

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
APRIL 2, 2001
6:00 P.M.

- Time & Place*** A regular City Commission meeting was held on Monday, April 2, 2001, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.
- Members Present*** Mayor Colleen McCarthy indicated for the record that Commissioners Morrison, Netschert, and Groepper were present. Commissioner Smith was excused. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Cathy Beck-Jenkins were present.
- Pledge of Allegiance*** Mayor McCarthy asked those persons present to please stand and join her in the pledge of allegiance.
- Minutes*** The minutes of the regular city commission meeting of March 5, 2001 were approved as submitted.
- Consent Agenda*** CONSENT AGENDA
A. Claims

City Manager Tim Burton recommended approval of the claims.
- Motion*** **Commissioner Morrison moved approval of the claims.**
Commissioner Groepper seconded the motion. All voted aye, motion carried.
- Communications*** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Groepper relayed the administrative meeting Wednesday, April 4, would be held at the Civic Center to allow the commissioners to attend the annual Civic Center potluck at 5:00 p.m. Commissioner Groepper also stated he sent the commission an email on the subdivision changes and asked that the city manager make sure the changes are communicated to the planning board.
Mayor McCarthy thanked the city manager and staff for all of the work they put into making the Kazakhstan visit successful.
- Report of the City Attorney*** REPORT OF THE CITY ATTORNEY
City Attorney David Nielsen had nothing to report.
- Report of the City Manager*** REPORT OF THE CITY MANAGER
A. Legislative Issues – City Manager Tim Burton reported on HB11 which relates to the Treasure State Endowment Program grant. He stated he believed Lewis and Clark County was switched with Yellowstone County and is now out of the running for the money involved in the grant. He noted this bill was a political uphill battle and there is less support from the department now than there was going into the session. He stated the project in question needs some additional work done and some preliminary engineering has already been started. He further relayed HB124 is being heard in the Senate tomorrow and there seems to be some concern from representatives of the bill.
- Amended Plat*** CONSIDER AN AMENDED PLAT AND AN AMENDMENT TO THE

CONDITIONS OF THE SUBDIVISION APPROVAL FOR LOT 18, BLOCK 11,
REBER PUD #10 (WESTRIDGE SUBDIVISION) TO REMOVE THE ACCESS
RESTRICTION ONTO LEGRANDE CANNON BOULEVARD

Staff Report

City Planner Lucy Morell-Gengler reported this proposal was presented to the city commission on March 19th, 2001. The matter was tabled to allow the commissioners time to visit the site. Ms. Morell-Gengler presented slides and explained the level of the lot. Staff has reviewed the files on Reber PUD #10 and discovered a note on a meeting with architects for the project. It states "a non-access easement had been shown along the north side of LeGrande Cannon Boulevard where there exists double sided lots. These lots gain access from streets other than LeGrande Cannon Boulevard." The subdivision regulations discourage double frontage lots and this note indicates one reason for the non-access easement may have been to create a mechanism to mitigate the impacts of double frontage lots. It may have been to assure that all the lots faced the same street reducing confusion for emergency services and postal delivery. In August 1978, the city commission gave approval for annexation and zoning of property known as Reber PUD #10 later named Westridge. The final plat for the subdivision was approved in 1980 with 14 conditions. Condition 8 of that approval states, "That the final plat bear a notation showing a non-access easement for all lots bordering LeGrande Cannon on the north." This non-access easement limits the number of curb cuts from the individual driveways onto LeGrande Cannon. Since the easement is a condition set by the city commission, the city commission must approve eliminating a portion of that easement. As originally plated, Lot 18, Block 11 would have vehicular access via Linden Court but as Linden Court is being constructed, a large grade difference is developing between Lot 18 and the street. The applicant has indicated the vertical cut difference between Linden Court cul-de-sac and ground elevation of Lot 18 is over 10 feet, making driveway access to Lot 18 impossible. Linden Court was designed at the maximum grade of 13% to minimize cut slope as much as possible. An attempt was made to design a driveway and easement across Lot 17 to access Lot 18 but the driveway grade was still 14% and the driveway and easement impacted Lot 17 to the degree that placing a home became problematic. According to the proposed amended plat, a 151.39-foot long section of the non-access easement along LeGrande Cannon Boulevard would be eliminated allowing vehicular access for Lot 18 onto LeGrande Cannon instead of Linden Court. Recently, LeGrande Cannon Boulevard had been closed to vehicular traffic near the west end of Reber PUD #10 reducing the amount of traffic on the subject section of LeGrande Cannon, thus reducing the need to limit access to LeGrande Cannon Boulevard. Eliminating the non-access easement would not restrict utility or right-of-way access on LeGrande Cannon. The current proposal would vacate a portion of an existing non-access easement to the south boundary of Lot 18, Block 11 to allow driveway access onto LeGrande Cannon Boulevard. If the access restriction were removed, the plat would be amended to reflect the new access.

Discussion

Commissioner Morrison stated he visited the area and was concerned about the possible height of a structure constructed on the lot. He asked if there was a possibility that the front of the lot could be utilized for the basement of a structure and enter from Linden Court instead of LeGrande Cannon Boulevard.

Ms. Morell-Gengler replied they would have to request a variance from the front yard setback and as they constructed the building, the excavation would

require retaining walls on the adjacent lots.

Commissioner Morrison asked if when the development was proposed and someone agreed in a public process to have no access from LeGrande, what was envisioned for the lot.

Ms. Morell-Gengler replied the original proposal was to access Linden Court. She explained that occasionally surveys are done when step grades are involved and there is a larger discrepancy than anticipated. There is also the street grade factor. The public record shows there was concern about the steep slope development, however, there weren't provisions in the subdivision regulations to address a lot of these concerns.

Commissioner Groepper stated the subdivision process was a public process. The public present at that time has not been advised of this amendment. He expressed concern with the lack of process for this request.

Ms. Morell-Gengler replied this is the process established for amending conditions for subdivisions and stated there was no notification sent to the media because the item was not a public hearing. The only legal requirement was to advertise the request through the commission agenda.

Mayor McCarthy asked if the access restriction was put in place to prevent confusion for emergency vehicles.

Ms. Morell-Gengler replied there was no discussion regarding emergency vehicles recorded at the public hearing.

Commissioner Morrison asked the applicant Marc Parriman what kind of a structure he was proposing to construct on the lot.

Mr. Parriman addressed the commission and stated Mike Reber is the architectural control person who would approve any buildings going on the lots. He stated he did not know the structure composition other than a single-family residence at this time.

Commissioner Morrison asked Mr. Parriman if when he purchased the lots in Linden Court, did he know there would be problems with this particular lot.

Mr. Parriman replied it became apparent when Stahly Engineering came in to do the grade elevation stakes and it was obvious the cuts were going to be extremely deep. When the streets were cut to the 13% grade, there was a substantial cut difference. At that time, the access for the lot became difficult if not impossible. He stated they tried putting access in from Lot 17, however, that in turn made Lot 17 not very saleable. Stahly Engineering conducted a study to determine which was the best access to pursue and LeGrande Cannon Boulevard was the access recommended.

Motion

Commissioner Groepper moved to deny an amended plat and amendment to the conditions of the subdivision approval for Lot 18, Block 11, Reber PUD #10.

Commissioner Morrison asked if Mr. Parriman has had to pay a fee to get to this point in his request.

Ms. Morell-Gengler replied he hasn't paid any fees as there is no cost for an amended plat.

Commissioner Morrison asked what process Mr. Parriman would need to follow to make this a public process as it was when the subdivision conditions were approved.

City Attorney David Nielsen stated there is no statutory or formal procedure set out for doing plat amendments. To conduct a public hearing, there are notice requirements to be run in the newspaper and there is a possibility that

this could be back on the agenda in May.

City Manager Tim Burton noted that the Planning Department followed the regulations and process. If the commission desires to have a more public process and go beyond the regulations, this could be tabled and advertised as a public hearing process.

Ms. Morell-Gengler asked who would pay for the public process, the city or the applicant.

Mr. Burton replied if the commission is directing staff to conduct a public process and it's outside the realm of normal procedure, the city would most likely pay the cost.

Commissioner Groepper stated he is not asking for a public process. He was just expressing his belief that the process should be consistent when the original process went through a public hearing. He is not opposed to the applicant bringing the request back under a public hearing.

Substitute Motion

Commissioner Morrison moved to table the amended plat and an amendment to the conditions of the subdivision approval for Lot 18, Block 11, Reber PUD #10.

Mayor McCarthy asked if Commissioner Groepper's motion dies for lack of a second.

Commissioner Morrison replied he is making a substitute motion in place of Commissioner Groepper's motion.

Commissioner Netschert stated the request is for one lot and periodically situations arise that the commission needs to be responsive to. In this situation it makes sense for all concerned to have the access on LeGrande. He noted it would not be aesthetically appealing to leave the lot empty or have the access on Linden Court.

Commissioner Groepper stated there were conditions set in the process by citizens who wanted the viewscape free from access. The city has spent a lot of money to narrow LeGrande Cannon Boulevard, put in walking paths and various other improvements. If this access is created there won't be any reason for not creating other accesses as other issues come up. He felt it was the commission's responsibility to live up to the conditions and agreements set by a previous commission.

Vote

Commissioner Netschert seconded the motion. Mayor McCarthy voted aye. Commissioners Groepper and Morrison voted nay. Motion fails.

Commissioner Groepper's original motion to deny the amendment prevails. Commissioner Morrison seconded the motion. Commissioner Netschert and Mayor McCarthy voted nay. Motion fails.

Mayor McCarthy asked if the applicant could come back with another proposal on this request.

City Attorney David Nielsen replied there is no moratorium on the time for re-presenting the request.

Public Hearings

PUBLIC HEARINGS

A. CONSIDER A RESOLUTION TO ESTABLISH FEES TO BE

CHARGED FOR THE BILL ROBERTS MUNICIPAL GOLF COURSE
FOR THE 2001 SEASON

Staff Report

Parks and Recreation Director Randy Lilje reported that at the March 5, 2001, city commission meeting, the commission requested that the resolution to set the golf fees for the 2001 season as 20% across the board. The commission also requested further information regarding the estimated golf course fund cash flow, history of rounds played and revenues brought in, and a comparison of other public golf courses in the area. Also provided was a proposed marketing program to increase play. This information was presented at the March 14 administrative meeting. Based on those discussions, the Golf Advisory Board is still recommending a fee increase of approximately 5%. Estimated cash flows indicate that this will get the golf course fund headed in the right direction. This will improve the cash flow while at the same time keep the fees at market level to promote affordability and maximum play at the course. He further noted there would be a \$6.50 promotional greens fee added. Mr. Lilje recommended approving the fee schedule as recommended by the Golf Advisory Board.

Commissioner Groepper asked why the other operating income for 2002 is zero.

Mr. Lilje explained this is because those items covered in other operating income are things like golf bag storage, golf cart storage, and trail fees and they're split out in the 2002 budget.

Commissioner Groepper asked where the marketing plan revenues show up in the projection.

Mr. Lilje replied they would show up in the punch cards and greens fees.

Public Testimony

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

Kathy Doughty, Golf Advisory Board chairperson, addressed the commission and stated the board has worked tirelessly over the past few months to resolve some of the issues. The board has determined they would concur with a 5% increase, accept the \$28,000 operations expense budget cut and to embrace the marketing plan that Dale Newell and Randy Lilje have put together. Ms. Doughty further noted the cut in maintenance would be delaying the purchase of two new trim mowers and fertilizer that was already purchased last year. Ms. Doughty recommended that the commission accept the proposal before them.

Mayor McCarthy asked that a letter from Terry Myhre be entered into the public record.

Ed McHugh addressed the commission and explained the history of how the golf course was originally developed. He noted that anything more than a 5% increase would deter many people from being able to play the course.

Harry Reinig addressed the commission and stated a 20% increase would be too much to pay for golfing.

Harley Warner addressed the commission and stated 5% would be a reasonable increase, however, a 20% increase will turn many golfers away.

Chuck Hunter addressed the commission and stated the increase in fees in the past were to make improvements to the course and fees were supposed to go down after those improvements were made. Mr. Hunter stated he would be looking at whether a season pass would be economical for him and many other golfers would do the same. He voiced concern that rounds may diminish if the fees are increased too much.

With no further persons wishing to address the commission, Mayor

McCarthy closed the public hearing.

Discussion

Commissioner Groepper asked where the \$28,000 cut in golf course operations is coming from since it isn't showing up in the expenditure line item.

Mr. Lilje explained that the FY2001 the budget was already set and the projected ending expenditure is the correct data. He further explained the line items and the proposed increase numbers. The cuts are being made this fiscal year and in FY2002 the budget will be back to the normal operating budget for the golf course.

Motion

Commissioner Morrison moved approval of a resolution to establish fees and schedules as recommended by the Golf Advisory Board with a 5% increase in fees for the Bill Roberts Municipal Golf Course for the 2001 season. Commissioner Groepper seconded the motion. All voted aye, motion carried. **Resolution No. 11619**

Commissioner Netschert asked that if the course deteriorates over a short time that money be appropriated to maintain the course in the manner in which it should be.

**Public
Communications**

PUBLIC COMMUNICATIONS

No persons present wished to address the commission.

**Meetings of
Interest**

MEETINGS OF INTEREST

No meetings were discussed.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:05 p.m.

MAYOR

ATTEST:

CLERK OF THE COMMISSION