

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
JULY 23, 2001
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, July 23, 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 Jim Christnacht.

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 July 9, 2001 were approved as submitted.

Proclamation CAL RIPKEN STATE CHAMPIONS

Mayor Morrison and Commissioner Netschert presented proclamations to the Cal Ripken All Star team and congratulated them on claiming their third State Championship.

Appointments PLANNING BOARD

Mayor Morrison stated he was not prepared to make appointments to the Planning Board, however, he would bring this back before the Commission in the near future.

Consent Agenda CONSENT AGENDA

- A. Claims
- B. Second passage of Ordinance 2914 – Boards and Commissions (Zoning Commission)
- C. Second passage of Ordinance 2915 – Rezoning Lots 29-32, Block 181, Brooke Addition
- D. Second passage of Ordinance 2916 – Rezoning Lots 9 and 10 in Block 9, West Helena Townsite
- E. Second passage of Ordinance 2917 – Amending zoning map for Lots 13 and 14, Block 20, Floweree Addition
- F. Second passage of Ordinance 2918 – Amending zoning map for the properties in the Carson Addition and Cannon Addition
- G. Second passage of Ordinance 2920 – Amending zoning map for properties in the Montana Avenue Addition. The East Valley View Addition, the Tenth Street Addition and the Bassett's Addition
- H. Water bill insert – Dial-a-Ride Bus
- I. Water bill insert – City-County Health Department
- J. Consider submitting a grant application for Montana Air & Congestion Initiative (MACI) funding
- K. Water & Sewer Boundary Extension - State Street
- L. Terms of Easement - East Side Transmission Main, Project No. 00-25
- M. FY02 early purchase request – Solid Waste Division

- N. Contract amendment No. 4 & 5, 6th Avenue Reconstruction, Phase II, Project No. 96-16

City Manager Tim Burton recommended approval of the claims.

**Commissioner Groepper asked to remove Item N for discussion.
Mayor Morrison asked to discuss Item H and Item K.**

Item H

Mayor Morrison stated that he had talked to the Tobacco Prevention Project people regarding the clean indoor air ordinance content of the brochure for the water bill. He noted a list of benefits of a clean indoor air ordinance on the brochure and suggested they limit the list to the first benefit. He relayed staff was comfortable with the suggestion. Commissioner Netschert recommended putting references for the statistics they are using on the back of the brochure.

Item N

Commissioner Groepper asked how comfortable staff was with the numerous amendments made to the Sixth Avenue Reconstruction Contract over the past few months.

Public Works Director John Rundquist explained the larger amount in the contract was anticipated. It was the intent that the contract administration would be negotiated when the actual construction time grew closer. That piece of the contract was anticipated although not included in the contract at the time. He further explained that sidewalk vaults have been found under the streets and they are not something generally included in a contract. He noted this is a continual problem in the downtown area and there are numerous vaults under older buildings that extend out under the streets. He relayed the engineering fees and work that Stahly Engineering has done is commensurate with the scope of the project and they've done a very reasonable and prudent job.

Commissioner Groepper asked if this was still within the initial budget amount expected with the amendments that have been added.

Mr. Rundquist replied the original budget was scoped several years ago and this is the second phase of the project. The budget has grown significantly since the original concept of the project.

Item K

Mayor Morrison stated the memo for item K indicated that the parties requesting the extension had signed a waiver of protest for a future street SID. He noted the property is located at the end of State Street and the pavement runs to the property. It seemed appropriate to him to extend the pavement, sidewalks, curbs and gutters along the property.

Mr. Rundquist replied he hadn't been able to get all of the background history on the property. However, he noted that it would be quite expensive for a single-family residence to extend a full street without participation from neighbors and financing through an SID. By extending the water and sewer service boundary and allowing the property owners to connect to water and sewer service is incurring a major expense for the owners. It leaves the option open for the City to create an SID and put the improvements in at a cost reasonable for the homeowner while allowing the infill development to proceed.

Mayor Morrison stated the City requires anyone building within the City to put in curbs, gutters and pavement and creating an SID for the area would be appropriate. He stated he would encourage staff to ensure this is done in a timely manner so as not to leave another unpaved street within the City as growth continues.

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

Bid Awards BID AWARDS

A. CARTER DRIVE RAILROAD PROJECT

Staff Report Public Works Director John Rundquist reported bids were open on June 28, 2001, with only one bid received from Maronick Construction. As part of a four-way agreement previously approved, the City, State, County and Montana Rail Link are partnering to reconstruct the railroad crossing on Carter Drive. The City, County and State are funding their respective portions of the construction with cash. The railroad will be reconstructing the crossings and providing concrete crossing surfaces. The bid received is more than the engineer's estimate and more than the approved budget. Staff met with the Department of Transportation and the County on July 11, 2001 to discuss the project and deal with the funding shortfall. At this meeting the State decided to provide the additional funding beyond our budget. He noted the Commission should have an amended agreement from MDT that addresses the cost difference between the original budgeted amount of \$80,000 and the bid amount of \$103,789.35. Timing of this project is important as the paving needs to proceed concurrently with the crossing work scheduled for August to provide approaches to the new crossing surfaces. The reconstruction of the north approach had been a continual safety problem that will be remedied with this project. In the event the project cost exceeds the bid, a change order will be required to pay the final cost. The County has indicated they will be willing to split the difference in such a situation.

Motion Commissioner Smith moved to award the bid for the Carter Drive Railroad Crossing Reconstruction Project to Maronick Construction in the amount of \$103,789.35, contingent on the additional State funding of \$23,789.35. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Motion Commissioner Smith moved to approve the amendment to the original contract for the Carter Drive Railroad Crossing Reconstruction Project to increase the contract from \$80,000 to \$103,789.35. Commissioner Groepper seconded the motion. All voted aye, motion carried.

B. CHIP AND SEAL 2001, PROJECT NO. 01-12

Staff Report Public Works Director John Rundquist reported this project would add a new wear surface, pavement, and sealer by applying a single application of asphalt material on a prepared asphalt surface, followed by spreading a 3/8 inch rock chip. Two bids were received and opened on July 10, 2001. Big Sky Asphalt of Bozeman submitted the lowest bid in the amount of \$232,908.20. This year's project is a joint venture with Lewis and Clark County in which the City's share for both Schedule A&B is \$152,891.20 and the County's share is \$80,017.00. County approval of their portion of this project is pending, but anticipated. A letter of commitment from the County will follow approval. The County portion will be billed directly to the County, however, the City will be the

contracting agency. A future change order of less than one percent of the project cost will be required.

Motion

Commissioner Groepper moved to award the bid for the Chip and Seal Project, No. 01-4 to the lowest responsible bidder, Big Sky Asphalt Inc., in the amount of \$232,908.20 with the City share of the cost to be \$152,891.20 and the County share \$80,017.00. Commissioner Smith seconded the motion. All voted aye, motion carried.

C. SIXTH AVENUE RECONSTRUCTION, PHASE II – NO. 96-16

Staff Report

Public Works Director John Rundquist reported this project would reconstruct Sixth Avenue from Beattie Street to Warren Street including pavement replacement, curbs, partial sidewalks, ADA ramps, storm drainage inlet improvements, water main replacement, and water/sewer service replacements. One bid was opened on July 10, 2001. Maronick Construction submitted a base bid of \$558,991.15. The bid for additive alternate A is \$12,340.00. There is a \$9,765.00 math error in bid item 8 making the corrected bid \$549,226.15. The bid includes \$71,843.40 for sidewalks and water and sewer improvements that will be paid for by the property owners. The budget for the total project is shown on the attached worksheet. There is \$8,285.00 FY2002 budget in Sewer R&D for additive alternate A. Alternate A for replacing the sewer service reducer will be added as a change order if additional funding is available. The first sequence of this project milled and overlaid Sixth Avenue from Warren Street to Fuller Avenue. This project will complete Sixth Avenue from Montana Avenue to Park Avenue. This award will allow the construction to be completed in calendar year 2001 construction season.

Motion

Commissioner Smith moved to award the bid for the Sixth Avenue Reconstruction Project – Phase II, No. 96-16 to the lowest responsible bidder, Maronick Construction, in the amount of \$549,226.15. Commissioner Groepper seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

A. CITY MANAGER PERFORMANCE APPRAISAL AND CONTRACT

Commissioner Groepper explained it is the duty of the City Commission to contract with and conduct a performance appraisal of the City Manager. He stated they have tried to standardize the appraisal documents and to develop a contract consistent with contemporaries in other Montana cities. Some of the new issues with the City Manager's performance appraisal are new categories including training and a section for setting goals. He stated they are requiring themselves to written comment in any area the manager would receive a rating other than satisfactory. He explained the changes to the contract over what has been done historically are as follows: 1.) offering the City Manager a two-year contract instead of an annual contract term, 2.) set the City Manager's pay at \$77,600.00 which is comparable to what a department head in State government makes and also in the middle range of pay for other City Managers in Montana, 3.) a clause, which protects the City Manager from being dismissed without cause. He stated in the event there is a formal action by the Commission to ask the manager to resign and the performance appraisal suggests he's doing a good job, there are some protections in the contract to allow the City Manager some

pay in the event he is dismissed without cause. He noted this is common contract language in a number of City Manager contracts throughout the State and nationally.

Motion Commissioner Groepper moved approval of the City Manager's performance appraisal instrument that was reviewed in detail Wednesday, July, 18, 2001. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Motion Commissioner Groepper moved approval of the 2 year contract with the City Manager and an amendment inserting the word "formal" in the written text, and striking "formal and informal" in the section that refers to "Recommendation to Resign" to require a formal motion of the City Commission to dismiss the City Manager. Commissioner Smith seconded the motion. All voted aye, motion carried.

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
City Manager Tim Burton referred to a request by the City of East Helena to participate in an Economic Development Assistance Grant for \$5,000 as a portion of a \$50,000 match. They are under a timeframe for letters of commitment. Mr. Burton asked the Commission for authority to send a tentative letter of commitment pending final approval of the City Commission through the budget process.

Mayor Morrison stated he attended the Gateway meeting today and his understanding is that the study would lead to further opportunity for funding at the Federal level to mitigate the economic impacts of the Asarco closure. He noted this impacts the City of Helena as much as the East Helena community. He noted this is a joint effort and other Counties are also participating.

Mr. Burton relayed the statistics are showing Helena is greatly impacted by the Asarco closure and this would open the opportunity for future grant monies to respond to that closure.

Motion Commissioner Oitzinger moved to authorize the City Manager to send a tentative letter of commitment to the East Helena Council in the amount of \$5,000 to participate in the Economic Development Study. Commissioner Smith seconded the motion. All voted aye, motion carried.

City Manager Burton also relayed to the Commission that the City of Helena has been notified that they have been awarded the Certificate of Achievement for Excellence in Financial Reporting for the 13th year in a row. He stated he would bring the award for a more formal presentation when it arrives.

Budget Resolutions CONSIDER RESOLUTIONS OF INTENTION TO LEVY AND ASSESS THE FOLLOWING ANNUAL CHARGES:

- A. TREE PLANTING AND MAINTENANCE DISTRICT Resolution No. 11652
- B. DUST CONTROL DISTRICTS #4, #5, #6, #7 AND #8 Resolution No.

- C. 11653
STREET MAINTENANCE DISTRICTS #1 AND #2 Resolution No. 11654
- D. S.I.D.'S Resolution No. 11655
- E. LIGHTING DISTRICTS Resolution No. 11656
- F. SIDEWALK IMPROVEMENT PROGRAM Resolution No. 11657
- G. STORM WATER DRAINAGE DISTRICT Resolution No. 11658

Staff Report

Budget Analyst Bob Ricker of Administrative Services reported that each year the City Commission must levy and assess the above annual charges in order for them to be placed on the upcoming tax bills. The resolutions of intention allow the City to place the required notices in the Independent Record so the public is informed. Mr. Ricker explained the proposal as follows:

Tree Planting and Maintenance District: The proposal is to keep the assessment rate the same at \$10 per GEO code or parcel.

Dust Control District: No districts will be assessed this year. For No. 6 – Brady Street, the available cash will allow for one application of dust control material. If the paving SID is created and the application is not necessary, any balance in the fund can be refunded to the residents. Two other districts (Nos. 5 & 7) have been paved. The remaining two (Nos. 4 & 8) do not want material applied.

Street Maintenance Districts: The rates, and assessment methodology, are proposed to remain the same.

Special Improvement Districts (SIDs): The SIDs are the actual charges on the 2000 tax bills adjusted for any known charges.

Lighting Districts: Of the City's 32 lighting districts, only eight will see an increase in rates. The remaining 24 districts will decrease or remain the same.

Sidewalk Improvement Program: The Sidewalk Improvement Program resolution of intention lists all parties who voluntarily participated in the 2000 program but have not elected to pay their assessment in full. It also shows the total amount of annual assessments that will be placed on the tax bills for the 1999 prior programs.

Stormwater Drainage District: The Stormwater Drainage Utility District resolution of intention anticipates no increase in the rate or change in the method of assessment.

Mr. Ricker reported the following budget items cover the proposed 2002 budgets for the Helena Parking Commission, the Business Improvement District, The Support Services Division and the 911 Fund. These budgets are presented in accordance with State law, which requires the City Commission to approve any budgets of appointed boards. These budgets were presented to the Commission on the budget work sessions on July 11 and July 18, 2001.

**Helena Parking
Commission Budget**

CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE HELENA PARKING COMMISSION FOR FISCAL YEAR 2002
Resolution No. 11659

BID Budget CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2002 **Resolution No. 11660**

Support Services Budget CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE SUPPORT SERVICES DIVISION FOR FISCAL YEAR 2002 **Resolution No. 11661**

911 Fund Budget CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED 9-1-1 FUND BUDGET FOR FISCAL YEAR 2002 **Resolution No. 11662**

Commissioner Smith asked if the list of people on the memo for the sidewalk program were citizens who signed up for the program or if these were people in arrears.

Mr. Ricker stated this reflects the people who signed up for the sidewalk program.

Mayor Morrison asked if the resolution of intention for the Business Improvement could quote State Code instead of a House Bill.

City Attorney Nielsen replied he would note the item and change the resolution to reflect the State Code.

Motion **Commissioner Groepper moved approval of the resolutions of intention for budget items 11 through 15 of the agenda with an amendment to the resolution of intention for the Business Improvement District, item #13, to substitute State Code section citation for House Bill 616.**
Commissioner Netschert seconded the motion. All voted aye, motion carried.
Resolution Nos. 11652 through 11662

1052 North Rodney CONSIDER A RECOMMENDATION REGARDING THE STREET MAINTENANCE DISTRICT FOR PROPERTY LOCATED AT 1052 NORTH RODNEY

Staff Report Public Works Director John Rundquist reported the property located at 1052 North Rodney has been assessed in Street Maintenance #2 for many years and was changed to Street Maintenance #1 for tax year 2000. This assessment was adjusted after an audit of the district boundaries showed this property was legally included in Street Maintenance #1. When Street Maintenance #1 was created, the intent was to assess all commercial properties that fronted Helena Avenue (in this instance) and to exclude all residential properties. Although this property is used as a business, it doesn't front on Helena Avenue. Mr. Rundquist proposed adjusting the boundaries of Street Maintenance #1 to exclude the property located at 1052 North Rodney. This property would then become part of Street Maintenance #2. Mr. Rundquist also recommended a refund of the net difference between the two assessments for tax year 2000.

Motion **Commissioner Smith moved approval to amend the boundaries of Street Maintenance District #1 to exclude the property located at 1052 North Rodney and authorize staff to issue a refund in the amount of \$670.39.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Easements CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH A FEE TO BE CHARGED FOR EASEMENTS GRANTED ACROSS CITY-OWNED PROPERTY OTHER THAN RIGHTS-OF-WAY

Staff Report City Attorney David Nielsen presented the proposal to establish fees to be charged for easements granted across City owned property other than rights-of-way. The Commission requested drafts for two options for aboveground utility easements; one option would strictly prohibit using City property for aboveground utilities and the other would allow them in non-monetary hardship cases. Mr. Nielsen relayed the proposal would be to adopt a methodology for determining the fees to be charged for easements granted across City owned property other than rights-of-way and to either restrict or prohibit the placement of aboveground utilities. The proposal reimburses the City for private easements granted across City property and establishes a uniform method for determining fees. The proposal also establishes clearer guidelines for whether aboveground utilities will be permitted on City property.

Commissioner Groepper relayed that when he discovered the City would have to pay Montana Power \$250,000 to bury utilities across non right-of-way for what would be Centennial Park, he took the position that future power, telephone, and cable lines would not be allowed above ground on non right-of-way easements.

Motion Commissioner Groepper moved approval of the second resolution of intention within the packet with the language that the City would not permit overhead or surface easements for aboveground utilities and to set a public hearing date of August 13, 2001. Commissioner Smith seconded the motion. Motion carried 3-2 with Commissioner Netschert and Mayor Morrison voting nay. Resolution No. 11663

Public ROW CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH A FEE TO BE CHARGED FOR PRIVATE USE OF PUBLIC RIGHTS-OF-WAY

Staff Report City Attorney David Nielsen reported the City has implemented a uniform format for use in agreements between the City and adjacent property owners who use rights-of-way for private purposes. As part of that agreement format the City Commission adopted a methodology concept for determining an appropriate lease fee. This fee needs to be formally adopted by the Commission after a public hearing to comply with the Helena City Charter. Charging a fee for the use of right-of-way allows the City to be compensated for private use of right-of-way on the same basis that a private landowner leasing property for the same use would receive. Using a minimum fee reimburses the City for the administrative expense of monitoring the terms of agreement. Establishing this fee by resolution complies with the Helena City Charter.

Motion Commissioner Groepper moved approval of a resolution of intention to establish fees to be charged for private and public use of public rights-of-way. Commissioner Smith seconded the motion. All voted aye, motion carried. Resolution No. 11664

Annexation Work CONSIDER AN UPDATE OF THE CITY OF HELENA ANNEXATION WORK

Plan

PLAN

Staff Report

Community Development Director Michael Barros presented the update of the annexation work plan. The following is the proposed amendments to the "Work Plan for Annexation."

- 1) **Enforce existing policies for annexation with extension of water and wastewater services.** Under City ordinance 6-5-4 (A), all properties within the water and wastewater service "shall be annexed or an attempt to annexation shall be made before any service area enlargement applications may be considered... Waivers may be accepted by the City in its sole discretion only in those particular cases where good and sufficient cause is shown and a hardship would result if waivers were not accepted."

Timing: Continuing

- A) Future requests for extension of water and wastewater services shall be assumed to trigger the annexation requirement unless the City Commission determines otherwise.
- B) The City will establish and maintain a single point of contact for annexation in the Community Development Department.

The determination of good and sufficient cause will rest with the City Commission.

Annexation of public rights of way will proceed with the annexation of private property. Rights of way to be annexed with private property include: (1) all public rights of way adjacent to the private property, including alley easements, typically in whole block segments; and (2) main street access routes of city service providers.

Future Annexation Areas shall be mapped to identify territories around the city where limited access to city utilities may encourage annexation requests, but where remoteness from existing city limits and the absence of intent to extend city services may give cause to defer immediate annexation subject to appropriate waivers.

- 2) **Act on annexation of wholly surrounded areas** under Title 7, chapter 2, part 45, M.C.A. Under this part, a City may annex property that is wholly surrounded by the City without concern for a right of protest or election, provided a plan is in place for the extension of services.

Timing: Annexation of some wholly surrounded areas is anticipated by December 2001

Refine the list of properties that may be annexed under 7-2-45. The law excludes several uses from annexation by this method, including agricultural, mining, smelting, refining, transportation, any industrial or manufacturing purposes, golf or country clubs, athletic fields or aircraft landing field, cemeteries, and public or private outdoor entertainment uses.

Develop criteria and establish priorities for wholly surrounded areas to be annexed.

Develop and implement a planning process and time line for annexation of surrounded areas.

Distribute information and meet with wholly surrounded property owners.
Initiate a case pipeline for annexation.

3) Act on annexation of unincorporated properties now served by City water and wastewater utilities, except those properties in the West Side study area.

Timing: December 2001

Develop list of affected properties.

Identify legal and administrative approaches.

Develop a process and time line.

Assess costs and benefits to City.

Assess standards and requirements of property owners.

Meet with property owners, distribute information, develop agreements on performance and phasing of street, curb, sidewalk and other standards.
Initiate a cases pipeline for annexation. If possible, group cases for simultaneous consideration.

4) Assess and promote annexation of unincorporated fringe areas.

Timing: December 2001

Identify universal issues that must be addressed, such as the coordination of City and county infrastructure standards, and the enforcement of fire and building codes in existing structures and establishments.

Identify neighborhood groups and issues that must be addressed with attention to West Side, East Side, North Side, and South Side areas.

Assess costs, benefits, and impediments to the City of annexation. Prioritize neighborhoods.

Design and plan the extension of public infrastructure and services.

Communication and information gathering, public meeting, public hearing.
Work out agreements for annexation, including performance standards and phasing.

Discussion

Commissioner Groepper inquired about item 3 in the work plan regarding annexing unincorporated properties now served by City water and wastewater utilities. He realizes that what is defined as the west side will be taken at a slower pace, however, he asked if most properties that have water and sewer not in the west side study are on a definite path to be annexed.

Mr. Barros replied it isn't cost effective to annex properties into the City

parcel by parcel. There are some parcels that are receiving water and sewer, however, staff is trying to bring larger groups together before an approach is made. The majority of properties receiving water and sewer other than a few wholly surrounded properties are on the west side. There are some properties on the east side that have one or the other utility and they are on the work plan. First a plan must be developed to bring in other City services and then the annexation process can begin.

Commissioner Groepper felt if properties already have water and sewer, it shouldn't take a big plan to get fire, police and garbage services to those properties if an SID waiver for streets is accomplished.

City Manager Burton stated that after sitting in numerous meetings his understanding is there are very few properties that receive both City water and sewer. Usually it is one or the other.

Mr. Barros replied staff has not placed the few properties receiving both as a priority due to the fact that the cost is about the same to work on annexing one property as it is several properties in one geographic area. The purpose of the work plan is to get input on what timelines should be attached to the information on identified properties with one or both utilities and when they should be approached for annexation. He stated they should be able to return with the information by October 2001.

Commissioner Groepper stated a timeframe should place first priorities as those properties with both water and sewer and not in the west side study. Properties with one or the other service will be included in the plan and the west side area properties will be approached after the study is complete. He stated these are his opinions on the plan and the rest of the Commission may have other ideas.

Commissioner Smith stated he appreciated the diligence with the development of the plan. He believed item 3 could be amended by including the phrase "except for those residences in the west side study area," after wastewater utilities. He also suggested December of 2001 as a reasonable date by which the work should be completed.

Commissioner Netschert voiced his concerns regarding wholly surrounded areas and the affects it has on people not in the process of annexation. He suggested a bifurcated system for those who would be affected by anything other than their own devices.

Mayor Morrison stated he has a long-standing interest in the east side of the City on the other side of the Interstate. He stated there has been State legislation to assist the City on annexation of the area and work on the UDO is also including this area. He would like to see a definite timeline for item #4 to ensure the issue is dealt with. He stated this would be an opportunity to alleviate some of the annexation problems in a pro-active manner before they become as problematic as the west side.

Motion

Commissioner Smith moved approval of the updated City of Helena Annexation Work Plan with an amendment to item 3 to state "Act on annexation of unincorporated properties now served by City water and wastewater utilities excluding properties in the West Side Study area," and to include a date certain for item #3 and item #4 of December 2001.

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

**Final Plat
City Park Addition**

CONSIDER FINAL PLAT APPROVAL TO AGGREGATE AND CONSOLIDATE 24 BLOCKS CONTAINING 156 LOTS AND 3 TRACTS INTO 12 LOTS AND AMEND THE CITY PARK ADDITION IN A PLI (PUBLIC LANDS & INSTITUTIONS) DISTRICT

Staff Report

City Planner Belinda Waters presented the proposal to consider final plat approval to create twelve lots from a 82.05-acre tract of land in the City Park Addition with a property address of 2701 Prospect Avenue. The City Commission gave preliminary plat approval to create twelve lots from the above-mentioned property on June 4, 2001. This approval was subject to three conditions, which have been satisfied. The final plat must be filed with the Clerk and Recorder within three years. Filing the final plat will facilitate the redesign of 159 lots of record and arrange them into one large lot that will house MDT headquarters and the remaining lots will verify property lines and establish rights-of-way for I-15. The following are the conditions that have been satisfied:

1. **Utilities**
Sufficient easement rights need to be provided to the City for water, sewer and storm drainage and noted on the final plat. Any City maintained infrastructure on Lot G should be labeled public with appropriate easements.
2. **Right-of-Way**
Lots H through R shall become dedicated right-of-way.
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 disk AutoCAD format or Micro-Station System supplied to the Engineering Department.

Motion

Commissioner Groepper moved approval of a final plat approval to aggregate and consolidate 24 blocks containing 156 lots and 3 tracts into 12 lots and amend the City Park Addition in a PLI (Public Lands & Institutions) District. Commissioner Smith seconded the motion. All voted aye, motion carried.

**Construction
Agreement**

CONSIDER A CONSTRUCTION AGREEMENT FOR NORTH MAIN RECONSTRUCTION PROJECT, STPU 5807(8) (TABLED FROM JULY 9, 2001)

**Construction
Agreement**

CONSIDER A CONSTRUCTION AGREEMENT FOR LYNDALE OVERPASS, PROJECT NO. 99-4 (TABLED FROM JULY 9, 2001)

Staff Report

Public Works Director John Rundquist reported the City Commission tabled this item on July 9 to review the contract with the Montana Department of Transportation. Mr. Rundquist explained the Commission wanted to look at easement language that would include MDT compliance with City ordinances. In addition, a letter is being drafted to send to Governor Martz. Mr. Rundquist explained the project and stated the planning and public involvement dates back approximately ten years. The project will accommodate a multitude of issues such as pedestrian and bicycle travel with bike trails and boulevard sidewalks. A

new entrance to Carroll College will also be facilitated with this plan along with a pedestrian tunnel to connect the college with Centennial Park and the Great Northern area. He presented a map of the project and explained the various plans for landscaped medians, bike paths and sidewalks, and street lighting.

City Manager Tim Burton stated the changes in the contract language is represented in Section 2 (11) and should mitigate any concerns the Commission expressed in previous meetings.

Jason Giard, Department of Transportation, addressed the Commission and stated he and Mr. Burton came to quick agreement as to the language changes within the contract.

Commissioner Smith asked how close the new North Montana Avenue would come to the Veterans Memorial.

Mr. Giard indicated the roadway would be approximately 50 feet away from the Veteran's Memorial.

Mayor Morrison relayed the Commission still has concerns and would like to do some future work with other cities on the template agreement that is a standard agreement for the State.

Motion Commissioner Groepper moved approval of the construction agreement with MDT for the North Main Reconstruction Project, STPU 5807 (8). Commissioner Smith seconded the motion. All voted aye, motion carried.

Motion Commissioner Groepper moved approval of a construction agreement with MDT for the Lyndale Overpass, Project No. 99-4. Commissioner Smith seconded the motion. All voted aye, motion carried.

Public Hearings PUBLIC HEARINGS

**Zoning Change
Parchen Addition** A. 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 (TABLED FROM JUNE 4, 2001)

**Amending Res. 11224 B.
Great Northern PUD** CONSIDER A RESOLUTION AMENDING RESOLUTION #11224 (APPROVED MARCH 9, 1998 FOR A CONDITIONAL USE PERMIT (CUP), 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 (TABLED FROM

JUNE 4, 2001)

Staff Report

City Planner Kathy Macefield presented the proposal for a zone change from CLM-T-2 to B-3 for the former recycling center and the Brewhouse, and R-3 to B-3 for the Helena Community Federal Credit Union. The three properties that are included in the proposed zone changes are under separate ownerships. The proposed zone change for the former recycling center is accompanied by a simultaneous request to amend the resolution for the conditional use permit establishing the Great Northern Planned Unit Development (PUD) to include this property in the PUD. The credit union and the Brewhouse properties are expected to continue their current uses. There are no current plans to build on the former recycling center property and a parking lot may be constructed at this location in the future. Ms. Macefield explained a parking lot is a conditional use in the B-3 zone and a permitted use in the CLM zone. The Brewhouse restaurant is a conditional use in the CLM zone but would be a permitted use in the B-3 zone. The brewery is a permitted use in the CLM zone and will become a conditional use in the B-3 zone. The three properties are a logical extension of the current downtown B-3 zoning district. The original conditional use permit was directly related to the lots included in the 11.16-acre PUD as identified by the subdivision plat. Incorporating an additional 1.25 acres into the PUD will require the subdivision plat to be amended. The Helena Zoning Commission unanimously recommended approval for the two proposed zone changes.

Commissioner Smith asked what the T Standard reflected in this zone.

Ms. Macefield replied the T Standards are all different and seemed to be created as a response to a particular issue at the time. This one was established in the early 1970's and may have been due to a traffic issue.

Public Testimony

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

Alan Nicholson, Artisan LLP, addressed the Commission and explained the nature of the zone change. He explained he would like to bring the recycling center property into the PUD so he could further develop the property if appropriate development was created. He stated he may put a parking lot on the property to accommodate the carousel in that area. He outlined numerous benefits to the City that this proposal would bring. He noted staff had suggested a number of requirements subject to the approval. If some of the requirements are made, he does not want to be committed to changing the zone on the property or bringing it into the PUD because it could be deleterious to the developer's position. He stated if the zoning is not changed, he can still develop the lots with no requirements for improvements and no requirement to pay them up front. Mr. Nicholson explained the development plan and traffic studies for the area and noted the original purpose of the development agreement was to create a high-density development at the Great Northern. The motivation for bringing the parcel into the PUD is to take advantage of the density requirements. Mr. Nicholson also noted he is not representing the Brewhouse or the Helena Community Federal Credit Union regarding the zone changes for their parcels.

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

Discussion

Mayor Morrison stated the City has a parking garage in the Great Northern area that is only about 30% utilized. If Mr. Nicholson constructed a parking lot in the recycling center property, it would be in direct competition with the under utilized parking garage. He noted the parking garage is a paying

member of the Great Northern association. He asked Mr. Nicholson to comment on what kind of affect another parking lot might have on the parking garage.

Mr. Nicholson replied once the office buildings and Federal Building are complete the parking structure should fill with employees. He stated the recycling center parking area would accommodate the carousel. He expects the carousel to bring in heavy, short-term use. He was afraid if he developed the area without a parking structure, it would be overburdened with parking for short-term use. Mr. Nicholson stated as far as competition with the parking garage, they have agreed to charge the same amount per stall as the City charges for similar parking. The intention to put a children's museum near the carousel will draw even more people. Mr. Nicholson felt strongly that parking was needed, however, if the parking is not needed, he would like to develop the lot.

Mayor Morrison asked what the possibility might be of conducting some of the studies to determine what the needs of the area are prior to making a decision on rezoning the PUD so neither party goes into this blind.

City Manager Tim Burton relayed having the information prior would give Mr. Nicholson and the City the opportunity to decide whether these are the right decisions.

Mr. Nicholson replied a traffic study would cost very little because one has already been done. He asked what would happen if a current traffic study shows the area needs more traffic mitigation. He stated he does not want to go through with the PUD because he doesn't want to put traffic improvements in at this point. They have already agreed to be part of a PUD for a traffic improvement district that was handled at the time of the development agreement. It's not clear to him why he should be penalized for wanting to extend the area by having to do traffic improvements that result from a lot of other people doing things in the area including the Federal Building. He stated a parking study has never been done. He stated parking requirements in the B-3 zone were never going to be met in the PUD. The result of a parking study if the City parameters are used will certainly be more parking requirements.

Commissioner Smith implied the issues surrounding the expansion of the PUD should be resolved before a step is taken for rezoning. He was interested in Mr. Nicholson's offer regarding relocation of the storm drain and noted further exploration should be investigated. He asked Mr. Nicholson if he would be willing to sit down with staff and discuss some of the issues.

Mr. Nicholson relayed the he doesn't want to build over the City storm sewer or restrict access so this isn't an issue.

Commissioner Groepper clarified that Mr. Nicholson wanted to do a high-density development and he doesn't want to do a traffic study for fear it may show more parking is needed. Yet, he wants to put more parking in to make it more convenient for people to get to the carousel when the carousel isn't that far from the parking garage. He wondered if an approach to the decision to put a new parking structure in could be reached at a threshold level of occupancy of the current parking structure. He suggested they could agree to do a trigger point at some level of occupancy in lieu of a traffic study, otherwise there may be reluctance as the budget process is worked through to see where the revenue stream is for the current parking structure. He thought the carousel and the children's museum was a good idea, however, he didn't feel it would impact the area if people parked in the current parking structure and walked the three blocks to the carousel.

Mr. Nicholson replied without the closer, short-term parking available, the carousel may not be able to support its own cost of operating. He didn't agree

that people would pay to park and walk three blocks to utilize the pavilion. He stated the carousel is a gift to the community and he has to do everything he can to make the carousel work.

Commissioner Smith asked if the Zoning Commission reviewed the original development agreement.

Ms. Macefield stated the original agreement wasn't presented to the Zoning Commission. She further relayed she had not looked at the development agreement, however, she did look at the original conditions approving the CUP. The Zoning Commission bases their recommendation on staff recommendation and the comment given during the public hearing. The conditions here are consistent with the resolution when the CUP was originally set up. At that time, a traffic impact study was required and a parking study was required and done. In the parking study it was argued that because this was a high density development that people would be parking and then walking around, therefore they had a capture rate where they did not have to provide as much parking as was required by ordinance.

Mr. Nicholson stated a traffic study was done and it resulted in knowledge that there were going to be traffic impacts. The City agreed in the development agreement that because of those impacts, Artisan LLP would waive any protest to an SID to improve those traffic conditions. No parking study was done to his knowledge. He stated they wouldn't have met the requirements of the City if a parking study was done and the parking was negotiated with the City.

Commissioner Groepper asked what happened to Mr. Nicholson's ability to put a parking lot on the recycling center property if there is no zone change.

Ms. Macefield stated that Mr. Nicholson could still put a parking lot on the property with the current zoning.

Commissioner Groepper asked if the primary purpose of the zone change is to bring this property into the PUD and pay out of his pocket PUD assessments for the recycling center property that he has acquired.

Mr. Nicholson concurred and stated it would also allow him to develop the property with housing or commercial property if the parking is not needed.

Commissioner Oitzinger asked if flexibility was interpreted in the ordinances even if a study was done.

Ms. Macefield stated a main concern is not to increase the situation and congestion in an area and not to increase the effect on the nearby residential district by trying to address parking within certain parameters. The thought was by including the additional property in the parking study to expand is to make sure everything will still function and not have an adverse effect on adjacent properties.

Commissioner Netschert concurred that parking might be appropriate for the carousel, however, revenues for the parking structure also raises questions. He felt there were too many questions that need to be resolved before he would be comfortable making a decision on the issue.

Mayor Morrison asked City Manager Burton if staff could find some reasonable solutions to the issues and concerns raised.

Mr. Burton replied staff could do some more work on the concerns, however, he didn't know if this would have an affect on Mr. Nicholson's plans.

Mr. Nicholson replied he would be out of town for a period of time, however, he would be willing to sit down with staff to resolve some of the issues.

Commissioner Oitzinger asked to ensure the other entities involved in the zone change were contacted for their participation in the discussion.

Motion

Commissioner Smith moved to table public hearing items A and B

regarding a zone change and resolution amending Resolution #11224 to the call of the City Manager. Commissioner Groepper seconded the motion. All voted aye, motion carried.

**Minor Subdivision
Coulter Loop**

- C. CONSIDER A MINOR SUBDIVISION/PRELIMINARY PLAT IN A R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT FOR A 13,489 SQUARE FOOT LOT CREATING TWO TOWNHOUSE LOTS. LEGALLY DESCRIBED AS LOT 7, PIONEER SUBDIVISION, HELENA, MONTANA; GENERALLY LOCATED WEST OF COONEY DRIVE AND ON THE NORTHERN TIER OF THE NORTH SIDE OF COULTER LOOP

Staff Report

City Planner Belinda Waters presented the proposal for a minor subdivision/preliminary plat review for Lot 7 of the Pioneer Subdivision. The subject lot is currently a vacant single-family lot consisting of 13,489 square feet. The applicant is requesting to divide the lot to create two townhouse lots. The property is currently an existing undeveloped lot located west of Cooney Drive and north of Barney Street and is zoned R-3 (Medium Density Residential). City water and sewer to serve the proposed subdivision is already in place. Both lots in the proposed subdivision will meet lot area and width requirements for this district as well as townhouse area regulations. The subdivision would permit greater density and promote affordable home ownership, which are objectives of the comprehensive plan. Ms. Waters stated the proposal is subject to the following conditions:

1. **Site Plan**
Clarify on final plat if utility easement is 10-foot or 12-foot wide
2. **Water and Sewer**
Separate water and sewer service to serve the second townhouse will be required.
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.
4. **Sidewalks**
A boulevard must be installed and connected to existing boulevard sidewalks.

Public Testimony

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

Spence Russell, applicant, addressed the Commission and urged them to support the proposal.

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

Motion

Commissioner Groepper moved approval of minor subdivision/preliminary plat in a R-3 (Medium Density Residential) District for a 13,489 square foot lot creating two townhouse lots; legally described as Lot 7, Pioneer Subdivision, Helena, Montana; generally located west of

Cooney Drive and on the northern tier of the north side of Coulter Loop subject to the listed conditions. Commissioner Netschert seconded the motion. All voted aye, motion carried.

***Public
Communications***

PUBLIC COMMUNICATIONS

There were no persons wishing to address the Commission from the public.

***Meetings of
Interest***

MEETINGS OF INTEREST

Mayor Morrison relayed he and Commissioners Oitzinger and Netschert have been working on an evaluation for the City Clerk and noted a formal evaluation had not been done for three years. He noted they were trying to clean up the process and get an evaluation on record.

Mayor Morrison also commented on a letter received from the Department of Justice complimenting Police Officer John Fosket on his work.

City Manager Burton relayed the budget meetings are scheduled for 3:00 p.m. and not 4:00 p.m. for July 25 and August 1 as listed on the agenda.

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