 1 & 2 of the Helena Townsite, Block 75.

City Code §1-14-17 requires that all property owners within 300' of the property be notified at the same time as the first notice of

publication. However, for this property, notice was sent to property owners within 500' of the property. As a result, an additional 30 notices were sent out.

If approved for surplus, the property will be advertised for sale. A notice will be published twice in the Independent Record. In addition, all parties who have expressed an interest in bidding to the city will be sent a letter. This letter will include a map, minimum amount the city will sell it for, Bidder's Instructions, and time, date, and place of sale. The following provisions will apply to all bidders:

1. Sealed bid must be submitted
2. A minimum bid of \$17,640 is required
3. The purchaser must be current on all property taxes within Lewis & Clark County
4. Earnest money equal to two percent of bid but not less than \$500 must accompany the bid
5. Name, address, and telephone number must be included with bid
6. A buy-sell agreement must be signed with five working days of bid acceptance
7. The closing will be processed through the City Attorney's Office
8. The City will issue a quit claim deed
9. After all sealed bids have been opened, the City may then negotiate with all interested parties to achieve the highest possible bid price. The City reserves the right to accept the bid that would be in the best interest of the City or to reject all bids.
10. After all negotiations are concluded, the proposed purchase price must be brought to the commission for approval.

Director Tim Magee recommended approval of the resolution authorizing the sale of surplus real property owned by the City of Helena.

Commission Comment

Commissioner Elsaesser asked if the value of the property would go up if the update to the zoning ordinance were approved? Director Magee stated the person interested in purchasing the property owns the adjacent lot, neither lot is developable at this time; together they would be developable which would result in an increase in value. Commissioner Elsaesser asked in the city's fiscal interest, would it be prudent to wait until the passage of the zoning ordinance update to sell this property? Director Magee stated zoning already exists on this property and noted there is no reason to expect the value of the property to rise except with inflation. City Manager Burton commented staff cannot speculate the market value of the property with the zoning updates; the setbacks would still apply so the property owner would still probably only get one development out of the two lots. Commissioner Elsaesser stated the property may become more valuable because it might be developed under no minimal lot size and recommended the Commission wait to approve the sale of the property until the zoning ordinance update has been approved. Director Magee noted the property is zoned R1 and R2 and reiterated it is undevelopable unless it is combined with the adjacent lot. Commissioner Cartwright noted Commissioner Elsaesser raised a good point and noted there may be more than one bidder if both lots are in fact developable.

Public Testimony

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

John Lacke, representing the adjacent property owner; urged the Commission to declare the property as surplus and authorize the sale of the property.

There being no further persons wishing to address the Commission, the public portion of the hearing was closed

Commission comment Commissioner Peura asked if there was any way the Department of Revenue (DOR) would increase the value of this property in the next three months due to the city's zoning changes? Attorney Nielsen explained the DOR does cyclical appraisals so this property value won't change until the DOR does another mass appraisal. Commissioner Elsaesser stated he would still like to wait to surplus and sell the property until the zoning update is completed.

Motion Commissioner Oitzinger moved approval of the resolution authorizing the sale of surplus real property owned by the City of Helena. Commissioner Peura seconded the motion.

Commission comment Commissioner Peura indicated he would support the resolution, as it would be at least a year before any DOR value change and noted Commissioner Elsaesser brought up a good point regarding the value of the property.

Vote Motion carried, 4-1 with Commissioner Elsaesser voting no. Resolution #19548

Public Communications PUBLIC COMMUNICATIONS
None given.

Meetings of Interest MEETINGS OF INTEREST
The next Administrative Meeting is February 6, 2008 and the next Commission Meeting is February 11, 2008. The City/County Joint Work Session will be held on February 7, 2008.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 9:53 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission