

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
JUNE 18, 2001
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 18, 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 Netschert, Groepper, Smith and Oitzinger were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Cathy Beck-Jenkins were present.

HCC representative was Bill McCausland.

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 April 23 and May 7, 2001 were approved as submitted.

Appointments

LAND AND USE MANAGEMENT ADVISORY GROUP

Mayor Morrison asked for concurrence on the following appointments to the Land and Use Management Advisory Group:

Alice Stanley – Chairperson
Bill Roberts – HCC Representative
Chase Hibbard
Jim Cancroft
Bonnie Heidel
Joan Poston

Mayor Morrison stated there is not a name listed for the Parks Board representative, however, someone will be appointed in the future.

Motion

Commissioner Oitzinger moved approval of the recommended members to the Land Use Management Advisory Group. Commissioner Groepper seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA

- A. Claims
- B. Amendment to the City of Helena Program Income Plan to allow the establishment of a permit fee reimbursement program for low and moderate income residents in owner-occupied housing
- C. Request from the Helena Habitat for Humanity for the reimbursement of building permit fees for the construction of two townhouses
- D. Award of contract for removal of asbestos in the lower level of the Child Care Partnerships facility
- E. Award of contract for architectural services for the City's CDBG project at Child Care Partnerships

City Manager Tim Burton recommended approval of the claims.

Motion Commissioner Groepper moved approval of consent agenda items A-E. Commissioner Smith seconded the motion. All voted aye, motion carried.

Bid Award BID AWARD
A. East Side Water Transmission Main – Project No. 00-25

Staff Report Public Works Director John Rundquist reported bids were opened for the water transmission main that will connect the new east side reservoir to the existing City water system. Mr. Rundquist stated the project is currently under construction. The proposed funding for the project is \$1,250,000.00 in SRF loan money the City is currently in the process of obtaining from the State. Maronick Construction Company was the low bidder with a bid of \$884,067.30. Mr. Rundquist recommended awarding the bid to Maronick Construction.

Motion Commissioner Netschert moved to award the bid for the East Side Water Transmission Main – Project No. 00-25 to Maronick Construction in the amount of \$884,067.30 conditional to the receipt of the SRF Funding. Commissioner Smith seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
There were no comments from Commissioners.

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. Airport Stormwater Assessments

City Manager Tim Burton referred to a memo handout regarding the Helena Regional Airport and how storm water assessments have been applied against airport property by the City of Helena. He stated the issue has been lingering since 1991. The other ongoing issue is the street assessment for the airport, however, this has been set aside. He recommended refunding \$62,162.16 paid in assessments through tax year 2000 and the amount of “banked credit” be reflected at \$135,135.12. This amount would then be applied toward an acceptable project after the Commission has approved it. Mr. Burton asked Assistant Public Works Director Phil Hauck to explain the issue further.

Mr. Hauck explained when the district was originally set up, it was anticipated the airport would construct storm drain facilities for the benefit of the City of Helena in lieu of paying an assessment. This was the case for the first six years of the assessment up until 1997 when the City starting charging an assessment. Mr. Hauck suggested clearing the slate through tax year 2000 knowing there is a bankable credit of \$135,135.12 to be applied toward a recent improvement the airport has been working on with the City. He suggested an audit be done of the area at the airport so staff would become comfortable of what the assessment should be for the next tax year and those to come.

Motion Commissioner Groepper moved approval of a refund of \$62,162.16 for through tax year 2000 to the Helena Regional Airport. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Indoor Air Ordinance CONSIDER SECOND PASSAGE OF ORDINANCE NO. 2911 PROHIBITING SMOKING IN INDOOR PUBLIC PLACES AND PLACES OF EMPLOYMENT

Mayor Morrison relayed that Ordinance No. 2911 came before the Commission in previous meetings with a public hearing conducted on May 7th and first action taken on the ordinance on June 4, 2001. He asked City Attorney David Nielsen to cover the key points of the ordinance and stated there may be further amendments to be considered.

City Attorney David Nielsen stated a draft of the ordinance has been placed on Commissioner's desks. He noted the draft sent out in the packet had two scrivener's errors, which have been corrected. He explained the corrections as being on page 2 under "Definitions" Item F. "Retail Tobacco Store" should be removed since it was removed as an exemption. On page 3, under 4-13-8B – correction should be a new item stating "a person requesting enforcement of this Chapter shall do so by completing and signing a written complaint form provided by the Lewis and Clark City/County Health Department." The changes reflect the amendments made during first passage of the ordinance.

Commissioner Smith stated that on page 3 in Section 4-13-6A, the last sentence states "in exempt areas, signs must be posted to clearly advise the public that they are entering an area where smoking may occur," and since there are no exempt areas in the ordinance, asked if the sentence is necessary.

Mr. Nielsen replied the sentence is not necessary because the major exemptions that were being considered were the tobacco retail sales stores and theatres. Technically, this would apply to private functions and hotel and motel guest rooms. This would not make it mandatory for the private functions to post signs.

Amendment

Commissioner Smith moved to strike the sentence that begins "in exempt areas," in Section 4-13-6A. Commissioner Groepper seconded the motion. All voted aye, motion carried.

Commissioner Netschert stated in Section 4-13-5: Reasonable Distance, under the current draft, the 25 foot distance was recommended to enable enforcement. After researching the issue, City Attorney Nielsen didn't feel it was necessary for enforcement.

Amendment

Commissioner Netschert moved to strike "twenty-five feet (25') or other" from Section 4-13-5: Reasonable Distance. Commissioner Smith seconded the motion. Motion passes 4-1 with Commissioner Groepper voting nay.

Amendment

Commissioner Netschert moved to grandfather existing businesses under the ordinance. Motion dies for lack of second.

Commissioner Smith commented that this has been a difficult issue and he thanked everyone for their comments and involvement. He stated he has talked to many people regarding the issue. He noted he sees many examples where government interferes with the individual rights of people. When a stop sign is installed or a double yellow line is painted in the street, government is interfering with the individual rights of people; when bars are required to close at 2:00 a.m. it's interfering with the rights of the business owners; when restaurants are required to refrigerate their hamburger, their employees to wash their hands or their dishes to go through three washings in a sink; these are all examples of

government interfering with individual's rights. Commissioner Smith concluded that after looking at the whole spectrum of examples, that the harm caused by second hand smoke is serious enough to warrant this kind of intrusion to an individual's liberties. He stated this is being done to protect the health of the public. He relayed he makes this statement with respect to everyone involved.

Motion

Commissioner Smith moved second passage of Ordinance No. 2911 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.

**Open Space Trail
Coordinator**

CONSIDER A CONTRACT PROPOSAL FOR AN OPEN SPACE TRAIL SYSTEM COORDINATOR

Staff Report

Parks and Recreation Director Randy Lilje presented the proposal to enter into a contract with Prickly Pear Land Trust to provide services for the development of Helena's open space trails system. The Trails Subcommittee of the Open Space Bond Advisory Committee recommended to OSBAC that it secure the services of a qualified individual to assist in planning, developing, and coordinating the development of a community trails system in Helena. At the May 1 meeting, OSBAC reviewed an RFP for the services requested that it be sent out to interested parties. Two proposals were received and reviewed by the selection committee. The proposals were from Charles Aagenes of Helena and the Prickly Pear Land Trust. Based on the proposals and the proposers' understanding of the project, the selection committee recommended that OSBAC endorse the recommendation that the City contract with the Prickly Pear Land Trust to provide the requested services. After discussion, OSBAC unanimously approved the recommendation. Mr. Lilje noted the proposal would get the trails component of the open space bond and Comprehensive Parks, Recreation, and Open Space Plan moving and accomplishing some of its goals. It also helps leverage use of the funds by coordinating a volunteer effort on the development of a community trails system. The volunteer effort will continue long after the bond funds run out. Mr. Lilje recommended approval of the OSBAC recommendation.

Motion

Commissioner Oitzinger moved to approve the OSBAC recommendation to authorize the City Manager to negotiate a contract for services for trails coordination services with the Prickly Pear Land Trust and use open space bond funds to pay for the services. Commissioner Smith seconded the motion. All voted aye, motion carried.

Water/Sewer Service

CONSIDER AN APPLICATION FOR WATER AND SEWER SERVICE BOUNDARY EXTENSIONS FOR PROPERTY IN BLOCKS 4, LOTS 71, 72 AND 75 OF THE HELENA TOWNSITE ADDITION

Staff Report

Public Works Director John Rundquist presented the proposal to review the application and provide water and sewer service to property in Blocks 4, 71, 72 and 75 of the Helena Townsite. The majority of property owners of existing platted parcels in all of Blocks 71 and 72, Lots 9-21 and 24-26 in Block 75 and Lots 1-4, 7 and 8 in Block 4 of the Helena Townsite wish to obtain water and sewer service to the existing lots. The City is the owner of some of the included lots. The preliminary layouts show the proposed water connections to the Reeder's Village pump station and/or the Malben/Woolsten zone. Calculations

show capacity in either system to serve the lots, however, the Malben/Woolsten zone may not have adequate pressure to serve the lots, so a portion of the lots may have to be served from Reeder's Village. Final design will need to better define how the area will be served with water and maintain service to adjacent properties already served. Sewer service is proposed to connect to both old Park Avenue and the Reeder's Alley sewer. The existing main in old Park Avenue was slip lined in a 1992 project. The Reeder's Alley main was extended in 1974. The final design will need to verify the condition and capacity of the old main. However, staff anticipates that either main will likely have adequate capacity to handle the domestic flows from this relatively small number of lots. With the application was a conceptual plan for extension of streets, water, sewer and storm drainage for the entire site that encompasses the parcels. This is existing platted property and is difficult topographically for service. However, a feasible plan has been developed for extension of streets and utilities to serve the site. Mr. Rundquist suggested the following conditions be applied to the approval of the boundary extensions:

1. Submission of design calculations, final plans and specifications to the City Engineer and the State of Montana for review and approval.
2. Maintain continuity of service to existing adjacent properties already served. This will require extension of water and sewer mains to the north boundary in Howie Street and replacement of services to properties already served.
3. Submission of as-contracted plans in a digital form compatible with the City CAD and/or GIS system.
4. Ultimately, the issuance of building permits will require that street access be constructed. Water and sewer extensions are integral to the street construction such that the street and drainage designs must be approved by the City concurrent with utility designs.
5. Water, sewer, drainage and street designs shall be in accordance with City of Helena standards.

Commissioner Groepper asked if anything before the Commission on this issue commits the property owner to where the streets are at this point.

Mr. Rundquist replied they would be required to use the existing platted right-of-way for streets. All that has been received so far is the conceptual plan that shows utilities, street and drainage. No applications have been received for building permits.

Commissioner Groepper asked the project engineer if it was their intention to place the access and exits to this subdivision in the same area they are shown on the current preliminary plat.

Korene McGuire, 1300 Floweree, stated she expected they would be the in the same areas. She further stated she was caught off guard with the question as she thought the only action being taken was the boundary extension for water and sewer.

Commissioner Groepper expressed concern that all the Commission would see of the subdivision is the action taken tonight. He asked if it would be a problem if he made the extension of water and sewer boundaries contingent upon

access and exits that predominantly follow the proposal.

City Attorney David Nielsen replied if there are any changes on where the street layouts are, it would require a vacation of the existing plat or of subdivision and would have to come back before the Commission.

Commissioner Groepper stated he was concerned that they could make changes in the platted right-of-ways without coming before the Commission. He wanted to make sure the streets remained the same as the current plat.

Mr. Nielsen replied he hesitates to tie the two together because the City dictates right-of-way issues with widths of streets through the Engineering Department and Public Works. He suggested making a motion directing the City Manager as to the types of streets that will be permitted. Property owners are allowed to put in streets to develop property but they still have to be to City standards. It's not up to the property owners to decide the width of the streets.

Commissioner Groepper expressed concern that the issue would end up in Engineering. He noted the concern was due to past history of a proposal approved by one of the engineers to backfill Reeder's Gulch and put in a 36-inch storm culvert. He noted this is a historic gulch that leads picturesquely up under the Reeder's Alley Bridge. When he heard the engineers state this was the best proposal for an entrance, it greatly concerned him that there would be another scar on the side of Mount Helena.

Mr. Nielsen suggested he make two separate motions approving the water and sewer extensions and making whatever limitations on the street development is appropriate.

Commissioner Groepper asked how that would be done without the street development issue on the agenda for consideration.

Mr. Nielsen responded and stated the City Manager might be directed to report back with what the design would look like for Commission approval prior to any development.

Motion

Commissioner Groepper moved to direct the City Manager to bring back before the Commission for final approval of the street design for this subdivision if it deviates substantially from the current preliminary plat.

Commissioner Oitzinger seconded the motion. Motion passes 4-1 with Commissioner Netschert voting nay.

Motion

Commissioner Groepper moved approval of the water and sewer service boundary extension for property in Blocks 4, Lots 71, 72 and 75 of the Helena Townsite Addition. Commissioner Smith seconded the motion. All voted aye, motion carried.

Final Plat

CONSIDER A FINAL PLAT FOR LOTS 39-A AND 39-B OF THE RODNEY STREET TRACTS, GENERALLY LOCATED AT THE INTERSECTION OF RODNEY STREET AND 14TH STREET WITH A PROPERTY ADDRESS OF 801 AND 811 RODNEY STREET, HELENA, MONTANA

Staff Report

City Planner Belinda Waters presented the proposal for final plat approval to create two lots from a .331-acre tract of land. The Commission gave preliminary plat approval to create two lots from Lot 39 on July 10, 2000. This approval was subject to three conditions and the final plat must be filed with the Clerk and Recorder within one year. One of the conditions was the applicant must obtain two variances from the Board of Adjustment. One for lot width (Lot 39A) and one for dwelling unit located closer than six feet from the property line

for Lot 39B. On June 5, 2001, Mr. George, the applicant, applied to the Board of Adjustment for the two variances. The Board of adjustment approved one variance request and eliminated the need for the other one. By moving the lot line on Lot 39B over two feet towards Lot 39A, the only variance that would be needed would be the one for lot width. Lot 39A would be 47.33 feet wide and 9,062 square feet in size and Lot 39B would be 52 feet wide and 5,332 feet in size. The two remaining conditions have been satisfied and are listed as follows:

1. Final Plat Revisions

The final plat shall be revised as follows:

- A. The subdivision shall be drawn on computer, referenced to the City coordinate system, and a disk AutoCAD format supplied to the Engineering Department.
- B. A ten-foot access easement located on the east side of Lot 39B to accommodate cars entering and exiting the six-car garage located on Lot 39A.

2. Variances

The applicant must obtain two variances from the Board of Adjustment:

- A. One for lot width (Lot 39A).
- B. One for the dwelling unit located closer than 6 feet from the property line for Lot 39B.

3. Time Frame

The applicant shall file the final plat with the County Clerk and Recorder within one year and in accordance with 76-3-610 MCA.

Motion

Commissioner Netschert moved approval of a final plat for Lots 39A and 39B of the Rodney Street Tracts, generally located at the intersection of Rodney Street and 14th Street with a property address of 801 and 811 Rodney Street, Helena, Montana. Commissioner Smith seconded the motion. All voted aye, motion carried.

***Final Plat
Airport***

CONSIDER A FINAL PLAT FOR LOT 1, HELENA REGIONAL AIRPORT NORTH ADDITION, GENERALLY LOCATED AT THE NORTHEASTERN CORNER OF THE AIRPORT PROPERTY IN THE NORTHEAST QUARTER OF SECTION 21 AND THE NORTHWEST QUARTER OF SECTION 22, T10N, R3W, HELENA, MONTANA

Staff Report

City Planner Kathy Macefield presented the proposal for a final plat approval creating a 5.1-acre lot from the larger airport property. She stated this was a cooperative effort between the airport and the Montana Department of Transportation. On December 18, 2000, the City Commission approved a preliminary plat creating one lot located in the northern portion of the airport property in the Airport District. The subdivision approval was subject to four conditions, which have been satisfied. The applicant has requested to not install the fire hydrant until the final grades and access routes have been defined for the realigned Canyon Ferry Road, which could be fall 2001 or spring 2002. Ms.

Macefield stated the following conditions are restated with the status of each listed:

1. Water and Sewer

- A. The final plat must contain the following statement; No building may be constructed for occupancy without the provision of sewer service.

THE REQUIRED STATEMENT APPEARS ON THE FINAL PLAT.

- B. Fire hydrants meeting adequate fire flows shall be installed within 150 feet of commercial structures. The fire protection system, including location and placement of fire hydrants and fire flow requirements, shall be submitted for approval by the Fire Marshall if a building is constructed on the property.

THE MONTANA DEPARTMENT OF TRANSPORTAION, AS THE BUYER OF THE LOT, HAS STATED THE HYDRANT WILL BE INSTALLED IN SPRING 2002.

- C. A 20-foot wide easement for the water main must be provided and shown graphically on the final plat if the existing easement in the Canyon Ferry Road right-of-way is insufficient.

THE REQUIRED EASEMENT IS SHOWN ON THE FINAL PLAT.

2. Access

No direct access is permitted onto the new re-alignment of Canyon Ferry Road unless approved by MDT.

THE REQUIRED STATEMENT APPEARS ON THE FINAL PLAT.

3. Final Plat Revision

The final plat shall be revised as follows:

- A. The access restriction onto the newly aligned Canyon Ferry Road must be clearly stated and graphically shown.
- B. The construction limitation related to sewer service.
- C. The 20-foot wide easement for the water main must be shown graphically.

THE REQUIRED NOTATIONS ARE SHOWN ON THE FINAL PLAT.

4. AutoCAD Format

The subdivision shall be drawn on computer, referenced to the City coordinate system, and a disk, AutoCAD format supplied to the Engineering Department.

THE REQUIRED COMPUTER FORMAT WILL BE SUBMITTED WITH THE FINAL PLAT.

Motion

Commissioner Smith moved approval of a final plat for a one 5.1 acre lot in the Airport District; property is legally described as Lot 1 of the Helena Regional Airport North Addition, located in the NE ¼ of Section 21, T10N, R3W, Helena, Montana; generally located south of Canyon Ferry Road and west of East Airport Road and the Helena Valley Irrigation Canal. Commissioner Netschert seconded the motion. All voted aye, motion carried.

SRF Loan

CONSIDER A RESOLUTION RELATING TO \$1,250,000 WATER SYSTEM REVENUE BOND (DNRC DRINKING WATER REVOLVING LOAN PROGRAM), SERIES 2001; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF

Staff Report

Assistant Public Works Director Phil Hauck reported that on July 10, 2000, the City Commission passed Resolution 11521 which authorized the entering into, execution and delivery of a commitment agreement with DNRC regarding the sale and delivery of the city's \$1,250,000 water system revenue bond. This commitment agreement was extended on January 11, 2001, setting a new loan date consistent with the current time frame for this bond resolution. The SRF (State Revolving Fund) loan (\$1,250,000) administered by DNRC will be used in conjunction with a TSEP (Treasure State Endowment Program) grant (\$500,000) to fund the eastside reservoir, pump station and piping, and transmission main projects. This loan carries an interest rate of 4% for a period of 10 years. Due to favorable bids of the water construction projects, the City may wish to draw less than the anticipated \$1,250,000. Passage of this resolution will allow the department to use a low interest loan to fund the eastside water construction projects. Mr. Hauck recommended approval of the resolution.

Motion

Commissioner Groepper moved approval of a resolution relating to \$1,250,000 water system revenue bond (DNRC drinking water revolving loan program), Series 2001; authorizing the issuance and fixing the terms and conditions thereof. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution No. 11644**

**Public
Communications**

PUBLIC COMMUNICATIONS

A. Student Advocacy for Smoke Free Youth

Alicia Cohenour and Jessica Freeman addressed the Commission and stated they are representatives of a local organization called SASY (Students Advocating Smoke-Free Youth). Both thanked the Commission for passing the Indoor Clean Air Ordinance. They stated they have noticed a problem in the downtown area with cigarette butts and have come up with a project to help alleviate the problem. They would like to distribute "butt cans" on public property and plan on starting in the downtown area. There will be 10 cans located in the downtown area with the Business Improvement District helping to pay for half of

the cans.

Commissioner Groepper asked the organization to report back on the project.

Commissioner Oitzinger asked about the volunteer efforts of the organization.

Ms. Cohenour replied the group has participated in the Hope Rally and Kick Butts Day in the school by distributing pencils and bracelets. The group was also involved in the Montana Tour for Tobacco Free Kids.

Mayor Morrison asked the City Manager to explore this issue and make a recommendation to the Commission on possible donations to help the group.

Public Hearings

PUBLIC HEARINGS

- A. **CONSIDER A RESOLUTION TO AMEND RESOLUTION NO. 11560 AS PREVIOUSLY AMENDED, AND FIXING THE ANNUAL APPROPRIATIONS FOR THE CITY OF HELENA, MONTANA IN THE 2000-2001 BUDGET**

Staff Report

Administrative Officer Bob Ricker 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. Mr. Ricker recommended approval of the resolution.

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 approval of a resolution to amend Resolution No. 11560 as previously amended, and fixing the annual

appropriations for the city of Helena, Montana in the 2000-2001 budget.

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

Resolution No. 11645

- B. CONSIDER A RECOMMENDATION TO PURCHASE 40 ACRES ON MOUNT ASCENSION USING \$205,920.00 IN OPEN SPACE BOND FUNDS

Staff Report

Parks and Recreation Director Randy Lilje presented the proposal to use open space bond funds to purchase approximately 40 acres of natural open space in Helena's south hills. The Open Space Bond Advisory Committee conducted a public hearing in October of 2000 to obtain input on the purchase of properties in the south hills. Included in those properties was a property of approximately 40 acres due east and adjacent to the recent Timberline property acquisition. The property is currently owned by Mrs. Virginia Bompert. Based on favorable evaluation by the Lands Subcommittee of OSBAC and the public's favorable comments for the acquisition, OSBAC unanimously agreed to recommend to the City Commission that the City expend open space bond funds equal to the appraised value of the property. An appraisal was done on the property and the appraised value was estimated at \$198,000. Mrs. Bompert's asking price is \$206,900 or \$8,900 above the appraised value. The Prickly Pear Land Trust has agreed to secure private donations for the \$8,900. The bond fund will also have to pay for the services of the property acquisition consultant who negotiated the deal. As per his contract with the City, the fee will be four percent of the bond expenditure of \$7,920. The total funds required for the acquisition will be \$205,920 plus closing costs.

Public Testimony

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

Jerry Hutch, 1111 East State Street, addressed the Commission and expressed concerns regarding weed control in the open space areas and fire protection for the acquired land. He also relayed concern that the tax money that is currently being generated from this property will no longer be available. He asked what the City would do to make up the shortfall for the property tax and how much more land would be acquired.

Michael O'Neill, 621 Hillsdale, addressed the Commission and conveyed his support for this acquisition. He stated this is a major part of the open space vision. He stated studies related to open space have shown that they lead to an enhancement of property values in the community.

Jerry DeBacker, Prickly Pear Land Trust, addressed the Commission and stated the Land Trust will bring approximately \$10,000 to bear on the acquisition of this property. This is similar the past acquisition of parcels. He noted this is another vital piece of open space that ties together the vision of the Comprehensive Plan. Mr. DeBacker also commented on Judge Sherlock's ruling on the Timberline issue and noted that the OSBAC meetings have always been open to the public and guests welcome to participate in any issues. He felt OSBAC has always exercised due diligence in recommending well devised solutions on how to expand the open space bonds. He also commended Alan Chronister for his efforts in resolving the Timberline matter in a financially astute manner. He urged the Commission to move forward with the proposal before them this evening and to thank the OSBAC members for their civic duties they have performed admirably.

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

Mayor Morrison asked Mr. Lilje to address some of the concerns Mr. Hutch voiced.

Mr. Lilje replied with regard to weed control, an open space management group has been created on how to approach the issues in an integrated manner rather than through strictly pesticides. They are looking into a holistic approach to the weed problems. He further stated he has been working with the Tri-County fire group and the Helena Fire Department on fire hazards and mitigation in the south hills. They have applied for grants and there has been preliminary approval that some of the grants have come through. Mr. Lilje stated this is probably the last major land purchase as there is approximately only \$100,000 left in the land allocation funds. There are a couple of opportunities but nothing on the scale this size. With regard to taxes, they will go off the tax rolls, however, the voters by a slight majority approved this and as can be seen by many studies, open space doesn't take a large amount of tax dollars to maintain and manage the properties.

Mayor Morrison asked if an endowment fund is being created to maintain the properties in the future.

Mr. Lilje replied staff is looking into the options and has made some recommendations to work with a private non-profit. The recommendation to finalize this would come from the OSBAC management committee.

Commissioner Groepper asked Mr. Lilje to obtain a copy of the tax statement for the 40-acre property for himself and Mr. Hutch. He noted he didn't believe it would be over \$80 per year.

Motion

Commissioner Oitzinger moved to extend a thank you to the members of the Open Space Bond Committee from the Commission.

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

Motion

Commissioner Oitzinger moved to expend \$205,920 plus closing costs of open space bond funds to purchase approximately 40 acres of natural open space property from Mrs. Virginia Bompert.

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

Residential Refuse

- C. CONSIDER A RESOLUTION ESTABLISHING CHARGES FOR THE COLLECTION AND DISPOSAL OF RESIDENTIAL GARBAGE AND REFUSE

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.

Commercial Refuse

D. CONSIDER A RESOLUTION ESTABLISHING A RATE MATRIX FOR COMMERCIAL COLLECTION AND DISPOSAL OF GARBAGE AND REFUSE

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

E. CONSIDER A RESOLUTION SETTING FEES CHARGED BY THE TRANSFER STATION FOR DISPOSAL OF GARBAGE AND REFUSE

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.

Mr. Hauck stated two weeks ago the Commission passed resolutions of intentions for the above items and the recommendation would be similar with a couple of changes. The Commission had asked to state the intent to exclude

recyclables from the two ton limit under the modified pay-as-you-throw program which is now included in the resolution for residential solid waste. The other issue the Commission directed was to outline the remaining equity questions in residential sanitation in regards to container size and rate schedules. He has submitted a memo to the City Manager and discussion has been scheduled for the August 8 administrative meeting agenda. He noted the issue could also be discussed during the budget process.

Commissioner Groepper asked if it would still be possible to put rate changes in effect in the billing cycle that starts with the property taxes in November.

Mr. Hauck replied the resolution could be amended and it would be possible to effect the changes within the timeframe mentioned.

Public Testimony

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

Alice Liebel, addressed the Commission and urged them to change the residential garbage rates to be more equitable and fair. She owns a small business and pays a substantial refuse fee for a very small amount of garbage. Her business is classified as a four plex, which she has furnished and rents as extended stay residences. She only rents the apartments for short terms and the residents generate very little garbage. She pays quadruple what her neighbors who generate more garbage pay.

Alan Nicholson, 1 Quarry Lane, addressed the Commission and commented that he has experienced similar situations. He stated his business manages or owns several condominiums in town and each condominium is considered by the State to be a separate entity. He stated many of the condos are in the same block units and it would cost much more to collect the garbage if they were spread over the City. The refuse is all put into one big dumpster as opposed to several smaller containers. He felt it would be appropriate to study the issue over the next year and come back with a more refined way of charging for the garbage collection.

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

Discussion

Commissioner Groepper shared Mrs. Leibel's concerns and stated prior to this evening's discussion, he was inclined to put language in the motion on the single residential units that went up to four-plexes and allow people the opportunity to come forward and set that rate based on the occupancy of the previous year. He felt comfortable with the assurance of Mr. Hauck and the City Manager that the matter would be reviewed. He volunteered his assistance in creating new language for the resolution at a future work session.

Motion

Commissioner Groepper moved approval of a resolution establishing charges for the collection and disposal of residential garbage and refuse in the City of Helena, Montana for fiscal year 2002.
Commissioner Smith seconded the motion. All voted aye, motion carried.
Resolution No. 11646

Motion

Commissioner Groepper moved approval of a resolution to establish a rate matrix for service charges for commercial collection and disposal of garbage and refuse in the City of Helena, Montana for the fiscal year 2002. Commissioner Smith seconded the motion. All voted aye, motion

carried. **Resolution No. 11647**

Commissioner Groepper asked if the recycling language should be added to the tipping schedule so people know when they have recyclables they won't be charged the tipping fee.

City Attorney Nielsen replied when the adjustments were made on the residential resolution as requested, that exempts the recyclable from the residential. It would not exempt it from the commercial rate. The only time the tipping fee comes into effect for residential is for non-recyclable, exceeding the two-ton limit.

Commissioner Groepper asked for assurance that if the fee schedule is replicated and handed out to people or posted in a prominent place it has an accurate reflection of the recycling policy.

City Manager Tim Burton responded to Commissioner Groepper with the assurance requested.

Motion

Commissioner Groepper moved approval of a resolution to supersede Resolution 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 the fiscal year 2002. Commissioner Netschert seconded the motion. All voted aye, motion carried. **Resolution No. 11648**

Commissioner Netschert asked if there was a possibility of creating a recycle only permit for those tenants that don't have tipping permits.

City Manager Tim Burton replied there are various offsite locations with recycling bins set up around town.

Mayor Morrison stated this issue could be discussed along with the residential rates at an upcoming administrative meeting.

CDBG Grant

F. CONSIDER SUBMITTING A CDBG GRANT APPLICATION ON BEHALF OF GATEWAY ECONOMIC DEVELOPMENT TO PROVIDE LOAN MONEY TO THE GREAT NORTHERN TOWN CENTER, INC. AND TO REVIEW A POTENTIAL CONFLICT OF INTEREST

Staff Report

City Planner Belinda Waters presented the proposal to approve a resolution to submit an application to the Community Development Block Grant Program and review a potential conflict of interest situation involving the proposed project. She stated the conflict of interest arose because one of the members on the Board of Directors works for the Great Northern Town Center. After visiting with the CDBG program specialist, it was determined a public hearing should be held. There are two parts to the conflict of interest to address this evening. One is the City has a disclosure of the nature of the conflict, accompanied by the assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made. The second is that the person has withdrawn from his/her functions or responsibilities of the decision making process with respect to the specific assisted activity. In this case, the employee of the Great Northern Town Center would refrain from voting on any issues related to the project. Ms. Waters asked Lynn Robson to address the Commission with an explanation of the project.

Public Testimony

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

Lynn Robson, Gateway Development Corporation, addressed the Commission and explained the objective of the proposal is to fund the GN Hotel LLC, which is a portion of the Great Northern Town Center. The loan would fund the purchase of hotel and convention center equipment, thereby creating 50 jobs in which 49 of them will be targeted for low and moderate-income community residents. This is a \$386,000 loan at 6.5 % and will be a short term 7 ½ year loan. A portion of the administrative fee will go to the City of Helena to cover their costs.

Commissioner Smith asked Ms. Robson her opinion on the conflict of interest issue.

Ms. Robson explained that Kathy Brown sits on the Gateway Economic Development Corporation Board of Directors. She does not sit on the Executive Committee or the Loan Review Committee.

City Manager Tim Burton stated Ms. Brown has no participation in the process within the City.

Mayor Morrison clarified that the City does not do the due diligence on the loan but merely gives support for the process and sponsors the loan to the state. Gateway is responsible for the due diligence on the loan. Ms. Robson concurred.

Kathy Brown addressed the commission and stated she is employed by the Great Northern Town Center. She relayed she would abstain from any vote and any conversation regarding the CDBG application.

Alan Nicholson, 1 Quarry Lane, addressed the commission and explained this is a hotel and convention center project in the Great Northern Town Center. He gave a brief description of the buildings and urged the Commission to support the proposal.

Commissioner Smith asked Mr. Nicholson who would recruit and train the low income employees.

Mr. Nicholson stated he was not the best person to answer this question as Ms. Brown had worked out the application, which includes all of this information. He stated they are targeting college students and other persons for management and sales. There will be a variety of employment opportunities ranging from minimum wage jobs in the cleaning areas to fairly high level jobs.

Michael O'Neill, 621 Hillside, addressed the Commission and expressed his support for the proposal. He also urged support for initiatives that will link the Great Northern area to the rest of the downtown and the community. This includes the current trolley pilot program, creating a friendly pedestrian access across Neill Avenue and the full development of Centennial Park.

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

Motion

Commissioner Groepper moved approval of a resolution to sponsor a Community Development Block Grant application in the amount of \$400,000 on behalf of the Gateway Economic Development Corporation who will loan money to the Great Northern Town Center, Inc. for the purchase of hotel and convention center equipment; thereby creating approximately 50 jobs in which 49 of them will be targeted for low income and moderate income community residents. The City Commission has also determined there has been no conflict of interest present since the employee of the Great Northern Town Center, who sits on the Gateway Board of Directors, will refrain from voting on any issues related to the proposed project. Commissioner Smith seconded the motion. All voted aye,

motion carried. **Resolution No. 11649**

**Subdivision
Regulations**

- G. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE HELENA SUBDIVISION REGULATIONS, TITLE 12, OF THE HELENA CITY CODES

Staff Report

City Planner Lucy Morell-Gengler presented the proposal to revise the existing Subdivision Regulations in order to provide a clearer and more concise document reflecting current laws and more appropriate design requirements. Ms. Morell-Gengler explained the subdivision regulations evaluate major and minor subdivisions and plats. These guidelines would not apply to existing lots or existing right-of-ways. Ms. Morell-Gengler reviewed the following changes and amendments to the Subdivision Regulations:

CHAPTER 1: TITLE, PURPOSE, DEFINITIONS

12-1-6: Definitions

Revise some definitions. Several definitions were deleted because the terms were not mentioned in the Subdivision Regulations. Some definitions, such as lot depth were deleted because they conflicted or were repetitive with other definitions in the Zoning Ordinance. Definitions were added to clarify terms. ***Definitions that are currently included in 76-3-103 Montana Code Annotated (MCA) were deleted to eliminate repetition.***

CHAPTER 2: PROCEDURES

Revise references to the City Planning Department to state Planning Division. These amendments reflect the current organizational structure.

Remove all of the procedural timeframes that are not specified in the Subdivision and Platting Act. When the Subdivision Regulations were revised with the help of the consensus group in 1998, specific timeframes were included to assure that subdivisions were reviewed in a timely manner. Montana law specifically states when the legal advertising must occur and when the certified letters must be sent. To be consistent with state law, the public notice requirement is recommended to remain in the City's regulations, but the consensus group's timeframes are to be removed from the subdivision regulations but will be retained as policy.

12-2-2: Conformance to Regulations

Add language from the 1995 Model Subdivision Regulations to address section 76-3-504 (4) of Montana's Subdivision and Platting Act. The proposed language identifies "natural and human-caused hazards" that may make land unsuitable for subdivision development.

Add language that restricts development of property located in the 100 year floodway.

Clarify the variance procedure. Although the subdivision regulations currently

allow for variances, the proposed amendments would describe the process more clearly.

12-2-4: Preliminary Plat

THE APPLICANT MUST MEET WITH PLANNING STAFF PRIOR TO SUBMITTING A PRELIMINARY PLAT APPLICATION.

Reduce the number of preliminary plats that must be submitted with a major subdivision application from 10 to 6.

Include language to address slope requirements for lot development.

Currently the Subdivision Regulations do not address slope requirements for lot development. The proposed amendment states that the portions of lots that have a slope greater than 25% would be specified as a "no-build zones" where the slope and topography could not be ***changed and structures could not be*** constructed.

Require identification of special uses on plats. In some zoning districts the Zoning Ordinance allows for different lot sizes for different uses. For example, the R-4 District requires a much smaller lot size for townhouses than for single-family uses. The proposed language would require plats to identify restrictions for lots designed for special uses.

Clarify that right of ways, utilities, and waterways on nearby land must be identified by the site vicinity map that also shows adjacent property.

Require contour intervals to be 5 feet instead of 10 feet. In order to better evaluate slope constraints, the proposed amendment would require a site improvement plan showing contour intervals of 5 feet instead of 10 feet.

Require identification of wetlands and other environmental constraints on the site improvement plan.

Incorporate language on traffic impacts and mitigation that should be included in the traffic impact study. The proposed language would require information showing how the subdivision's street system related to the adopted transportation plan including impacts and mitigation proposals. This requirement was moved to Chapter 2 from Chapter 4.

Change "floodway survey data" to "flood plain map."

Language was included to address water rights in compliance with new legislation.

12-2-6: Planning ~~Department~~ Division Review:

Clarify that a subdivision applicant would be allowed an opportunity to provide additional information that explains or rebuts questions and issues

raised in the public hearing. Although this opportunity has been provided through practice, it had not been specifically identified in the Subdivision Regulations. The proposed amendment also clarifies that the applicant is given an opportunity to speak at the beginning of the hearing.

Clarify review criteria. The proposed amendment lists the information the City Commission will use to evaluate a proposed subdivision.

(Chapter 3 is reserved)

CHAPTER 4: DESIGN STANDARDS; IMPROVEMENTS

Incorporate additional sections. The proposed changes would divide the existing 5 sections into 12 allowing readers to more easily access information.

12-4-2: General requirements for Streets

Move requirement to address compliance with the adopted Transportation Plan to Chapter 2.

Include language to encourage street design to follow the natural contour of the property.

Provide language allowing the City to utilize other street guidelines in addition to the Institute of Transportation Engineers (ITE). Currently, unless otherwise provided in the subdivision regulations, streets must conform to ITE's recommended guidelines for subdivision streets. ITE was written as recommendations and the language is not regulatory which makes applying them confusing at times and enforcement more confrontational. Also ITE was written as general guidelines applicable to all regions in the United States. ITE does not provide adequate guidance for adjusting street design to match Helena's weather conditions. The proposed language would allow consideration of guidelines that address conditions in our region of the country.

The Streets Elements diagram was amended to show parking as part of the pavement width. This change is consistent with the text description of pavement width.

Statement on boulevard trees was deleted. The recommendation is to move the requirement for boulevard trees to Title 7 and that designs standards will be developed for boulevard trees. In evaluating the practical application of requiring boulevard trees within the subdivision review process and prior to the construction of buildings in the subdivision, several problems were identified. One problem was the lack of an individual to hold responsible for care of the trees on a day-to-day basis. In addition, prior to the construction of structures and the installation of individual water lines and water meters, water would not be readily accessible to maintain the trees. Also, trees planted prior to construction could be damaged during build-out. It may be more appropriate to address the requirement for boulevard trees in Title 7 Chapter 10 Trees.

REINSTATE AND CLERIFY LANGUAGE REQUIRING TWO (2) 7-FOOT MINIMUM WIDTH STRIPS FOR BOULEVARDS BE PROVIDED IN THE RIGHT OF WAY

Amend the language for sidewalks and pedestrian /bike lanes to be consistent with rights-of-way widths. The proposed changes would amend the language regarding sidewalks and bike access to comply with the diagram and the required right-of-way widths.

Incorporate language requiring streets to have public access except for dead-end streets. The proposed language would require street systems to connect with existing street networks with at least two points of ingress and egress.

Revise and clarify the requirements for dead-end streets. This proposed amendment clarifies dead-end streets could not exceed 700 feet in length.

General provisions were consolidated under General Requirements for Streets to reduce repetition.

12-4-4: Street Grades

Include language to address slope requirements for street grades. Currently the Subdivision Regulations rely upon an engineer (in this case, the City Engineer) to determine the appropriate street grade based upon his interpretation of the recommendations of the Institute of Transportation Engineers (ITE). ITE provides flexibility for the interpretation of their guidelines.

With the proposed amendment, street grades would have an absolute figure and street grades greater than 8% would require a variance. No street grades would be allowed that are greater than 11%; the 11% grade would only be allowed for a maximum length of 500 feet including the transition grade. *This limitation is also more consistent with Lewis and Clark regulations that allow a maximum 11% grade for 500 feet.*

12-4-5: Driveways and Private Drive Standards

Clarify that the lot design must meet the requirements for driveways and private drives established in Title 7 of the City Codes. Although drive design is a concern, Title 7 more appropriately deals with these considerations and changes should be made to this section at a later date.

12-4-6: Alleys

Apply alley guidelines to all types of development. Currently alley guidelines apply only to commercial and industrial areas; the proposed change would apply alley guidelines to all types of development.

12-4-8: Watercourses and Drainages

Require easements on plats that provide sufficient protection and

preservation of watercourses. Refer to Title 6 of the City Codes section 6-6-13 B for watercourse requirements.

12-4-9: Blocks and Lots

Limit development on lot slopes. Currently there are no limitations to building on steep slopes. The proposed language would designate portions of lots that exceed 25% slope as "no build zones."

12-4-10 Improvements

Now that the City has a lighting chapter included in the City Codes, some of the duplicate language for lighting was deleted.

Clarify that the requirements for the section on improvements applies only to public improvements.

Language was included to clarify street sign installation.

Require retaining wall for 3:1 slopes.

Currently the subdivision regulations require retaining walls where there is a 2:1 slope. To reduce erosion and to allow for adequate maintenance of slopes, **as well as not provide restrictions that might adversely impact detention ponds and parks**, the proposed changes would require retaining walls where the slope exceeds 3:1.

Amending the language to require infrastructure improvements to be approved prior to issuance of a building permit. Currently building permits are issued prior to the approval of the infrastructure by Public Works. Fire safety concerns have prompted a reevaluation of this procedure. The proposed language would require approval of infrastructure improvements prior to the issuance of a building permit rather than later when an occupancy permit is requested.

Clarify language regarding installation options. The proposed changes would amend this section making it more consistent with current policy.

Require parkland dedication be consistent with the City's park plan and delete repetitive language.

CHAPTER 5: MINOR SUBDIVISIONS

Delete repetitive sections and refer to state law and other relevant chapters of this Title.

CHAPTER 6: AMENDMENTS; FEES; GENERAL PROVISIONS

CHAPTER 7: AMENDED PLATS

Revise references to the City Planning Department to state Planning

Division. These amendments reflect the current organizational structure.

Also a number of grammatical and formatting recommendations were incorporated throughout the 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, President of the Homebuilders Association, addressed the Commission and made some suggestions for the Subdivision Regulations. He stated he supports annexation and development in Helena, however, there is more development occurring outside of the City because of the restrictions applied. He expressed concern with definitions and more so with the 25% grade for lots. He stated that to limit building on anything over 25% stifles creativity. The vast majority of Helena built on slopes would not meet the 25% grade restriction requirement. He relayed the definition of 25% grade is not clear. The restriction should clarify the length to better define the statement. He also noted concern with the definition of water course. He stated anything could be construed as a water course with the current description. Clarification is needed for the depth of a depression and the amount of flow. He noted there is a requirement for sidewalks to be built at the time of the subdivision process. He stated as a builder, he has taken out many sidewalks at the developers expense so that houses can be built. He stated it's much simpler to put the sidewalks in at the time of construction. He noted other conflicts regarding pavement. He stated he supported deferred paving. The upfront costs of development are becoming so expensive in the City that there is virtually no opportunity for affordable housing. He also commented that the statement on underground electrical lines should clarify new electrical lines as it would be a significant cost to force everyone to bury lines that are currently overhead on small parcel developments.

Alan Nicholson, 1 Quarry Lane, addressed the Commission and concurred with Mr. Brown. He stated the valley is currently uncontrolled as far as building regulations. The costs for building in the valley are under inflated while the cost in town could become very over inflated. He expressed concern with removing time constraints for subdivision approval by the City. There was reference to road standards, which could create problems if adopted. He hoped there would be a process of taking these suggestions and working through them with good urban planning before adopting the changes.

Kermit Mueller, addressed the commission and concurred with Mr. Brown and Mr. Nicholson. He recommended the regulations be denied and restudied. He voiced concern with the 25% grades and urged the Commission not to approve the regulations as they are currently stated.

Bridgett Holland, Executive Officer for the Helena Builders Association, addressed the Commission and reiterated Mr. Browns' concerns. She presented a graph of construction areas and noted Jefferson County is the major site for new home construction. She stated the more restrictions put on developers and builders, the farther away people will build. She stated the builder's are against the 25% grade. She also presented a report on revenue lost because homes are not being built in Helena.

Jerry Hutch, 1111 E. State Street, addressed the Commission and asked what the subdivisions law was regarding the downhill affect of stormwater drainage. He also asked staff to address the issue of water rights for

subdivisions.

DD Dowden, addressed the commission and expressed concern with the street slope. She stated this issue concerns cost to the City and safety for the public. She stated any development that exceeds an 8% slope will require a variance, which would have to show hardship to be granted. She would like to see the ordinance approved with an 8% slope and the variance removed.

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

Discussion

Commissioner Netschert stated there seems to be numerous issues that need to be addressed and suggested tabling the item for another month so the regulations can be reviewed by those persons who have expressed concern this evening.

Commissioner Groepper stated the genesis of redoing the subdivision regulations were the Timberline issue, being on the receiving end of personal lawsuits and commitment to public discourse to ensure there were no more upheavals similar to the Timberline development. There is a need for clear guidelines on development. He stated street slope was a big issue as was cuts and fills and neighborhood impact. He stated his concern is with builders cutting out a piece of the side of Mount Helena and leaving it there. He would not have a problem with changing the 25% grade as long as there is language that states the surrounding landscape cannot be an eyesore and is presentable. He stated the cuts and fills for roads should require retaining walls once a slope exceeds a point that it can't be re-vegetated. He didn't feel there was enough language on neighborhood impact and voiced concern when traffic is increased from 200 to 800 in an existing neighborhood with no commitment by the developer to facilitate changes to existing streets, stop lights and street grades. He concurred with Mr. Brown's apprehension on the definition of water course and agreed it needs clarification. He was willing to negotiate the 25% lot grade as long as it looks nice but was concerned with the cost of maintenance of steeper street slopes. He relayed his frustration with developments that don't install sidewalks during the subdivision phases and end up with two or three blocks with no sidewalks. Commissioner Groepper volunteered his time to chair a committee to resolve the issues before second reading of the ordinance.

Commissioner Smith stated he felt the regulations need more work to resolve the contentious issues. He also suggested tabling the matter until it could be reviewed.

Commissioner Netschert asked Mr. Brown if one month would be enough time to address the issues that have surfaced.

Mr. Brown replied a month should be enough time to look at the issues.

Commissioner Groepper stated he would like see the ordinance pass first reading tonight and schedule a second reading with enough time to resolve these concerns. He didn't want to have another building season go by with nothing in place.

Commissioner Oitzinger asked if first reading of the ordinance was passed this evening, when would second reading be scheduled.

Commissioner Groepper replied 30 days was a reasonable timeframe. However, if the first reading isn't passed this evening, it will take 30 days until the next first reading, 2 weeks until the second reading and another 30 days before the ordinance is in effect. By this time, the building season will be starting to wind down. If first passage occurs this evening, the issues can be resolved in a timely manner and a plan can be initiated before the building season is over.

Mayor Morrison concurred with Commissioner Groepper and noted the City has some vulnerability with legal issues and this is one of the reasons the regulations were in review. He didn't feel there was anything brought up tonight that couldn't be resolved in a short period of time and was supportive of approving first passage this evening and moving forward quickly with the amendments. He also suggested leaving the public hearing open so people can comment on the amendments.

Motion

Commissioner Netschert moved first passage of an ordinance amending the Helena Subdivision Regulations, Title 12, of the Helena City Codes and leave the public hearing open for public comment.
Commissioner Groepper seconded the motion. All voted aye, motion carried.
Ordinance No. 2913

Mayor Morrison asked citizens interested in sitting on the committee to raise their hands. He noted Commissioner Groepper would chair the committee and Commissioner Netschert would also participate.

Commissioner Groepper asked those participating on the committee to stay after the meeting to discuss a meeting time.

Meetings of Interest

MEETINGS OF INTEREST

There were no meetings discussed.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:30 p.m.

MAYOR

ATTEST:

CLERK OF THE COMMISSION