

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
JUNE 4, 2001
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 4, 2001, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Ken Morrison indicated for the record that Commissioners Oitzinger, Netschert, Smith and Groepper were present. City Manager Tim Burton, City Prosecutor Bob Wood and Deputy City Clerk Cathy Beck-Jenkins were present.

HCC representative was Ruth Sasser.

Pledge of Allegiance

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

Minutes

The minutes of the regular City Commission meeting of May 21, 2001 were approved as submitted.

Introductions

Public Works Director John Rundquist introduced Robert Williamson as the new traffic technician and Lance Borsted as new transfer station scale operator.

Mayor Morrison welcomed both gentleman to the city and congratulated them on their new jobs.

Appointments

WATER CONSERVATION MANAGEMENT
OPEN SPACE LAND MANAGEMENT ADVISORY GROUP

Mayor Morrison stated he was not yet ready to appoint the members to the Open Space Land Management Advisory Group and asked for concurrence on the appointments of the following persons to the newly created Water Conservation Citizens Advisory Committee:

Jack Shultz – Chairperson
Ed McHugh – Water Quality Protection District
Mike Weller – Helena Citizens Council
Becky Blend – City Resident
Robert Rasmussen – City Resident
Maureen Shaugnessy - City Resident

Motion

Commissioner Groepper moved approval of the recommended appointments to the Water Conservation Citizens Advisory Committee and the Mayor's appointment of Jack Stultz as the chairperson. Commissioner Smith seconded the motion. All voted aye, motion carried.

COMMISSIONER APPOINTMENTS

Mayor Morrison recommended that Commissioner Oitzinger be appointed to the following boards:

Audit Committee
Business Improvement District/Helena Parking Commission
Helena Chamber of Commerce Liaison

Open Space Bond Advisory Council

Mayor Morrison also asked for concurrence on his appointment to the Transportation Coordinating Committee. He relayed he would investigate whether the Mayor is required to sit on the Gateway Executive Board and would bring a recommendation back to the commission in the near future.

Commission members were in concurrence.

Consent Agenda

CONSENT AGENDA

- A. Claims
- B. Second passage of Ordinance No. 2909 – Sale or Disposal of Surplus Personal Property
- C. Consultant Service Award for Dial-A-Ride Bus, 5-Year Transit Plan Update

City Manager Tim Burton recommended approval of the claims.

Motion

Commissioner Smith moved approval of consent agenda items A-C.

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

Bid Awards

BID AWARD

- A. Liquid Polymer – Wastewater Treatment Plant

Staff Report

Public Works Director John Rundquist reported the Water Treatment Facility has upgraded its polymer feed systems, which includes two major processes (belt filter press and gravity belt thickener) from a dry polymer to a liquid feed polymer. Bidding was necessary to receive liquid polymer to implement this new system. Mr. Rundquist recommended awarding the bid to Polydyne Inc. with the lowest annual cost based on dosage required.

Motion

Commissioner Groepper moved approval of awarding the bid for Liquid Polymer to Polydyne Inc., Riceboro, Georgia. Commissioner Smith seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS FROM COMMISSIONERS

Commissioner Netschert commented on a letter from Kathy Jackson of Missouri River Headwaters Recycling Program asking what the disposition of the city was regarding the recycling program. He noted they had not received a response to their proposal.

Public Works Director John Rundquist replied they get the same proposal every year from this company and staff has looked into it previously. The cost associated with the program is more than what is spent on the city's current recycling program. He stated he could provide the company with a written response.

City Attorney

REPORT OF THE CITY ATTORNEY

City Prosecutor Bob Wood stated the commission should be aware of an issue involving Marc Parriman and annexation matters. Mr. Parriman has contacted and requested the commissioners visit his property to look at the problems he is facing. City Attorney David Nielsen has asked that the commission do this as a group if they decide it's appropriate and he would arrange a meeting with Mr. Parriman. This would constitute an open meeting of

the commission.

City Manager

REPORT OF THE CITY MANAGER

City Manager Tim Burton reminded the commission of the tour of the Upper Ten Mile on June 15. This will be a policy level discussion on the EPA cleanup and land ownership patterns between the Forest Service and the city of Helena. This might be an opportunity to grasp the various issues that exist in the drainage.

**Indoor Air
Ordinance**

CONSIDER FIRST PASSAGE OF AN ORDINANCE PROHIBITING SMOKING
IN INDOOR PUBLIC PLACES AND PLACES OF EMPLOYMENT

Mayor Morrison stated he would like to give each commissioner a chance to make any amendments to the ordinance and vote on each amendment as it is voiced.

Commissioner Smith thanked everyone who participated in the process over the last year. He stated this has been a very emotional issue and people on both sides of the issue have conducted themselves civilly and politely. He relayed he would support the ordinance because environmental tobacco smoke is a clear and present danger to the citizens of Helena. He stated local governments that have the power and authority to do something about it should do so. He continued by stating he has discussed the issue with people in the legal profession and asked them under what circumstances can societal good subordinate a private property right. Their response was that only when there is compelling evidence that the public good is served by the action that government is going to take. In the legal field this is generally referred to as "the police power of the state." Regardless of the connotations, that is what the commission is preparing to do in the discussion of this ordinance. If the ordinance passes, the commission will be invoking the police powers of the state and to some extent will be infringing upon and diminishing the property rights and ownership rights of people that will be affected by the ordinance. Commissioner Smith stated he does not do so lightly and only after reading and studying the issue over the past year. He noted he takes the comments of the business community seriously and does not discard or deny the possibility that their businesses might be adversely affected for some period of time. He felt the community would adjust to the ordinance if it is passed and patrons of businesses affected will continue to be patrons. He hoped that through the diligent efforts of the business owners and the understanding of citizens in the community, if there is any negative impact on businesses, it will be short term and the customers will remain loyal customers of the businesses that they currently patronize.

Motion

**Commissioner Smith moved first passage of an ordinance
prohibiting smoking in indoor public places and places of employment.**

Commissioner Groepper seconded the motion.

Mayor Morrison asked for amendments to the ordinance from commissioners. He stated each commissioner would be asked for an amendment and that amendment would be voted on. After final amendments are made, the ordinance would be voted upon.

Amendment Commissioner Smith moved to strike item B in Section 4-13-4 on page 3 – Exemptions to Smoking Prohibitions “Retail Tobacco Stores” from the ordinance. Commissioner Groepper seconded the motion.

Commissioner Smith explained that if a retail tobacco store is open to the public, it should be bound by the ordinance, like all other retail stores and other places open to the public.

Vote Amendment passes 4-1 with Commissioner Netschert voting nay.

Amendment Commissioner Groepper moved to strike proposed language in Section 4-13-1 (C) and substitute “This health ordinance is adopted by the Lewis and Clark City/County Board of Health and the city of Helena pursuant to Section 7-4-4306, MCA and Section 50-2-116 MCA. The jurisdiction of this health ordinance may be expanded upon cooperative adoption by the Boards of County Commissioners for Lewis and Clark and Jefferson Counties pursuant to Section 7-4-4306, MCA and by the Jefferson County Board of Health pursuant to Section 7-4-4306, MCA and Section 50-2-116 MCA. In the event that one or both County (ies) fail(s) to cooperatively adopt this health ordinance, the ordinance shall remain in effect for the city of Helena or as to any county cooperatively adopting the ordinance.” Commissioner Smith seconded the motion. All voted aye, motion carried.

Amendment Commissioner Netschert moved to exempt the following: 4-13-4 (Exemptions to Smoking Prohibitions, item E), Businesses that hold an on-premise alcohol license as defined in 4-13-2, Definitions (D), and that currently permit smoking in their establishments, are exempt in the areas of the business primarily used for alcohol service and where food service is secondary. A one foot by one foot area will be made available in each exempt establishment for the placement of non-smoking literature. Non-smoking establishments cannot revert to allow smoking. Commissioner Smith seconded the motion.

Discussion Commissioner Smith stated he appreciated the motion being brought forward. He referred to discussions with the Board of Health and stated he didn't understand why businesses that hold an on-premise alcohol license would be exempt and not exempt other smaller non-alcohol restaurants. He couldn't find a rational basis to exempt one type of business and not the other. He referred to a letter from a Great Falls attorney who stated this is discrimination with no compelling reason, no compelling state interest and no rational basis. He commented that the city would be litigating on behalf of the small restaurants that would be un-exempted if the alcohol businesses are exempted.

Vote Motion fails 1-4 with Commissioners Smith, Groepper, Oitzinger and Mayor Morrison voting nay.

Amendment Commissioner Smith moved to strike the following exemption: 4-13-4: Exemptions to Smoking Prohibitions – C. Stage, drama or musical performances when smoking is part of the production. Commissioner Groepper seconded the motion.

Commissioner Smith explained that throughout the Board of Health's deliberations on this ordinance, no time was spent discussing this exemption. He believed it found its way into the first draft of the proposed ordinance because some other city included a similar amendment. He didn't feel smoking was appropriate for children to see in a theatre production.

Vote All voted aye, motion carried.

Amendment Commissioner Groepper moved to strike the first three sentences of Section 4-13-1 (B) and substitute the following: The Helena City Commission and the Lewis and Clark City/County Board of Health hereby find that:" and to Section 4-13-1(B-2) add the language "Also at special risk are employees and others who are repeatedly exposed to ETS."
Commissioner Smith seconded the motion. All voted aye, motion carried.

Amendment Commissioner Netschert moved to strike Section 4-13-5: Ashtrays.
Commissioner Groepper seconded the motion. All voted aye, motion carried.

Amendment Commissioner Groepper moved to amend Section 4-13-7 by adding "This chapter applies to the corporate limits of the city of Helena and as cooperatively adopted over all places within five (5) miles of the boundaries of the city of Helena, except for any area within the 5-mile boundary that is included within the municipal limits of another incorporated city or town."
Commissioner Smith seconded the motion. Motion passes 4-1 with Commissioner Netschert voting nay.

Amendment Commissioner Netschert moved to amend Section 4-13-13 by adding: Reasonable Distance: "Smoking may occur 25 feet outside any enclosed area where smoking is prohibited, or other reasonable distance so as to insure that tobacco smoke does not enter through the entrances, windows, ventilation system or other means with no re-circulation to other non-smoking areas." Commissioner Smith seconded the motion.

City Prosecutor Bob Wood asked if Commissioner Netschert wanted to add this as a new section as Section 4-13-13 deals with severability.

Commissioner Netschert replied he would leave the decision as to how to include the section to the attorney's discretion.

Commissioner Oitzinger expressed concern with putting an exact distance in the language and qualifying it with reasonability. She noted that when you put a specific number in the language it makes enforcement more difficult. She stated she would be more comfortable with just the reasonability language without the specific distance.

Commissioner Netschert stated he had discussed the distance issue with the city attorney who advised a specific distance be included for enforceability.

Commissioner Oitzinger asked Commissioner Smith if the Board of Health had discussed any provisions for this.

Commissioner Smith replied the issue did come forth for discussion. He wasn't sure why the language wasn't included in any of the first draft ordinances.

Commissioner Oitzinger responded and stated she wasn't sure how this would impact practices in buildings throughout the city where there are already

establishment and see that there is a violation and enact the provisions of the ordinance. He wanted to ensure that their enforcement duties could be initiated without a written complaint by an individual.

City Prosecutor Bob Wood replied the way it is worded, it would require some kind of written complaint to the Board of Health.

Commissioner Groepper stated his interest would be to allow the Board of Health to have all of its authority. He stated if an individual wanted to file a written complaint above and beyond the responsibilities of the Board of Health, this would be appropriate. However, he felt a change in the language was needed to clarify this.

Mr. Wood stated language could be added stating, "Not withstanding the authority of the Board of Health."

Commissioner Smith replied he had no intent of diminishing the Board of Health's authority and stated he was keying on the words "A person requesting enforcement." He stated the language suggested by Mr. Wood "Not withstanding the authority of the Board of Health," would be acceptable.

Commissioner Oitzinger asked if the Missoula or Great Falls ordinance requires written complaints.

This was not known by anyone and Mayor Morrison suggested the question be investigated and the amendment can be adjusted at second reading if necessary.

Vote

All voted aye to the revised amendment adding the language "Not withstanding the authority of the Board of Health," motion carried.

Discussion

Commissioner Oitzinger stated she would support the ordinance due to the significant public health risks. She believed the evidence provided by the Surgeon General of the United States, the local health experts and studies from across the country are very clear. She also stated she has first hand knowledge of second hand smoke and its affects in the workplace. Her own mother worked as a waitress and dining room hostess and developed chronic bronchial asthma and has struggled with the disease ever since. She did not want any Helena families to suffer the direct or indirect effects of the exposures to second hand smoke because someone needed to work in a job, which is made unsafe, by second hand smoke.

Commissioner Netschert stated his position has been clear since the ordinance was initiated and he would have preferred to see choices offered to the general public rather than have the current ordinance before the commission. He further stated he could not support the ordinance, however, he respected the opinions offered by everyone involved.

Motion

Commissioner Smith moved first passage of an ordinance as amended prohibiting smoking in indoor public places and places of employment. Commissioner Groepper seconded the motion. Motion passes 4-1 with Commissioner Netschert voting nay.

**Interlocal Agreement
Planning Board**

CONSIDER A REVISED INTERLOCAL AGREEMENT REORGANIZING THE CONSOLIDATED PLANNING BOARD/HELENA ZONING COMMISSION (TABLED FROM 5-21-01)

Staff Report

City Planner Kathy Macefield reported the Board of County Commissioners recently took action on the interlocal agreement for the Planning

Board. The revised interlocal agreement removes the statement that the Consolidated Planning Board would also serve as the Helena Zoning Commission. The new Consolidated Planning Board would have 9 members with 4 city residents, 4 county residents, (two of which could be city residents if so chosen by the Board of County Commissioners), and a representative of the Soil Conservation Service as required by Montana law. The SCS representative is appointed by the SCS to represent the SCS and not to represent the city of county. One of the current Planning Board members has stated he would like to continue on the new Consolidated Planning Board, therefore, we would need to advertise for three more city residents to serve on the board. A separate Helena Zoning Commission will be established and once the interlocal agreement is signed, advertising for both the Planning Board and Zoning Commission would begin. It is anticipated that the board's workload will be reduced with a separate Planning Board and Zoning Commission.

Commissioner Groepper asked when this would become effective.

Ms. Macefield replied as soon as possible as advertising needs to be done very soon.

Commissioner Groepper stated he would like to have a date effective so it doesn't get put on the back burner.

City Manager Tim Burton replied it generally takes approximately three weeks to advertise for board appointments and if the effective date is set for six to eight weeks will leave an opportunity to recruit for new board members on the Consolidated Planning Board and also some vacancies that need to be filled on the Zoning Board.

Motion

Commissioner Groepper moved approval of the revised interlocal agreement to reestablish the Consolidated Planning Board that is separate from the Helena Zoning Commission and advertise for 3 more city residents to serve on the new Planning Board with an effective date of August 1, 2001. Commissioner Smith seconded the motion. All voted aye, motion carried.

Residential Refuse

CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH CHARGES FOR COLLECTION AND DISPOSAL OF RESIDENTIAL GARBAGE AND REFUSE IN THE CITY OF HELENA, MONTANA, FOR FISCAL YEAR 2002

Staff Report

Assistant Public Works Director Phil Hauck reported the commission passes a resolution annually establishing charges for residential sanitation. This is typically done in the fall after the budget has been adopted but it can be done at any point in the year. One reason to set charges at this point is to list all charges that are currently being utilized by residential sanitation and include them on one resolution annually. In the past, certain charges were established once by resolution and not brought before the commission again unless to discuss a rate increase. Another reason is to reaffirm the commission's intention to begin a modified pay-as-you-throw program beginning July 1, 2001. The Public Works Department is not recommending any increase in FY2002 charges for residential sanitation. The advantage to this action is to clarify every charge that applied to the residential solid waste enterprise and include the information on one resolution annually.

Commissioner Groepper expressed concern that there is nothing in the language regarding no charges for recycled material and downsizing the garbage containers. He asked that language come back for the resolution regarding these issues when the public hearing is held.

Mr. Hauck replied staff felt the direction was to get the pay-as-you-throw program working as soon as possible for the first step. They realize the commission wants to explore the possibility of having different sized containers available and different charges for residents. The plan was to bring that before the commission in an administrative staff meeting. Staff has been working on the issue and there are some ramifications to discuss. These resolutions are for the basic rates and to implement the programs may take some time. If the programs can be done and readied for this year's tax bills, the resolutions can be amended setting the rates. He noted staff continues to work on these issues.

Commissioner Groepper stated he is comfortable knowing something is on public record stating they are working on the issue. He would like to have some sort of timetable implementing the programs if they turn out to be feasible. He also believed it was necessary to make a statement on what is being done with recycling and the pay-as-you-throw program.

City Manager Tim Burton stated that in terms of the recycling program and pay-as-you-throw, rather than relocate the recycling bins in front of the transfer station, staff is looking into advertising and marketing the ability to come through and recycle without it counting against the pay-as-you-throw weight limit. Further planning regarding mixed loads of non-recyclable and recyclable materials will need continued discussion. He also noted yard waste, although considered recyclable material, is not something that we can walk away from in terms of the weight. Yard waste and recyclables in general will need to be separated.

Commissioner Groepper stated he doesn't have a problem with not allowing mixed loads if its an administrative necessity as long as people can drop off their recyclables without having it count against their tonnage.

Mr. Burton stated there will be information available at the public hearing on June 18 to let Commissioner Groepper know what the intention is for handling the recycling issue. He noted it would take more time for policy discussion of the cause and effect relative to the different size containers. He stated staff is preparing for policy level discussions as there will definitely be financial ramifications for the commission to consider.

Commissioner Smith concurred with Commissioner Groepper and stated all disincentives to recycle should be removed.

**Commercial
Sanitation**

**CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH CHARGES FOR
COLLECTION AND DISPOSAL OF COMMERCIAL SANITATION FEES IN THE
CITY OF HELENA, MONTANA, FOR FISCAL YEAR 2002**

Staff Report

Assistant Public Works Director Phil Hauck reported the commission passes a resolution annually establishing charges for commercial sanitation. This is typically done in the fall after the budget has been adopted. One reason to set charges at this point is to list all charges that are currently being utilized by commercial sanitation and include them on one resolution annually. In the past, certain charges were established once by resolution and not brought before the commission again unless to discuss a rate increase. Another reason is to clean up the current matrix to include all charges that are currently being assessed and how they are applied. The Public Works Department is not recommending any increase in fiscal year 2002 charges for commercial sanitation. The resolution would clarify every charge that applies to the commercial solid waste enterprise and included the information on one resolution annually.

Transfer Station CONSIDER A RESOLUTION OF INTENTION TO SUPERSEDE RESOLUTION NOS. 10558 AND 10949 AND SET FEES CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE IN THE CITY OF HELENA TRANSFER STATION

Staff Report Assistant Public Works Director Phil Hauck reported the commission passes a resolution annually establishing charges for residential sanitation. This is typically done in the fall after the budget has been adopted but it can be done at any point in the year. One reason to set charges at this point is to list all charges that are currently being utilized by the transfer station and include them on one resolution annually. In the past, certain charges were established once by resolution and not brought before the commission again unless to discuss a rate increase. Another reason is to clarify the 0-200 pound tipping fee at \$5.00 and clarify how different size tires are charged. The Public Works Department is not recommending any increase in fiscal year 2002 charges for the transfer station except the \$10.00 fee for oversized tires. The action clarifies every charge that applies to the transfer station and includes the information on one resolution annually.

Motion Commissioner Groepper moved approval of a resolution of intention to establish charges for collection and disposal of residential garbage and refuse in the city of Helena, Montana for the fiscal year 2002 and set a public hearing date for June 18, 2001. Commissioner Smith seconded the motion. All voted aye, motion carried. Resolution No. 11629

Motion Commissioner Groepper moved approval of a resolution of intention to establish a rate matrix for service charges for commercial collection and disposal of garbage and refuse in the city of Helena, Montana for fiscal year 2002 and set a public hearing date for June 18, 2001. Commissioner Smith seconded the motion. All voted aye, motion carried. Resolution No. 11630

Motion Commissioner Groepper moved approval of a resolution of intention to supersede Resolutions Nos. 10558 and 10949 and set fees charged by the transfer station for disposal of garbage and refuse in the city of Helena, Montana for fiscal year 2002 and set a public hearing date for June 18, 2001. Commissioner Smith seconded the motion. All voted aye, motion carried. Resolution No. 11631

Land and Water Conservation Funds CONSIDER A RESOLUTION AUTHORIZING THE CITY OF HELENA TO APPLY FOR LAND AND WATER CONSERVATION FUND FINANCIAL ASSISTANCE FROM THE NATIONAL PARK SERVICE THROUGH MONTANA'S FISH, WILDLIFE & PARKS DEPARTMENT FOR TRAIL SYSTEM IMPROVEMENTS TO HELENA'S OPEN SPACE SYSTEM

CONSIDER A RESOLUTION AUTHORIZING THE CITY OF HELENA TO APPLY FOR LAND AND WATER CONSERVATION FUND FINANCIAL ASSISTANCE FROM THE NATIONAL PARK SERVICE THROUGH MONTANA'S FISH, WILDLIFE & PARKS DEPARTMENT FOR IMPROVEMENTS TO NORTHWEST PARK

Staff Report

Parks and Recreation Director Randy Lilje reported the objective of these resolutions is to fund the city's share of a grant or grants should they be approved. The Open Space Bond Advisory Committee is recommending that the city make two applications to the Montana Department of Fish, Wildlife and Parks for federal Land and Water Conservation Fund grants. The grants would be for improvements to Northwest Park and trail system improvements to Helena's south hills open space system. The maximum amount that the LWCF grant will fund is \$75,000.00. These grants require a 50-50 match. This means that if both grants were approved, the city would be committed to \$150,000.00 in match for these projects. The match for Northwest Park is already committed. OSBAC has approximately a \$124,500.00 uncommitted allocation for trails at this time and is willing to commit the \$75,000.00 match should the grant be approved. Both grant applications will require a resolution from the city commission committing to provide for the match. This will go in with the rest of the allocation. Both grant applications are now in the process of being assembled. The exact scope of the work of each application is not determined at this time. Mr. Lilje recommended approval of the resolutions to apply for the grants.

Motion

Commissioner Oitzinger moved approval of a resolution authorizing the city of Helena to apply for Land and Water Conservation Fund financial assistance from the National Park Service through Montana's Fish, Wildlife and Parks Department for trail system improvements to Helena's open space system. Commissioner Smith seconded the motion. All voted aye, motion carried. **Resolution No. 11632**

Motion

Commissioner Oitzinger moved approval of a resolution authorizing the city of Helena to apply for Land and Water Conservation Fund financial assistance from the National Park Service through Montana's Fish, Wildlife and Parks Department for improvements to Northwest Park. Commissioner Smith seconded the motion. All voted aye, motion carried. **Resolution No. 11633**

Folf Course

CONSIDER A RESOLUTION RESCINDING RESOLUTIONS NOS. 11154 AND 11309 TO ELIMINATE THE FOLF COURSE IN THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT

Staff Report

Police Chief Troy McGee presented the proposal for the relocation efforts for the current folf course. He stated folfing is illegal in the Downtown BID other than where authorized by the city commission. The commission did pass resolutions authorizing a designated area, which has been used in the past few years. There have been complaints of damage, noise and other problems with folfing in this area. Police Officer Dave Glowacki has been meeting with various groups to come up with a more suitable, designated area as a folf course. Centennial Park is a viable and well-suited choice. He stated they have plotted a nine hole folf course that would not interfere with the soccer fields or any of the other activities in Centennial Park. Parks Director Randy Lilje has agreed to allow the folf course in the park, install holes and pay for some of the costs. This relocation would allow the closure of the folf course in the downtown business district and take care of some of the concerns from the citizens living in the area. The majority of the course would be completed soon, however, lighting may be

delayed as negotiations with Montana Power are on-going. Some folks may not find the new course as challenging without the bridge, vehicles and fixtures. Chief McGee stated they would like to make the golf course effective June 30, 2001.

Commissioner Groepper asked if flyers could be distributed to businesses notifying the folks of the change and the effective date. He also suggested that notices be put on the current course to notify the golf players of the effective date of the changes and where the new course will be located.

Officer Glowacki replied a pamphlet has been printed with the new course layout, rules and where the course is located. Officers will start distributing the flyers to folks in the evenings and to the businesses.

Commissioner Oitzinger inquired about the energy efficiency of the lights to be used for the new course.

Chief McGee replied they are working with Montana Power and with Randy Lilje. There is a master plan for Centennial Park and Mr. Lilje will be working closely with the plan.

Commissioner Groepper stated the lights would have to comply with the new lighting ordinance.

Commissioner Netschert thanked Chief McGee and Officer Glowacki for their efforts in relocating the golf course and stated the new course is much more conducive to the sport.

Motion

Commissioner Groepper moved approval of a resolution to rescind Resolution No. 11154 passed July 1, 1997 and Resolution No. 11309 passed December 21, 1998, which authorized the golf course in the Downtown Business Improvement District with an effective date of June 30, 2001.
Commissioner Netschert seconded the motion. All voted aye, motion carried.
Resolution No. 11634

Motion

Commissioner Groepper moved to support efforts of the Helena Police Department and Helena Parks and Recreation and citizens to complete a golf course in Centennial Park. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Sidewalk Variance

CONSIDER A STREET SIDEWALK VARIANCE REQUEST ON IDAHO STREET HELENA SCHOOL DISTRICT NO. 1

Staff Report

Public Works Director John Rundquist reported School District No. 1 is in the process of making improvements to the Vigilante Stadium track surfaces and drainage and is proposing a new sidewalk along Idaho Street for bus loading and unloading. The School District proposes to place the Idaho Street sidewalk curbside for better functionality as the bus loading and unloading area. The request will provide better ADA and other access to the sidewalk from the school buses. Mr. Rundquist stated John Carter from the School District and consultant Rusty Rigg were present to answer questions. Mr. Rundquist recommended approval of the variance.

Mayor Morrison asked if the sidewalk along Vigilante Stadium would be a bus loading area or a pedestrian sidewalk.

Mr. John Carter, Director of Support Services for the School District, replied the area would be used as both a pedestrian sidewalk and also for bus loading and unloading.

Motion Commissioner Netschert moved approval of a street sidewalk variance request for curbside sidewalk on Idaho Street as requested by School District No. 1. Commissioner Smith seconded the motion. All voted aye, motion carried.

Budget Amendments CONSIDER A RESOLUTION OF INTENTION TO AMEND RESOLUTION 11560 AS PREVIOUSLY AMENDED, AND FIXING THE ANNUAL APPROPRIATIONS FOR THE CITY OF HELENA, MONTANA IN THE 2000-2001 BUDGET

Staff Report City Manager Tim Burton relayed the resolution is to ensure compliance with municipal budget law by amending the fiscal year 2001 budget resolution for fiscal year 2001 in areas where total budget authority granted by the city commission will be exceeded. Staff is proposing to increase the Civic Center's total budget authority by \$3,975. This is necessary to cover increased water, sewer and sanitation (\$300), telephone (\$200) and utility costs (\$4,300). Contingency funds will be used to cover most of the increased costs (\$3,975) with the Civic Center making up the difference (\$825) out of current savings in their printing and training budgets. With the unexpected departure of the Administrative Services Director, staff is proposing to utilize remaining funds in Contingency (\$5,674) and Retirements (\$12,423) together with savings in training (\$428) and vacancy savings in personal services (\$6,627) in order to cover the accumulated salary payout costs (\$25,152 including benefits). In order to fund the downtown trolley, staff is proposing to increase the Helena Bus fund's budget authority by \$5,522 to cover operational costs through the end of the fiscal year. The increase will result in a decrease in the cash available in the fund, but actual expenditures will be reimbursed by the Helena Business Improvement District. Due to greater anticipated overtime and travel spent on assignments, staff is proposing to increase salaries (\$892) and fuel (\$126) budgets for the Violence Against Women fund. Most of the budget will come from small savings (\$604) in other budgets of that fund, however, additional budget (\$414) will need to come from the Police Department from savings in printing and transfers. The final amendment will provide for the transfer of anticipated available funds from the E 911 program to the 911 Program. This will allow consolidation of the two operations into one fund. Because the overall budget for these funds is increased in total, a public hearing is required.

Motion Commissioner Groepper moved approval of a resolution of intention to amend Resolution No. 11560 as previously amended and fixing the annual appropriations for the city of Helena, Montana in the 2000-2001 budget and set a public hearing date for June 18, 2001. Commissioner Smith seconded the motion. All voted aye, motion carried. Resolution No. 11635

Intention of Annexation CONSIDER A RESOLUTION OF INTENTION TO ANNEX LOTS 29-32 IN BLOCK 181 OF THE BROOKE ADDITION IN LEWIS AND CLARK COUNTY, MONTANA, GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF KNIGHT STREET AND WINSTON STREET, INTO THE CITY OF HELENA, MONTANA, AND ESTABLISH CONDITIONS FOR ANNEXATION

Staff Report City Planner Hal Fossum presented the proposal to review and establish

conditions to annexation of property for development of a single dwelling residence. All properties in the city are required to meet certain standards for infrastructure including sewer, water, storm drainage, fire hydrants, streets and sidewalks. Under MCA 7-2-4610, the timing and financing of city services may be mutually agreed upon by first class cities and property owners of the area to be annexed. Under the present proposal, city infrastructure improvements may be deferred until such time as the cost of completing these improvements can be reasonably done at the neighborhood scale, and the costs allocated among a larger number of property owners in the vicinity. The applicant would pay all taxes and fees required at the time of annexation. Moreover, the applicant would agree to complete all conditions and finalize the annexation within a reasonable time, or the city may discontinue city utility services to the property. Since any construction work on this property is being undertaken in anticipation of imminent annexation, it is reasonable to suggest that the building should be designed and built in conformance to current city requirements, including zoning, building, and fire codes. The proposed condition regarding construction permits is intended to ensure compliance with those standards. The sewer annexation fee and payment in full of all taxes and assessments are requirements specified by city ordinance. The timely notification and completion of all conditions is intended to provide a reasonable time frame for completion of this process. Mr. Fossum recommended approval of a resolution of intention to annex private property subject to the following conditions:

1. **Infrastructure**
The applicant must install infrastructure improvements as required by the city and to city standards, including sewer, water, fire hydrant, street, curb, gutter, and sidewalks, or enter into a development agreement acceptable to the city of Helena that defines responsibility for installation or deferment of the improvements.
2. **Building Location and Standards**
As provided in 5-60-106 MCA, the property owners shall contract with the city of Helena for plan and building review and permitting for all construction subsequent to the adoption of this resolution.
3. **Sewer Annexation Fee**
The sewer annexation fee of \$86.10 shall be paid to the city engineering department.
4. **Taxes and Assessments**
Taxes and assessments shall be paid and current at the time of filing the resolution of annexation.
5. **Utility Connections and the Completion of Conditions**
The applicant shall notify city planning in writing upon completion of the condition of 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. City water and sewer utility services may not be connected to the subject property until after annexation has been completed.

Commissioner Netschert asked if the proposed annexation would create

any wholly surrounded areas for any properties other than the subject property.

Mr. Fossum replied that the resolution to annex related street right-of-way has not been initiated at this point. Typically, under current policy, staff seeks to annex the best emergency access route between the established city rights-of-way, emergency access corridors and the subject property. He explained a request to annex Joslyn Street to Knight Street and over to Mr. Tenter's property would be imminent. At this time, there is no wholly surrounded area other than the subject's property.

Commissioner Netschert asked if the applicant would be able to recover any of the cost incurred by the infrastructure by anyone else that would hook up to the system in the future.

Mr. Fossum replied in the event any other property owners tie into the water or sewer extensions, those connections could be rebated to Mr. Tenter under a rebate program. Mr. Tenter would need to sign up and initiate the program. Any further households that tie into those lines would share in the cost.

Commissioner Smith asked what the reasoning was for passing on the expense of a fire hydrant to the homeowner.

Mr. Fossum explained that the fire hydrant is essentially part of the normal and ordinary requirement of the water system as is curbs, gutters, sidewalks, etc.

Commissioner Smith asked if the rebate program would also be applicable for the fire hydrant.

Mr. Fossum replied it can be applicable if other households tie on to the same water line as the one that serves the property that installed the water line. In this case, there is an existing fire hydrant within the required 250 feet. The language in the conditions came before a thorough analysis of the property. However, the analysis will be complete as the development agreement surfaces.

Darrell Tenter, property owner and applicant, addressed the commission and stated he met with the Fire Marshall and according to his maps, there was no reason to put a fire hydrant on the corner as fire hydrants were within reasonable distance. He asked that the commission move forward as quickly as possible as he is waiting on a construction loan and this decision is pivotal to the process. Mr. Tenter stated he was amenable to the conditions.

Motion

Commissioner Groepper moved approval of a resolution of intention to annex private property legally described as Lots 29-32, Block 181, Brooke Addition, Lewis and Clark County, Montana, generally located at the northeast corner of Knight and Winston Street subject to the listed five conditions. Commissioner Smith seconded the motion. All voted aye, motion carried. **Resolution No. 11636**

Intention of Annexation

CONSIDER A RESOLUTION OF INTENTION TO ANNEX LOTS 9-10 IN BLOCK 9 OF THE WEST HELENA TOWNSHIP IN LEWIS AND CLARK COUNTY, MONTANA, WITH A STREET ADDRESS OF 2460 COUNTRY CLUB AVENUE, INTO THE CITY OF HELENA, MONTANA, AND ESTABLISH CONDITIONS FOR ANNEXATION

Staff Report

City Planner Hal Fossum presented the proposal to establish conditions to annexation of property located at 2460 Country Club Avenue. This property is adjacent to the east of another property that was recently annexed to the city. The property has an apparent septic failure. The owner wishes to connect the property to a nearby city sewer line to avert imminent environmental threat. A

completed application for annexation has been received. Because of the need to move forward with utility work as a matter of public health, this application is being brought in advance of the zoning commission hearing on pre-zoning. This proposal will be brought forward at the earliest opportunity. No street rights-of-way will be annexed as a result of this application. Commission review will satisfy all legal and procedural requirements and enable the city commission to establish conditions to annexation. Mr. Fossum recommended approval and indicated the annexation is subject to the following conditions:

1. **Infrastructure**
The applicant must install infrastructure improvements as required by the city and to city standards, including water, sewer, fire hydrant, street, curb, gutter, and sidewalks, or enter into a development agreement acceptable to the city of Helena that defines responsibility for installation or deferment of the improvements.
2. **Sewer Annexation Fee**
The sewer annexation fee of \$68.85 shall be paid to the city engineering department.
3. **Taxes and Assessments**
Taxes and assessments shall be paid and current at the time of filing the resolution of annexation.
4. **Completion of Condition**
The applicant shall notify city planning in writing upon completion of the condition 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.

Mayor Morrison asked if the wastewater line runs down Country Club Avenue and if so, is this the new line or an existing line.

Mr. Fossum explained that the line is an existing line and runs adjacent to the city boundary to the west.

Motion

Commissioner Groepper moved approval of a resolution of intention to annex private property legally described as Lots 9-10, Block 9, West Helena Township, Lewis and Clark County, Montana, generally located at 2460 Country Club Avenue subject to the listed conditions.
Commissioner Smith seconded the motion. All voted aye, motion carried.
Resolution No. 11637

Intention of Annexation

CONSIDER A RESOLUTION OF INTENTION TO ANNEX LOTS 21-23 IN BLOCK 165 OF THE SYNDICATE ADDITION IN LEWIS AND CLARK COUNTY, MONTANA, GENERALLY LOCATED IN THE MIDDLE OF THE NORTH SIDE OF THE 1800 BLOCK OF CHOTEAU STREET AND WEST OF LAUREL STREET, INTO THE CITY OF HELENA, MONTANA AND ESTABLISH CONDITIONS FOR ANNEXATION

Staff Report

City Planner Hal Fossum presented the proposal to establish conditions to annexation of property located at 1810 Choteau Street, which is a single

residential dwelling, served by city water and sewer utilities. The applicants seek annexation because the building height exceeds county limits, but not the city's. The Zoning Commission unanimously recommended pre-zoning this property to R-2. Annexation of the related street rights-of-way has already been completed. Annexation of private property is consistent with city policy, and consistent with the policy of annexing properties served by city infrastructure. The residential structure on this property would conform to city zoning standards for height and other characteristics. Mr. Fossum recommended approval of a resolution of intention subject to the following conditions:

1. **Infrastructure**
The applicant must install infrastructure improvements as required by the city and to city standards, including water, sewer, fire hydrant, street, curb, gutter, and sidewalks, or enter into a development agreement acceptable to the city of Helena that defines responsibility for installation or deferment of the improvements.
2. **Sewer Annexation Fee**
The sewer annexation fee of \$64.56 shall be paid to the city engineering department.
3. **Taxes and Assessments**
Taxes and assessments shall be paid and current at the time of filing the resolution of annexation.
4. **Completion of Condition**
The applicant shall notify city planning in writing upon completion of the condition 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.

Commissioner Netschert asked if this annexation would create any wholly surrounded area not contiguous to the property.

Mr. Fossum replied this would not create any wholly surrounded area.

Josh Chisolm, 1810 Choteau, addressed the Commission and stated he was amenable to the conditions.

Motion

Commissioner Groepper moved approval of a resolution of intention to annex Lots 21-23, Block 165, of the Syndicate Addition, Lewis and Clark County, generally located in the middle of the north side of the 1800 Block of Choteau Street and west of Laurel Street, in the city of Helena, Montana, subject to the listed conditions. Commissioner Netschert seconded the motion. All voted aye, motion carried. **Resolution No. 11638**

**Amendment
Resolution 11572**

CONSIDER A RESOLUTION AMENDING CONDITION #2.L OF A CONDITIONAL USE PERMIT (RESOLUTION 11572) TO EXTEND THE TIME PERMITTED TO OBTAIN AN OCCUPANCY PERMIT FOR A GROCERY STORE USE AT PROPERTY LEGALLY DESCRIBED AS TRACT 2, BLOCK PM 2 AND 2A, RODNEY STREET TRACTS, WITH A PROPERTY ADDRESS OF 330 ELEVENTH AVENUE; GENERALLY LOCATED AT THE NORTHWEST CORNER OF ELEVENTH AND RODNEY

Staff Report

Community Development Director Michael Barros reported that on September 25, 2000, the city commission approved a conditional use permit to allow a neighborhood grocery to operate at 330 11th Avenue, which is at the northwest corner of Rodney and 11th. A condition of the CUP, Section 2, item L of Resolution 11450 specifies "An occupancy permit must be obtained within 180 days of city commission approval." That period lapsed on March 24, 2001. Under Zoning Ordinance 11-21-4-A, one year is permitted to achieve compliance with conditions for approval. That period will lapse on September 25, 2001. Staff concludes that the CUP is effective through the year, but that Mr. Enhelder is in violation of one condition of the approval. The condition does not appear to have been a product of a specific concern by citizens or policy makers; it was proposed by staff from the earliest report on this matter, to the zoning commission on July 18, 2001. The applicant notes that completion of the project and store opening was delayed by winter weather and other logistical difficulties arranging financing and construction. Staff review notes that Mr. Enhelder is diligently pursuing completion of this project, and that he has until September 25 of this year to complete all other conditions. The proposed amendment would increase the time permitted to obtain an occupancy permit from 180 days to 365 days. Staff would also propose waiving the \$435 fee for the CUP amendment. This small technical amendment does not require a public hearing and has not taken a significant commitment of staff time. The amendment would permit the use to proceed to meet all requirements of the CUP and open as planned.

Discussion

Commissioner Groepper stated at the original hearing a local grocery and deli was approved for this site and now the business advertises as Java Bob's deli and bakery. He noted the signage indicates a coffee shop as opposed to a deli and grocery store. He relayed a letter from Mike Dennison raises some concerns about the signage, lights, marking of the streets and other conditions that have not been met. He asked why there should be a rush to grant an extension when there are some things that haven't met compliance in the original CUP.

Mr. Barros explained the building department has cited and notified the owner and the sign maker that the current building sign does not comply with the signing ordinance and will have to be removed. As far as what he puts on his sign, the city has no say as to what the content may read.

Commissioner Groepper stated the city is in a negotiating position since the occupancy permit has expired. He noted the original hearing was quite contentious with many of the neighbors not wanting to deviate from the old CUP which was an 8-5, Monday through Friday business. The applicant made a number of promises and got the new CUP passed based on the strength of the promises made. Commissioner Groepper was not ready to support the amendment until some of the issues are corrected.

Mr. Barros continued his explanation of the conditions and stated the owner will not be able to apply the parking lot and street striping himself and asked Public Works Director John Rundquist to address the commission on the issue. Mr. Rundquist stated they are just starting the street painting operations and have full intent on striping the intersection. 11th Street is a state urban route and the state's responsibility, however, staff is working with them to ensure the striping is done on their part of the project.

Commissioner Groepper asked that a report be issued on the conditions

of the CUP as far as which conditions have been met and which are still deficient. He was not comfortable approving the amendment until the conditions have been fully met.

Mr. Barros replied the facility couldn't be occupied until the conditions of the CUP are met regardless of the action the commission takes tonight.

Commissioner Netschert asked if it was staff's impression that the applicant is trying to move forward and comply with all of the conditions.

Mr. Barros stated he felt the applicant was trying to comply with all of the conditions of the CUP. He noted he has personally inspected the property on three occasions in the past week.

City Manager Tim Burton stated this was a technical oversight on behalf of the city staff in terms of coordinating dates. This doesn't have anything to do with compliance of the CUP. The conditions of the CUP are absolute prior to the issuance of the occupancy permit. Normally, this would not be a step a person has to go through which is why a waiver of fees for the amendment of the resolution is requested.

Mark Cadwallader, 515 North Rodney, addressed the commission and stated he had several concerns. One of them is the signage, especially the existing signs. The original sign shown was a low, landscaped monument type sign that would not stick up into the site line of both pedestrians and vehicular traffic. The existing sign has been left on tall brick pillars and any kind of berm done as suggested this evening will further eliminate the site line. The new signs are not consistent with what was shown during the planning. The applicant made representations that he has not fulfilled. He was concerned with the applicant's good faith promises to the neighbors.

Bob Enhelder, owner and applicant, addressed the commission and stated he has been working diligently to meet the requirements for the CUP. He noted a planner has come in to review and make sure there was conformity on the inside of the business. The occupancy permit and CUP timing was an oversight by staff which is the issue this evening. Mr. Enhelder stated he understands he has to meet all of the requirements on the original CUP request to obtain an occupancy permit. He further stated most of the conditions have been met and he is working to fulfill the remaining conditions such as the asphaltting, striping, etc. He noted the asphaltting needs to be done before the fence is installed. He felt he was progressing, however, the season is just starting to be able to complete the rest of the requirements.

Commissioner Smith stated it was represented to him that the business would open within the next couple of weeks. He asked if compliance with all of the conditions would be complete prior to opening the business.

Mr. Enhelder replied the conditions would all be met before the doors are opened for business. He stated the sign-offs from the inspectors has been complete for the interior and all that is left is the physical property on the outside of the building. He stated the required traffic signs have been purchased and the screening and dumpster will be complete.

Commissioner Groepper asked Mr. Enhelder to explain the lighted sign that is not in compliance with the city ordinance.

Mr. Enhelder explained the sign on the roof was a design item that he thought would break the flat roof line. He didn't realize the coffee cup design did not comply with the ordinance. He agreed to remove the sign from the fascia. He stated they have reduced the sign on the front by 25-30 inches.

Commissioner Smith asked if the striping can be done by the city prior to opening.

Mr. Barros stated the striping is not a condition of the CUP. It was discussed and the city and state have agreed to stripe the area, however, Mr. Enhelder has no control over that.

Commissioner Smith asked when this could be accomplished. He stated this issue seemed to be of concern to many of the neighbors.

Public Works Director John Rundquist replied the street needs to be repaired first and temporary striping will be installed. The thermoplastic will not be applied until later in the fall. He stated he didn't have an exact date, however, it would be done as soon as possible.

Commissioner Netschert stated he was comfortable with staff's observations of Mr. Enhelder's progress and offered apologies to Mr. Enhelder for the delays.

Motion

Commissioner Netschert moved approval of a resolution amending Section 2, Item "L" of Resolution No. 11572 to read " An occupancy permit must be obtained within 365 days of City Commission approval and to waive the city fees of \$435 for amendment to this resolution. Commissioner Smith seconded the motion. Motion passes 4-1 with Commissioner Groepper voting nay. **Resolution 11639**

Ordinance No. 2910

CONSIDER SECOND PASSAGE OF ORDINANCE 2910, AMENDING TITLE 2 OF THE HELENA CITY CODE

Staff Report

City Manager Tim Burton stated this ordinance has already been heard on first passage and asked if there were any questions for second reading of the recodification process of Title 2 of the Helena City Code.

Commissioner Oitzinger stated in Section 2-8-4, there is a change in compensation for the city judge in the qualifications. She asked how this was worded prior to the change.

City Manager Tim Burton responded and stated the city court contracts have evolved over time and included an agreement that created a half-time judge and this eliminates that distinction. The authority to annually set the salary and compensation of the city judge is already the authority of the city commission. This essentially eliminates the half-time designation in the contract, which is not reflected in the ordinance and is a concern of the commission. This does not change the way business is done with the court, however, may require the Commission to consider additional information comparatively as to what city judges are compensated for in other cities.

Commissioner Groepper stated there has been a difference of opinion with the judge's authority and at the direction of the commission, the changes were made to clarify the judge does work for the city commission and they have the authority to set his salary and provide his budget. The language is consistent with the direction given the city manager some time ago.

Motion

Commissioner Groepper moved second passage of Ordinance No. 2910, amending Title 2 of the Helena City Code. Commissioner Smith seconded the motion. All voted aye, motion carried.

**Joint Resolution
Helena Airport**

CONSIDER A JOINT RESOLUTION AMENDING, IN PART, JOINT RESOLUTION NO. 10677, COUNTY RESOLUTION NO. 1993-166 AND AMENDED JOINT RESOLUTION NO. 10806, COUNTY RESOLUTION NO. 1994-157, WITH REGARD TO THE CREATION OF THE HELENA REGIONAL

AIRPORT AUTHORITY PURSUANT TO SECTION 67-11-101, ET. SEQ., MCA.

Staff Report

City Manager Tim Burton stated approximately six weeks ago, the Helena Regional airport director and some of the airport authority engaged the joint city/county commission and asked for an extension of the airport authority designation. This resolution represents that extension, however, the airport director had requested a time frame that would go beyond the ten years represented in this joint resolution and would go out until 2012. The purpose for the renewal is several major projects taking place including the entire airport facility building. Approval of the resolution would ensure financing options for the projects. Mr. Burton recommended approval if the commission is comfortable with the time frame.

Motion

Commissioner Smith moved approval of a joint resolution extending and amending the expiration of the Helena Airport Authority to the year 2011. Commissioner Groepper seconded the motion. All voted aye, motion carried. **Resolution No. 11640.**

Public Hearings

PUBLIC HEARINGS

Getchell Street

- A. CONSIDER A RESOLUTION ESTABLISHING CERTAIN STREETS IN THE CITY OF HELENA AS TYPE A AND B RESIDENTIAL PARKING DISTRICTS IN THE GETCHELL STREET NEIGHBORHOOD

Staff Report

Public Works Director John Rundquist presented the proposal to create Type A and Type B residential parking districts of in the Getchell Street neighborhood. The area in question been a relatively quiet neighborhood until the past three years with the construction of the Great Northern development. The major short-term parking problems in this area are bounded by Benton Avenue, Getchell Street, Stuart Street and Lyndale Avenue. With the Great Northern development the parking demand in the area may increase significantly due to increased commercial activity. The parking and traffic impact analysis of the Great Northern recognized the potential parking impacts and recommended the construction of a parking structure. The study also realized that unless the parking public are forced to use the new structure, they might attempt to park for free in the adjoining residential neighborhood. The specific recommendations of the parking commission are to place a Type B – residents only district on the 800 Block of Park Avenue between Stuart and Hauser, both sides of the street; on the 900 Block of Park, from Hauser to the east-west alley, on both sides of the street; on the 800 Block of Getchell Street, between Stuart and Hauser, on the west side only; on the 900 Block of Kessler, between Hauser and about 50 feet south of the east-west alley. A Type A – two hour residential parking district is recommended for the 100 Block of Stuart Street, between Park and Getchell Street; on the 200 Block of Hauser, between Benton and Park, on both sides of the street, excluding the portion of the north side between Benton and north-south alley in front of the Child Care Partnership office; and on the 100 Block of Hauser, between Park and Kessler, both sides of the street. The creation of these residential parking districts will be a pro-active attempt to mitigate the effects of the Great Northern Development.

Public Testimony

Mayor Morrison declared the public portion of the hearing open and

called for any persons wishing to address the commission.

Mike Voller, 912 Kessler, addressed the commission and stated his support for the parking resolution. Mr. Voller gave a brief overview of the parking problems in the area.

Kelly O'Sullivan, 808 North Park, addressed the commission and stated her support for the proposal.

Janet Sperry, 812 Getchell, addressed the commission and cited her support for the parking proposal.

Tim Nickerson, Helena Parking Commission officer, addressed the commission and stated as a parking control officer he has seen the abuse of the residential parking and expressed his support for the proposal.

With no further persons wishing to address the commission, Mayor Morrison closed the public hearing.

Motion

Commissioner Groepper moved approval of a resolution establishing certain streets in the city of Helena as Type A and B Residential Parking Districts in the Getchell Street neighborhood. Commissioner Netschert seconded the motion. All voted aye, motion carried. **Resolution No. 11641**

Advertising Fees

B. CONSIDER A RESOLUTION INCREASING FEES FOR ADVERTISING SIGNS ON THE DIAL-A-RIDE BUSES

Staff Report

Shop Superintendent Ed Robinson presented the proposal to increase rates for advertising spaces on the Helena Dial-A-Ride buses. The recommendation is to increase the existing spaces located on the rear of the buses to \$50.00/month and to set a rate of \$35.00 for any additional spaces that are determined to be appropriate for advertising. Through a review of existing resolutions and Helena bus files, staff has been unable to identify any established policies in regards to advertising on the Dial-A-Ride buses. The current charge for the signs located on the rear of the buses is \$35.00/month. Increasing the rates would allow the Dial-A-Ride bus to increase revenues to help offset general fund contributions. Mr. Robinson recommended approval of a fee increase.

Public Testimony

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

With no persons wishing to address the commission, Mayor Morrison closed the public hearing.

Motion

Commissioner Smith moved approval of a resolution increasing fees for advertising signs on the Dial-A-Ride buses. Commissioner Netschert seconded the motion. All voted aye, motion carried. **Resolution No. 11642**

CUP- Ray Addition

C. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW A RESIDENTIAL BUILDING TO BE CONVERTED INTO A LAW OFFICE IN AN R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT. LEGALLY DESCRIBED AS LOT 6 AND 7 OF THE RAY ADDITION LOCATED IN THE E ½ SW ¼ AND THE W ½ SE ¼ OF SECTION 30, T10N, R3W, HELENA, LEWIS AND CLARK COUNTY, MONTANA; LOCATED ON THE NORTH SIDE OF 11TH AVE. WITH A PROPERTY ADDRESS OF 320 11TH AVE

Staff Report

City Planner Lucy Morell-Gengler presented the proposal requesting a conditional use permit to allow a professional office to be located in an R-3 (Medium Density Residential) District. Ms. Morell-Gengler explained the current property contains two residential units located on a lot containing approximately 16,000 square feet. The property is located in an R-3 (Medium Density Residential) District. There are currently office uses adjacent to the subject property to the east and south and office use ½ block to the west. The property is located on 11th Avenue, a principal arterial. The applicant is requesting a conditional use permit to allow the conversion of the existing two-unit residential use to a law office that would accommodate one attorney and a secretary/receptionist. The applicant has indicated the office hours would be 8:00 a.m. to 5:00 p.m. Monday through Friday. The site plan indicates 7 parking spaces along the rear of the lot and an accessible parking space near the front of the building. Existing lilac trees would be utilized to screen the sides of the property and an existing fence would screen the parking area. Ms. Morell-Gengler stated the approval is subject to the following conditions with the exception of 2A to be deleted so as not to contradict condition #4:

1. **Sign**
The proposed sign must not exceed 12 square feet as required by Chapter 23 of the Zoning Ordinance.
2. **Access**
 - A. ~~Adequate access must be provided for garbage trucks.~~
 - B. Signs approved by the building department and designating internal traffic flow must be installed.
 - C. Damaged sections of the sidewalk must be replaced to city standards.
 - D. Paved access and parking must be provided.
3. **Water Service**
Adequate water service as determined by the public works department must be provided.
4. **Garbage Pick-up**
Garbage pick-up must be similar to residential pick-up
5. **Screening**
The existing fence along the rear property line must be maintained to provide screening from the proposed parking area.

Public Testimony

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

Jack Hamlin, Century 21 Real Estate, addressed the commission and stated the applicants, Greg and Robin Jackson, are amenable to the conditions set forth for the CUP.

With no further persons wishing to address the commission, Mayor Morrison closed the public hearing.

Motion

Commissioner Groepper moved approval of a resolution for a conditional use permit to allow a residential building to be converted into a law office in an R-3 (Medium Density Residential) District. Legally described as Lot 6 and 7 of the Ray Addition located in the E ½ SW ¼ and the W ½ SE ¼ of Section 30, T10N, R3W, Helena, Lewis and Clark County, Montana; located on the north side of 11th Avenue with a property address of 320 11th Avenue subject to the listed conditions with the deletion of condition 2A. Commissioner Smith seconded the motion. All voted aye, motion carried. **Resolution No. 11643**

**Major Subdivision
2701 Prospect Avenue**

D. CONSIDER A MAJOR SUBDIVISION/AMENDED PLAT TO AGGREGATE AND CONSOLIDATE 24 BLOCKS CONTAINING 159 LOTS AND 3 TRACTS INTO 12 BLOCKS CONTAINING AN APPROXIMATE TOTAL OF 82 ACRES LOCATED IN THE PLI (PUBLIC LANDS AND INSTITUTIONS) DISTRICT. THE AMENDED PLAT WILL CLARIFY THE BOUNDARY OF THE MONTANA DEPARTMENT OF TRANSPORTATION HEADQUARTERS PROPERTY, ESTABLISH A RIGHT-OF-WAY ALONG THE NORTH BOUND EXIT RAMP OF I-15, AND DESCRIBE THE EXISTING RIGHT-OF-WAY FOR MONTANA STATE AND U.S. HIGHWAY 12/287 ON THE NORTH OF THE PROPERTY. LEGALLY DESCRIBED AS BLOCKS 18 THROUGH 30, BLOCKS C, D, E & F, LOTS 6 THROUGH 8, BLOCK 11, LOTS 4 THROUGH 8, BLOCK 12, LOTS 3 THROUGH 14, BLOCK 13, LOTS 3 THROUGH 12, BLOCK 14, AND LOTS 3 THROUGH 8, BLOCK 17 ALL IN THE CITY PARK ADDITION; GENERALLY LOCATED SOUTH OF PROSPECT AVENUE AND WEST OF 18TH STREET WITH AN ADDRESS OF 2701 PROSPECT AVENUE

Staff Report

City Planner Belinda Waters presented the proposal for a major subdivision/amended plat review to aggregate and consolidate 24 blocks containing 156 lots and 3 tracts into 12 lots and amend the City Park Addition subdivision. The amended plat will also resolve questions regarding the boundary of the Headquarters property, establish a right-of-way along the north bound exit ramp of I-15, and describe the existing right-of-way for Montana state and U.S. Highway 12/287 on the north of the property. The 159 existing lots will be aggregated into 12 lots, Lots G through R. Lot G is the large lot with the structures on it and Lots H through R are the small lots along the west and north sides of the subdivision. The property is zoned PLI (Public Lands and Institutions). The proposed major subdivision will facilitate the redesign of 159 lots of record and arrange them into one large lot that will house MDT structures and 11 small lots that will verify property lines and establish rights-of-way for I-15. Ms. Waters stated the preliminary plat will be subject to the following conditions:

1. **Utilities**
Sufficient easement rights need to be provided for the city for water, sewer, and storm drainage and noted on the final plat. Any city maintained infrastructure on Lot G should be labeled with appropriate easements.

2. **Right-of-Way**

Lots H through R shall become dedicated right-of-way. The proposed 60-foot wide right-of-way easement provided for the extension of Broadway must be widened appropriately based on roadway classifications and city standards and to support future bike paths or walkways and noted on the final plat.

3. Final Plat Revisions

The final plat shall be revised as follows: The subdivision shall be drawn on computer, referenced to the city coordinate system, and a digital format disk, Micro-Station System, supplied to the engineering department.

Mayor Morrison noted there is a waiver for the requirement of an environmental assessment and there is a need for a written explanation of granting that exemption. He asked if the memorandum used for the exemption meets statutory requirements.

City Prosecutor Bo Wood replied it does meet the statutory requirements.

Public Testimony

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

Greg Hahn, Department of Transportation, addressed the commission and stated the department is requesting this consolidation for a number of reasons and noted it does meet the designated Helena Comprehensive Plan with limited impact to wildlife, traffic and area schools. This also establishes the Interstate right-of-way which designation has never been made. He stated this proposal would also establish a 30-foot water line to the new water tower on Nob Hill and a 60-foot right-of-way for Broadway Street should it ever extend across the Interstate. He asked the commission to support the proposal.

Commissioner Groepper asked what kind of support the city would get for police and fire protection in the future.

Mr. Hahn stated he was not authorized to commit to this request.

Commissioner Groepper asked the department to look into the support of these services in their next budget process.

With no further persons wishing to address the commission, Mayor Morrison closed the public hearing.

Motion

Commissioner Smith moved approval of a major subdivision/amended plat to aggregate and consolidate 24 blocks containing 156 lots and 3 tracts into 12 lots and amend the City Park Addition subdivision in a PLI (Public Lands and Institutions) District subject to the three conditions listed. The property is legally described as Blocks 18 through 30, Blocks C,D,E & F, Lots 6 through 8, Block 11, Lots 4 through 8, Block 12, Lots 3 through 14, Block 13, Lots 3 through 12, Block 14, and Lots 3 through 8, Block 17 of the City Park Addition, Helena, Lewis and Clark County, Montana; south of Prospect Avenue and west of 18th Street with a property address of 2701 Prospect Avenue. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Minor Subdivision

E. CONSIDER A MINOR SUBDIVISION/PRELIMINARY PLAT TO CREATE

FOUR LOTS, RANGING IN SIZE FROM .99 ACRES TO 2.39 ACRES, FROM A 5.51-ACRE TRACT OF LAND IN THE CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT. LEGALLY DESCRIBED AS CERTIFICATE OF SURVEY #301811 IN THE NE ¼ OF SECTION 28, T10N, R3W, HELENA, MONTANA; GENERALLY LOCATED SOUTH OF LYNDAL AVE AND WEST OF YELLOWSTONE DRIVE

Staff Report

City Planner Belinda Waters presented the proposal for a minor subdivision review to create four lots out of a 5.51 acre tract of land. The lots will range in size from .99 acres to 2.39 acres. The property is an existing, undeveloped tract of land located just east of the city shop property and is currently zoned CLM (Commercial Light Manufacturing). City water and sewer will serve the proposed subdivision. All lots in the proposed subdivision will meet lot area and width requirements for this district (each lot will contain not less than 6,000 square feet and no lot shall be less than 50 feet wide). The said preliminary plat is subject to the following conditions:

1. **Storm Water Drainage**

The city engineer shall submit a storm water drainage plan, complete with drainage calculations provided by an engineer, not allowing drainage in excess of the historical run-off and discharges at a uniform rate.

2. **Water and Sewer**

A. There is an existing 8-inch main on Lyndale at the west boundary of the proposal and a 6-inch main midway between Bozeman Avenue and Lyndale on B Street. Applicant must extend an 8-inch main on Lyndale and B Street to loop existing mains.

B. There is an existing manhole at Yellowstone Drive and Lyndale. The applicant must extend an 8-inch sewer main from the existing manhole to Lot 1 on Lyndale for service to the four lots.

C. Fire hydrants meeting adequate fire flows shall be installed within 150 feet of commercial structures; information on the location and placement of fire hydrants and fire flow requirements shall be submitted for review and approval by the fire marshal.

3. **Design Standards/Improvements**

The subdivision and final plat must comply with the requirements of Chapter 4 (Design Standards/Improvements) of the Helena Subdivision Regulations.

Public Testimony

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

Derek Brown, representing the applicants, addressed the commission and stated the owners bought the property believing it was two lots and apparently it was never recorded. The applicants are planning to use the east portion for the development of a laboratory building to expand the size of their business. The other three lots are being developed to be more saleable to help offset the approximate \$100,000 cost of improving the street and sewer and water. Mr. Brown suggested it would be nice to have in the conditions that the

property owners across the street help support the improvements. However, he believed the conditions fall on the owner of this piece of property to pay for the improvements.

With no further persons wishing to address the commission, Mayor Morrison closed the public hearing.

Mayor Morrison asked Ms. Waters to address Mr. Brown's issue of adjoining property owners sharing in the cost of the infrastructure needs.

Ms. Waters replied she wasn't sure how long the businesses had been in the area. She noted a visit to the area showed no improvements have been made on that side of the street. She stated the issue should be looked into, however, with no original contracts, she wasn't sure they could be made to share the costs. Ms. Waters stated she would do some research and get back to Mr. Brown as soon as possible.

City Manager Tim Burton reiterated that this was an unusual situation and it would be researched with a report back to the commission with findings.

Motion

Commissioner Groepper moved approval of a minor subdivision/preliminary plat to create four lots, ranging in size from .99 acres to 2.39 acres, from a 5.51 acre tract of land in the CLM (Commercial Light Manufacturing) District. Legally described as Certificate of Survey #301811 in the NE ¼ of Section 28, T10N, R3W, Helena, Montana; generally located south of Lyndale Avenue and west of Yellowstone Drive subject to the listed conditions. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Pre-Zone Ordinance

F. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR PRE-ZONING LOTS 21-23 IN BLOCK 165 OF THE SYNDICATE ADDITION PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA; GENERALLY LOCATED ON THE NORTH SIDE OF CHOTEAU STREET, THE SECOND PROPERTY WEST FROM ITS INTERSECTION WITH LAUREL STREET WITH A PROPERTY ADDRESS OF 1810 CHOTEAU STREET

Staff Report

City Planner Hal Fossum presented the proposal for pre-zoning prior to annexation of private property to the R-2, Single Family Residential District. A completed application for annexation has been received for property currently used for a single residential dwelling, which is served by city water and sewer utilities. The applicants seek annexation because the building height exceeds county limits, but not the city's. The zoning commission recommended pre-zoning the subject property as a R-2 (Single Family Residential) District following a duly advertised public hearing. Mr. Fossum noted the type of land use, lot sizes, and house sizes of the territory are quite similar to those found within the city half a block to the east. To the west, there is a higher density zone with trailer homes and apartment buildings. The house itself is in compliance with city zoning, setbacks and size requirements. With the completion of the public hearing, there will be no procedural barriers to city commission action on this ordinance. Mr. Fossum recommended approval of the proposal for pre-zoning the property.

Public Testimony

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

With no persons wishing to address the commission, Mayor Morrison

closed the public hearing.

Motion

Commissioner Groepper moved first passage of an ordinance for pre-zoning lots 21-23 in Block 165 of the Syndicate Addition prior to annexation into the city of Helena, Montana; generally located on the north side of Choteau Street, the second property west from its intersection with Laurel Street with a property address of 1810 Choteau Street. Commissioner Smith seconded the motion. All voted aye, motion carried. **Ordinance No. 2912**

Amending Ordinance G.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359 AND AMENDING THE OFFICIAL ZONING MAP THEREOF IN REFERENCE TO THAT PROPERTY DESCRIBED AS TRACT A-P5 AND LOT A IN THE GETCHELL AND CHILDS PLACER, AND LOTS 4-7 AND A PORTION OF LOT 8 IN BLOCK 3 OF THE PARCHEN ADDITION IN HELENA, MONTANA (CURRENT LOCATION OF THE HELENA COMMUNITY FEDERAL CREDIT UNION, 915 KESSLER STREET); GENERALLY LOCATED SOUTH OF LYNDALE AVENUE BETWEEN GETCHELL AND KESSLER STREETS

CUP Res. 11224

H. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP), AMENDING RESOLUTION #11224 (APPROVED MARCH 9, 1998 TO ALLOW A PLANNED UNIT DEVELOPMENT (PUD)) TO INCORPORATE ADDITIONAL PROPERTY INTO THE GREAT NORTHERN PUD, LOCATED IN THE B-3 DISTRICT; LEGALLY DESCRIBED AS GETCHELL AND CHILDS PLACER, LOT A (FORMER RECYCLING CENTER LOCATION); GENERALLY LOCATED SOUTH OF LYNDALE AVENUE AND EAST OF GETCHELL STREET; AND PARCHEN ADDITION, BLOCK 3, LOTS 4-7 AND THE NORTH PART OF LOT 8, ALL LOCATED IN GETCHELL AND CHILD PLACER MINING CLAIM, LOT E AND PART OF LOT 8 IN THE CHESSMAN DAVIS PLACER MINING CLAIM; GENERALLY LOCATED WEST OF FRONT STREET BETWEEN 13TH AND 14TH STREETS

Motion

Commissioner Groepper moved to table agenda items G and H to the call of the City Manager. Commissioner Smith seconded the motion. All voted aye, motion carried.

Public Communications

PUBLIC COMMUNICATIONS
City Prosecutor Bob Wood addressed the commission and stated there were some persons present earlier in the meeting who anticipated speaking on the golf course changes. They appreciated the action the commission took on the issue. They had provided Chief McGee a petition in support of the Commission's action and Mr. Wood asked if this would be made part of the public record of the meeting.

Meetings of Interest

MEETINGS OF INTEREST
City Manager Tim Burton reported there has been some discussion regarding the upcoming city commission meeting for July 2. He noted a revised budget schedule has been sent out and the meeting on July 2 can be rescheduled for July 9 to deliver the budget. The budget can be made available

for commission review prior to the July 9 meeting.

Commissioner Groepper preferred not to meet so close to the 4th of July holiday to allow staff to be able to take some extra time off if they choose. There was consensus to reschedule the July 2 city commission meeting to July 9, 2001.

Adjournment

There being no further business to come before the commission, the meeting was adjourned at 9:10 p.m.

MAYOR

ATTEST:

CLERK OF THE COMMISSION