

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
AUGUST 13, 2001
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, August 13, 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.

There was not an HCC representative present.

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 23, 2001 were approved as submitted.

Appointments

APPOINTMENTS

- A. Planning Board
- B. Civil Service Board
- C. Land Use & Management Advisory Group

Mayor Morrison relayed an application was inadvertently misplaced and he would like to postpone the appointments to the Consolidated Planning Board until the next meeting to give the person a chance to have the application reviewed.

Motion

Commissioner Netschert moved to table the appointments to the Consolidated Planning Board until all applications can be re-reviewed.

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

Mayor Morrison recommended the following appointments:

Civil Service Board

Jeff Miller – term expires May 1, 2004

Land Use and Management Advisory Group

Dawn A. North – term expires June 30, 2003

Motion

Commissioner Smith moved approval of the appointments as outlined above.

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

Consent Agenda

CONSENT AGENDA

- A. Claims
- B. Second passage of Ordinance 2919 – Amending Zoning map for Lots 6-9, Block 19 of the Corbin Addition
- C. Resolution declaring certain personal property to be surplus (vehicles & equipment) **Resolution No. 11669**
- D. Utility Cost Agreement – Lyndale Overpass, Project No. 99-4

- E. Modification to the original CTEP application for "1999 Sidewalks-Helena", a project for replacement of Historical Brick Sidewalks
- F. Consider closure of CTEP project entitled "97 Bike/Ped Paths-Helena"

City Manager Tim Burton recommended approval of the claims.

Commissioner Groepper asked to remove item D from the consent agenda.

Motion

Commissioner Groepper moved approval of consent agenda items A, B, C, E & F. Commissioner Smith seconded the motion. All voted aye, motion carried.

Item D

Commissioner Groepper asked what was the base cost of replacing two 48-inch pipes instead of presuming, as the state did, that they could put a 72-inch pipe in. He asked why staff just used the state's numbers instead of investigating the costs.

Public Works Director John Rundquist replied staff had investigated the piping and do prefer a 72 inch pipe. The 72 inch pipe is the hydraulic equivalent to two 48 inch pipes, however, in a storm drainage one pipe is preferred over two pipes. He stated staff wanted to contribute to the oversize of the 72 inch to the 96 inch pipe so it would meet the ultimate master plan for Last Chance Gulch and receiving storm drainage there. The cost was negotiated on the oversize to the values that are represented in the staff report.

Motion

Commissioner Groepper moved approval of item D on the consent agenda. Commissioner Smith seconded the motion. All voted aye, motion carried.

Bid Awards

BID AWARDS

- A. Winne Tanks Recoating, Project No. 01-13

Staff Report

Public Works Director John Rundquist reported bids were open on July 10, 2001. Four bids were received with the lowest from Falcon Construction Company of Helena in the amount of \$94,400. The engineer's estimate was \$170,000. The Engineering Division has researched Falcon Construction Company and has contacted references. This contractor appears to be reputable and responsible based on the research. Mr. Rundquist recommended awarding the Winne Tanks Recoating, Project No. 01-13 to Falcon Construction Company in the amount of \$94,400.

Commissioner Groepper asked what the tanks are coated with and if the coating interacts with the water that comes out of the tanks.

Mr. Rundquist replied he didn't know what the exact materials were in the coating, however, it does meet NSF standards for contact with potable water.

Motion

Commissioner Groepper moved to award the Winne Tanks Recoating, Project No. 01-13 to Falcon Construction Company in the amount of \$94,400. Commissioner Smith seconded the motion. All voted aye, motion carried.

B. MRTP Filter Rehabilitation, Project No. 01-16

Staff Report

Public Works Director John Rundquist reported the bids were opened on this project on July 10, 2001 and only one bid was received. Sletten Construction bid \$276,490 for the filter rehabilitation work. The engineer's estimate was \$51,000. Staff proposes to reject all bids for this project. The bid received well exceeds both the engineer's estimate and budget for the project.

Commissioner Groepper asked City Attorney David Nielsen if staff has the ability to reject the bids and start over without having to bring the matter to the commission.

City Attorney David Nielsen replied staff does have the ability and this was more of a communication and doesn't actually require a motion.

Commissioner Groepper stated in the future he would prefer items such as these be put on the agenda as an item of information in a communication to the commission.

City Manager Burton concurred and noted the commission should be notified of these items so an appropriate response can be relayed to the public should it become necessary.

Motion

Commissioner Groepper moved to reject the bid of Sletten Construction for the MRTP Filter Rehabilitation, Project No. 01-16.
Commissioner Smith seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
There were no communications 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
City Manager Tim Burton relayed the Administrative Services and Finance Division has again received the Certificate of Achievement for Excellence in Financial Reporting. He thanked Bob Ricker and the administrative staff for their efforts during this budget session.
Mr. Burton also stated that Tim McGee has accepted the position as Administrative Services Director and will be on the job August 31, 2001.

A. Labor Agreements for Machinists and Police

City Manager Burton referred the commission to the memo and summaries on the machinists and police unions labor agreements. He asked Personnel Director Salty Payne to address the commission on the issues.

Mr. Payne stated there were some language changes made to the agreements and salary change recommendations. Mr. Payne recommended approval of the agreements.

Motion

Commissioner Smith moved to accept the proposed labor agreement between the International Association of Machinists and Aerospace Workers, Local 231, and the City of Helena with a term from July 1, 2001 through June 30, 2004. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Motion Commissioner Smith moved to accept the proposed labor agreement between the American Federation of State, County and Municipal Employees, Local 2280 and the City of Helena with a term from July 1, 2001 through June 30, 2002. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

CTEP – Euclid Ave. CONSIDER MODIFICATION OF CTEP AGREEMENT FOR EUCLID AVENUE MEDIANS, PROJECT NO. 99-6.

Staff Report Assistant Public Works Director Phil Hauck reported the original agreement for this project was approved February 7, 2000. The agreement for the city share of improvements for the Euclid Avenue medians was as follows: CTEP Grant Amount - \$200,429; City Match (Property Owners) \$32,066; for a total project cost of \$231,495. The new agreement modification revises the initial project costs estimates by \$120,205 due to additional landscaping and irrigation systems, an additional water vault, additional fill materials, additional patterned concrete cap, and cross drains that weren't included in the original project. The city's share of any costs increase is 13.42% of the total increase or in this case \$16,132. The actual amount will only be \$14,008 because of the additional match received from property owners. The new agreement would allow the total project to be allocated as follows: CTEP Grant Amount - \$304,502; City Match (Property Owners) \$33,190; City Match (Gas Tax) - \$14,008; for a total project cost of \$351,700. The new agreement modification is also proposing to revise the original agreement by deducting out costs that were completed by the state as part of their project on Euclid. Mr. Hauck explained the reason for the new agreement is due to fact that the state's project and design was not finished at the time the CTEP grant was due from the city for the project. It was believed some of the items would be done by the state in their project or they were just forgotten. He noted there would be more plantings and trees in the area west of Joslyn and out. Mr. Hauck recommended approval of the revised project agreement with MDT for the Euclid Avenue Beautification Project.

Commissioner Smith asked if the lack of information was inherent in the CTEP application process.

Mr. Hauck replied he believed much of it had to do with timing as to when the city is required to get the grant in and coordinating it with the Montana Department of Transportation at the time.

Motion Commissioner Smith moved approval of the revised project agreement with MDT for the Euclid Avenue Beautification Project. Commissioner Groepper seconded the motion. All voted aye, motion carried.

Closure of Alley CONSIDER A RESOLUTION OF INTENTION TO CLOSE THE NORTH ACCESS TO THE ALLEY IN BLOCK 45 OF THE ORIGINAL HELENA TOWNSITE

Staff Report Public Works Director John Rundquist referred the commission to the July 27, 2001 memo from Doug Krebs and himself. As part of the Sixth Avenue Reconstruction – Phase II project, the City Engineer proposes to close access to Sixth Avenue right-of-way. The project will construct a retaining wall between the

existing rock walls and backfill the area behind the wall. The area behind the retaining wall will provide additional business and residential parking. The access closure will eliminate the safety hazard of vehicles entering Sixth Avenue. Mr. Rundquist recommended approval of the resolution of intention and setting a public hearing date for August 27, 2001.

Commissioner Groepper asked if the city intends to abandon the alley and offer the property for sale to the adjacent landowners.

Public Works Director John Rundquist replied the alleyway provides access after its closure to parking to the adjacent buildings so access will be from a different direction. Mr. Rundquist replied he would investigate the possibility of offering to sell the property to the adjacent landowners before the public hearing.

Motion

Commissioner Groepper moved approval of a resolution of intention to close the north access to the alley in Block 45, Original Helena Townsite and set a public hearing date for August 27, 2001. Commissioner Smith seconded the motion. All voted aye, motion carried. **Resolution No. 11670**

Access to Poplar St.

CONSIDER A RESOLUTION OF INTENTION TO CLOSE ACCESS TO POPLAR STREET FROM NORTH MAIN STREET IN THE GRAND AVENUE ADDITION

Staff Report

Public Works Director John Rundquist reported the majority of North Main Street north of the railroad track has no curb and gutter. Ingress and egress from Poplar Street and the businesses to North Main Street are not restricted. The city, as part of the Grand Avenue Improvements (SID 405) did install a sign on eastbound Poplar stated "street closed to thru traffic". This proposal does not impact access for maintenance of existing utilities. MDT has held several public meetings addressing the reconstruction issues. Additionally, city staff has contacted and discussed the proposal with either the owner or owner's representative at Tire Rama, P&E Supply, Helena Trailer Sales, and Knox Flowers. The first three businesses are preparing a joint request to close Poplar Street from North Main Street to National Avenue. As part of the MDT North Main Reconstruction Project, MDT proposes to close access to Poplar Street at the North Main Street ROW line. North bound Columbia Avenue will remain open. Curb cuts are provided for access to local businesses. Additionally, the dead-end sections of Poplar Street can be accessed from National Avenue and Villard Avenue. Mr. Rundquist recommended approval of the resolution of intention and setting a public hearing date for August 27, 2001.

Commissioner Groepper asked what would be used to close the street so people can't drive out onto the North Main Project.

Mr. Rundquist replied this will be part of the North Main project and curb and sidewalk will block the roadway.

Motion

Commissioner Groepper moved approval of a resolution of intention to close access to Poplar Street from North Main Street in the Grand Avenue Addition and to set a public hearing date for August 27, 2001. Commissioner Smith seconded the motion. All voted aye, motion carried. **Resolution 11671**

Zoning Map Update

CONSIDER ACCPETANCE OF THE UPDATED CITY OF HELENA ZONING

MAP

Staff Report

Senior Planner Kathy Macefield noted the updated map shows the changes approved by the city commission since the previously adopted map. The map includes three zone changes and four annexations that have occurred. Ms. Macefield recommended the commission accept the updated map.

Motion

Commissioner Groepper moved to accept the updated City of Helena Zoning Map with a revision date of July 2001. Commissioner Smith seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS

- A. Consider resolutions levying and assessing for maintenance and operations of the following annual charges:
1. Business Improvement District **Resolution No. 11672**
 2. Tree Planting and Maintenance District **Resolution No. 11673**
 3. Dust Control Districts 4, 5, 6, 7 & 8 **Resolution No. 11674**
 4. Street Maintenance Districts 1 & 2 **Resolution No. 11675**
 5. SID's **Resolution No. 11676**
 6. Lighting Districts **Resolution No. 11677**
 7. Sidewalk Improvement Program **Resolution No. 11678**
 8. Stormwater Drainage District **Resolution No. 11679**

Staff Report

Bob Ricker, Administrative Services, reiterated the assessment districts do not have any change in methodology of assessment nor have the rates changed other than 8 of the 32 lighting districts for the city. These 8 districts experienced a small increase to cover the cost of the operations.

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 the resolutions levying and assessing for maintenance and operations of the following annual charges: Business Improvement District; Tree Planting and Maintenance District; Dust Control Districts, 4-8; Street Maintenance Districts 1 & 2; SID's; Lighting Districts; Sidewalk Improvement Program; and Stormwater Drainage District. Commissioner Smith seconded the motion. All voted aye, motion carried.

- B. CONSIDER A RESOLUTION ADOPTING THE MUNICIPAL BUDGET FOR FISCAL YEAR 2001-2002, AND FIXING THE ANNUAL APPROPRIATIONS (CONTINUED FROM AUGUST 8, 2001)

Staff Report

Bob Ricker, Administrative Services, referred to packet material that re-summarizes the changes made to the general fund preliminary budget. He also updated the general fund expenditure summary that reflects the changes made from the August 8th budget hearing. The total amount of the general fund expenditures is now at \$10,915,14.00 which represents an \$83,000 cut in the expenditure budget.

Public Testimony

Mayor Morrison declared the public portion of the hearing continued open from the August 8th meeting and called for any persons wishing to address the commission.

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

Commissioner Groepper asked City Manager Tim Burton what impact there might be if the Department of Revenue certifies a mill that is less than what the current certified number was thought to be.

City Manager Tim Burton replied if the taxable valuation is less, budget analysts would determine how many mills would have to be levied in terms of the revenue.

Commissioner Groepper asked if the budget can be passed and adjustments made if the mills come in differently. He asked what the timeframe for making amendments would be once the mill levy certification comes in.

Mr. Burton stated if the budget is adopted this evening, the amendments can be made as soon as the certified taxable valuation is received which could be at the next commission meeting scheduled for August 27.

Mayor Morrison asked if the budget public hearing would have to be re-advertised and a new hearing conducted on the revised budget.

Mr. Burton concurred.

Mayor Morrison felt this would create problems with trying to adjust the municipal budget and expenditures if the levies are changed after hearing from the Department of Revenue.

Discussion continued on what impact this may have on the budget and expenditures.

Mr. Burton stated the city will not be able conclude the budget process within the statutory timeframes due to the delay by the Department of Revenue of the certified taxable valuation. He suggested tabling the budget items and continuing the public hearing until the next commission meeting.

Motion

Commissioner Groepper moved to table a resolution and continue the public hearing adopting the Municipal Budget for Fiscal Year 2001-2002, and fixing the Annual Appropriations to the call of the city manager until the Department of Revenue valuation certifications are received.

Commissioner Oitzinger seconded the motion.

Commissioner Netschert preferred to attend to the budget matters at the next regular commission meeting on August 27. He felt this would be easier for him to schedule.

Amendment

Commissioner Groepper amended his motion to state "to the call of the city manager ensuring all commissioners can be present or until the next regular city commission meeting on August 27."

Vote

Commissioner Oitzinger seconded the amendment. All voted aye, motion carried.

Levying Taxes

C. CONSIDER A RESOLUTION LEVYING TAXES FOR MUNICIPAL AND ADMINISTRATIVE PURPOSES

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 continued the public hearing to the call of the city manager.

Commissioner Groepper explained to those present that the commission had intended to hold the mill levy at or below the same mill levy as last year in the general fund which was 98.75 mills. This may go up or down depending on the certified valuation from the Department of Revenue.

Commissioner Oitzinger expressed concern that people may see increases in their tax bills that are not attributable to anything the commission has done. She asked City Manager Burton for comments on this issue.

Mr. Burton explained there are several government departments represented on property tax bills including state, county, various school districts, and the city of Helena as well as certain fees. He stated the budget depicted this evening based upon the city's taxing authority under House Bill 124 is 5.23 mills less than that full authority which represents in excess of a \$217,000 cut.

Motion

Commissioner Groepper moved to table a resolution levying taxes for Municipal and Administrative purposes and continued the public hearing to the call of the city manager ensuring all commissioners can be present or until the next regular commission meeting on August 27.

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

Agenda Change

Mayor Morrison moved items 15 and 16 on the agenda to allow budget staff the opportunity to leave the meeting early.

Capital Improvement

CONSIDER A RESOLUTION ADOPTING THE CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF HELENA, MONTANA, AND TRANSFERRING MONEY TO THE CAPITAL IMPROVEMENT FUND

SID Revolving Fund

CONSIDER A RESOLUTION TRANSFERRING SURPLUS MONEY FROM THE SID REVOLVING FUND TO THE GENERAL FUND

Staff Report

Bob Ricker, Administrative Services, asked the commission if they would prefer to continue the two budget items to the next meeting.

City Manager Tim Burton responded and stated these items are tied into the final budgetary decisions and it might be best to carry them forth with the previous budget hearings.

Motion

Commissioner Groepper moved to table a resolution adopting a capital improvement program for the city of Helena, Montana, and transferring money to the capital improvement fund and a resolution transferring surplus money from the SID revolving fund to the general fund to the call of the city manager. Commissioner Smith seconded the motion. All voted aye, motion carried.

CDBG–Eagles Manor

D. CONSIDER A RESOLUTION AUTHORIZING SUBMITTAL OF A PROPOSED HOUSING COMMUNITY DEVELOPMENT BLOCK GRANT TO ASSIST EAGLES MANOR FOR AN ENERGY CONSERVATION PROJECT

Staff Report

Belinda Waters, Planning Division, reported the proposal states the city would sponsor the grant on behalf of the Fraternal Order of Eagles and the Eagles Manor No. 2 Inc., to improve the energy efficiency of the facility. This would include replacing the two separate heating and cooling systems of the buildings to one efficient natural gas system and replace window units in the older building, known as the Penkay Eagles Manor. Ms. Waters recommended approval of the resolution authorizing submittal of a proposed housing CDBG to assist Eagles Manor. She introduced Robyn Welch of Business Services and asked her to further explain how the grant would be utilized.

Ms. Welch addressed the commission and explained the grant would help the facility with various concerns in keeping the low income housing in livable condition. She noted significant repairs are needed and the grant would allow for those repairs.

Commissioner Groepper asked how many more years the HUD agreement would continue with the Eagles Manor on these buildings.

Ms. Welch replied they are on a yearly section 8 renewal and she believed they had just gone through a HUD restructuring loan with at least 30 years of affordability on the loan.

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 authorizing submittal of a proposed housing Community Development Block Grant to assist Eagles Manor for an energy conservation project with the understanding it will remain low income housing for another 30 years.

Commissioner Smith seconded the motion. All voted aye, motion carried.
Resolution No.11680

Ordinance 2913

E. CONSIDER SECOND PASSAGE OF ORDINANCE 2913, AMENDING THE SUBDIVISION REGULATIONS, TITLE 12 OF THE HELENA CITY CODE

Staff Report

Lucy Morell-Gengler, Planning Division, reported the commission approved first passage of Ordinance 2913 on June 8, 2001. A committee was formed to review some of the proposed changes. The committee has met and their recommendations are being presented to the commission for review and possible adoption. The following are the recommended amendments:

WATERCOURSE DEFINITION

Chapter 1, Section 12-1-6 Definitions

Page 7, starting at line 48

To address the concern that the definition of watercourse was too broad and could include minor depressions, additional language was added to clarify the definition of Watercourse.

UTILITY DISTRIBUTION LINES

Chapter 4, Section 12-4-11 (G) Public Improvements

Page 14, starting at line 17

To address concerns that the subdivision regulations did not distinguish between

new and existing utility lines, the committee proposed to clarify that “new ” utility distribution lines must be installed underground.

“SUBDIVISION” CHANGED TO “DEVELOPMENT”

Chapter 2, Section 12-2-2 (A) Lands Unsuitable for Subdivision

Page 2, starting at line 34 and 46

“Subdivision” was changed to “Development” to accurately describe the process where property with hazards could be subdivided but development of these lands could be restricted.

LANDS UNSUITABLE FOR SUBDIVISION LESS RESTRICTIVE

Chapter 2, Section 12-2-2 (A) Lands Unsuitable for Subdivision

Page 2, starting at line 47

“Must” was changed to “may” to allow the Commission more flexibility in evaluating lands unsuitable for development.

STEEP SLOPES

Several sections of the subdivision regulations were amended to address language regarding development of areas with slopes over 25% grade.

Prior to the committee’s amendments, proposals to the recommended subdivision regulations would have prohibited development of slopes over 25%. Prohibition of development on slopes is found in a number of subdivision regulations. For example, Lewis and Clark County prohibits development on slopes 30% or greater, and Missoula prohibits development on slopes 25% or greater. The committee proposed less restrictive language that would require areas that exceed 25% slope, whether naturally or as a result of earthwork done to develop the subdivision, to be designated as “Special Development Areas.” Since development of these areas usually occurs after subdivision review, the problems associated with development of steeper areas, such as cut and fill, erosion control, and increased fire dangers, are usually not evident until the property is being prepared for building construction. An appropriate location for regulations for the development of steep slopes would not be in the subdivision regulations but in the zoning ordinance. The subdivision process can be used to identifying these steeper areas on a plat for future property owners. Therefore, the following language is proposed in the subdivision regulations to designate areas where the slope is 25% or greater.

Chapter 2, Section 12-2-2 (A) Lands Unsuitable for Subdivision

Page 2, starting at line 35

“Steep slopes in excess of 25 percent slope” was deleted and replaced with “Special Development Areas” that require meeting additional guidelines for development.

Chapter 2, Section 12-2-5 Preliminary Plat

Page 6, starting at line 42

Replace language prohibiting development of steep lots with language requiring all areas of a subdivision where the slope exceeds 25%, even slopes created by the developer, to be designated as a “Special Development Area.”

Chapter 4

Page 1, starting at line 19

Include "Special Development" section

Chapter 4, Section 12-4-10 Special Development Designation:

Page 12, starting at line 41

This section sets out some of the parameters for the "Special Development Designation." More specific guidelines should be added to the zoning ordinance that would affect all development on steeper slopes.

TRAFFIC IMPACTS ON NEIGHBORHOODS

Language is being proposed that would identify when a traffic impact study is required. Based on that study, the City could deny the subdivision due to traffic impacts if a proposed subdivision is anticipated to cause impacts that cannot be mitigated.

Chapter 2, Section 12-2-2 (C) Lands Unsuitable for Subdivision

Page 3, starting at line 8

Language was added to allow denial of a subdivision for adverse traffic impacts that cannot be mitigated.

Chapter 2, Section 12-2-5 (C 6) Preliminary Plat

Page 9, starting at line 6

Include language to require a traffic impact study when a proposed subdivision is anticipated to increase traffic by more than 100 vehicle trips per day. (A single family dwelling generates approximately 10 vehicle trips per day.) This requirement would clarify when a traffic impact study is required and would assist in evaluating Section 12-2-2 (C) Lands Unsuitable for Subdivision.

STREET GRADES

Several sections of the subdivision regulations were amended to address language regarding street grades. Currently the subdivision regulations are guided by the Institute of Transportation Engineer's (ITE) recommendations for street grades. These are written as guidelines and not regulations. The proposed language would clarify some of ITE's language and provides a more regulatory framework for street grades. Per first passage, the subdivision regulations would set 8% as the standard street grade. Variances could be granted if they met the criteria for granting variances and the streets met specific design features.

Chapter 4, Section 12-4-4 B 1 Street Grades

Page 10, starting at line 27

The Committee was divided on the issue of maximum street grades for variances. The first passage of the subdivision regulations limited any variances to street grades to 11% for a maximum length of 500 feet. The committee also discusses limiting variances to 10% instead of 11%. *The committee requested that the Commission discuss this issue and vote on it separately from the rest of the subdivision regulations.*

Chapter 4 Section 12-4-4 (A 2) Street Grades

Page 10, starting at line 5

ITE allows a range of grades for intersections and approaches; the proposed

language would clarify the maximum grades for these areas and defines street approaches consistently with the methodology used by the Building and Engineering departments.

Chapter 4, Section 12-4-4 (B 4) Street Grades

Page 10, starting at line 45

In addition to other guidelines for granting street grade variances, this section would limit granting a variance from the maximum street grade of 8% to secondary streets and only if the primary emergency route to the area is available at an 8% grade or less.

PROTECTIVE SLOPE MEASURES

Language is being proposed that would clarify when protective slope measures are required, where they are required, and what is an acceptable measure. Language is also proposed that would clarify when bonding is required for protective slope measures.

Chapter 4 Section 12-4-11 (I) Public Improvements

Page 14, starting at line 43

The proposed language would clarify that protective slope measures would be required when any earthwork is done to install public improvements.

Chapter 4 Section 12-4-11 (I, 6) Public Improvements

Page 15, starting at line 23

The proposed language clarifies what impacts must be mitigated by the protective slope measures and allows the Commission to review the visual impact of mitigation proposals.

Chapter 4 Section 12-4-14 (A) Performance Bond; Time Limit:

Page 16, starting at line 42

Language is proposed to clarify that protective slope measures must be bonded, and that bonding will not be released until the City verifies the effectiveness of the protective measures.

BONDING FOR PHASE DEVELOPMENT

Chapter 4 Section 12-4-14 (A) Performance Bond; Time Limit:

Page 17, starting at line 2

Language was included clarifying that bonding can be released for a phase when the improvements have been accepted by the City.

Chapters 5,6, and 7 – no additional changes have been proposed.

Chapter 3 is reserved.

Commissioner Smith asked if the recommendations before the commission facilitates staff's work analyzing and evaluating subdivision proposals.

Ms. Morell-Gengler replied the changes have clarified many issues and will be very beneficial for staff.

Commissioner Groepper relayed he chaired a subcommittee consisting of three developers, one representative of Plan Helena, an engineer, and various other citizens who sporadically attended meetings. He offered to explain each

item in regards to the general consensus of the subcommittee.

Public Testimony

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

Dawn North, 707 2nd Street, addressed the commission and concurred with the traffic impact statements. She also voiced concern with special development areas and development on 25% slopes. She felt this was the cause of excessive cut and fill areas. She supported the 8% grade road slope and suggested no more than 10% grade on a variance.

Debbie Klisis, 910 Helena Avenue, addressed the commission and asked for a clarification in Section 12-4-4A , item 3, to add the term "back of curb," for measurement purposes.

Bridgett Holland, Helena Building Industry Association, addressed the commission and concurred with the committee report stating it was a fair compromise. She noted that a split level house can't be built on a 25% grade and discussion was held in the meetings regarding this issue. She also concurred with the 11% variance for a secondary access to a subdivision.

Dick Thweatt, 36 Harrison, addressed the commission and stated his support for the effort in amending the subdivision ordinance. He also concurred with the 8% road grade with variances limited to a 10% grade.

Dan Stinson, 9th Avenue, addressed the commission and stated he supports the compromises within the ordinance. He supported road grade variances of up to 11%. He suggested the 8% roadways be designated as snow routes and stop signs should be minimized to avoid additional problems. He also voiced concern with alley widths at a minimum of 20 feet.

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

Discussion

Commissioner Groepper asked that the written comments from Pam Hackley and Polly Bailey be put into the public record and taken into consideration as the this discussion ensues. He continued by explaining the committee's recommendations on some of the issues. He noted there were differences in opinions, especially on street grades and since he was the chairperson of the committee he would not make motions on the amendments.

Discussion ensued on the amendments most controversial such as watercourse definition, construction slope at 25% grade, street grades, and neighborhood impact and traffic studies.

Commissioner Groepper explained the current street slope in a primary subdivision access can be no more than 8% and there are no variances for the primary access. The conditions for the commission to grant a variance for street slopes only exist for the secondary access. He relayed this is an issue that needs to be defined.

Discussion followed regarding the grades of the street, emergency access, and snow removal. It was noted the Institute of Transportation Engineers recommends an 8% street slope.

Commissioner Netschert suggested that instead of designating that one access be the primary access, just stating that one access can be no greater than 8% grade.

Commissioner Groepper replied the developers recommended the primary route and secondary route language. The primary route was defined as the route that is the fastest emergency access route in the face of a life-threatening emergency.

Mayor Morrison commented that he continues to be disturbed by anything over an 8% grade. He didn't think the city should be taking ownership of any roads that are steeper than 8% grade. He noted the expense and increase in problems that arise with anything over the 8% grade.

Commissioner Oitzinger stated the city of Helena currently has a too many areas that have excessive steep grades because of past actions.

Commissioner Netschert stated if the grade is limited to 8%, the city is also limiting the development of affordable housing.

City Manager Burton stated any action approved this evening would not be implemented for 30 days beyond passage of the ordinance. All applications in the system now are under the current regulations.

Motion

Commissioner Oitzinger moved to amend Section 12-4-4 (B) to strike the entire section to eliminate any variances for street slopes and that the street grade slope be set at an 8% grade for primary and secondary accesses. Commissioner Groepper seconded the motion.

Commissioner Groepper stated this particular issue was discussed at the committee meeting. DD Dowden of Plan Helena felt an 8% grade should be adhered to, however, she also felt the conditions to grant a variance should be narrowly defined and should not be over 10%. He continued by stating the developers were somewhat in concurrence with a limit of a 10% variance with some wavering of opinions. He noted the expense and maintenance of the steeper streets.

Ms. Morell-Gengler remarked that with the lower grades there is the possibility of more cut and fill to bring the street grades down.

Vote

Motion passes 3-2 with Commissioners Netschert and Smith voting nay.

Commissioner Groepper explained the steep slope matter and stated that the initial recommendation was that nothing could be built on slopes steeper than a 25% grade. The definition prohibits certain houses such as earth-bermed and passive solar houses. He noted the concern with building on steep slopes and stated language has been added that if a home is built on steeper grades, the land must be re-vegetated with no more soil erosion or storm water runoff and aesthetically pleasing as before the land was disturbed. He also relayed the city has the ability to bond to guarantee the land is reclaimed to the original condition.

Commissioner Smith asked about the staff report that states "an appropriate location for regulations for the development of steep slopes would not be in the subdivision regulations but in the zoning ordinance."

Ms. Morell-Gengler anticipates a follow-up from staff to present more defined guidelines and expectations of these areas including cut and fill requirements that would be similar to the protective slope measures in the subdivision regulations for the developers to adhere to. She stated a recommendation would also address fire concerns, roofing and siding requirements, etc.

Commissioner Groepper suggested directing staff to prepare zoning ordinance changes to implement this. To incorporate the changes into the zoning ordinance would ensure control over the lots within the development areas.

Motion

Commissioner Smith moved to direct staff to incorporate the steep

slope language into the zoning ordinance. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Commissioner Groepper explained the amendments to Section 12-2-5, Preliminary Plat. He stated the concept of this amendment is to protect the quality of life in a neighborhood that has a subdivision development near them. He noted the definition is an attempt to clarify at what point the developer would be required to mitigate the traffic impact of that subdivision on a neighborhood.

Commissioner Netschert expressed concern with the number being used to trigger a traffic study. He stated the affordability of a home might be impacted because a traffic study is required.

Discussion ensued on the threshold for impacts from traffic and various resolutions to the numbers that would trigger traffic studies.

Transportation Planner Kathy Harris suggested the city could develop a standard format which would allow smaller developments to have more of a checklist type traffic sub-study done that would still suit the purpose of determining traffic impacts at critical locations without the need to do a large scale traffic study.

Commissioner Oitzinger concurred with the sub-study suggestion as did Commissioner Netschert.

Motion **Commissioner Netschert moved to amend the traffic counts from 100 vehicle trips to 200 vehicle trips per day to trigger a traffic study.**
Motion dies for lack of a second.

Motion **Commissioner Groepper moved to amend page 15, beginning on line 32 and line 38, to strike the words City Engineer and replace it with City Manager.** Commissioner Smith seconded the motion. All voted aye, motion carried.

Motion **Commissioner Groepper moved to amend Section 12-4-11 (D) (1) (2), page 13, line 43 insert "If street lighting is deemed to be necessary, all street lighting must conform with the provisions of Title 10, Chapter 3 of the Helena City Codes."** Commissioner Smith seconded the motion. Motion passes 4-1 with Commissioner Netschert voting nay.

Motion **Commissioner Groepper moved second passage of Ordinance 2913 with the proposed amendments to Title 12 of the City of Helena Subdivision Regulations as outlined in the August 3 staff memo subject to the amendments moved this evening.** Commissioner Oitzinger seconded the motion. Motion passes 4-1 with Commissioner Netschert voting nay.

Street Annexation CONSIDER A RESOLUTION TO ANNEX STREET RIGHTS OF WAY ON HELENA'S WEST SIDE

Staff Report Hal Fossum, Planning Division, reported on July 9, 2001 the commission passed a resolution of intention to annex street rights of way. The county commission has requested the annexation of these streets. Two written public comments have been received to date, and three calls have been received by Planning staff, all expressing concerns about the proposed street annexation. The Streets Division and the City Public Works Department has presented an analysis of the financial and management impact of this proposal. The

commission requested that staff estimate the total number of existing homes within the area that would be wholly surrounded by this proposed street annexation, and the number served by city water or sewer utilities. Data provided by the City Finance Division and IT&S suggest that about 75% of existing units within the area that would be surrounded by this action are currently served by city water. Mr. Fossum recommended approval of the resolution to annex the following street rights of way:

1. The 60-foot right of way of Joslyn Street, from the Highway 12 (Euclid Avenue) south through existing Helena city limits at Choteau Street and the Reber PUD.
2. The 66-foot wide right of way of Knight Street, from its intersection with Joslyn Street west through its intersection with Winston Street.
3. The 60-foot wide right of way of Winston Street, from its intersection with Knight Street north to its intersection with Choteau Street.
4. The 18-foot wide alley right of way between Knight Street and Choteau Street from its intersection with Winston Street through its intersection with Joslyn Street.

Public Testimony

Mayor Morrison declared the public portion of the hearing open and called for any persons wishing to address the commission.
With no persons wishing to address the commission, Mayor Morrison closed the public hearing.

Motion

Commissioner Smith moved approval of a resolution annexing street rights of way, as described above. Commissioner Groepper seconded the motion. Motion passes 4-1 with Commissioner Netschert voting nay.
Resolution No. 11681

CUP

CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) FOR A CASINO WITH 20 GAMING MACHINES, ASSOCIATED WITH A MOTEL, TO BE LOCATED IN THE B-2 DISTRICT. LEGALLY DESCRIBED AS LOT 13, BLOCK 26; LOTS 13-17, BLOCK 35, FLOWER GARDEN ADDITION; AND THE CLOSED ALLEYS AND THE CLOSED PORTIONS OF ELM STREET AND OAKES STREET, SECTION 20, T10N, R3W, HELENA, MONTANA; GENERALLY LOCATED WEST OF I-15 AND NORTH OF CEDAR AVENUE WITH A PROPERTY ADDRESS OF 2300 N. OAKES STREET.

Staff Report

Kathy Macefield, Planning Division, reported she had a discussion earlier in the day with the Department of Transportation regarding concern with access to the area. A meeting is planned with the applicant and the MDOT to address the concerns. She recommended tabling the issue until the September 10 commission meeting.

Mark Johnson, owner of Marks-A-Lot, addressed the commission and asked if they had received a letter from Frank Mihelish.

The commissioners had received the letter and asked Mr. Johnson or Mr. Mihelish to attend the September 10 meeting.

Motion

Commissioner Groepper moved to table a resolution for a conditional use permit (cup) for a casino with 20 gaming machines, associated with a motel, to be located in the B-2 District. Legally described as Lot 13, Block 26; Lots 13-17, Block 35, Flower Garden Addition; and the closed alleys and the closed portions of Elm Street and Oakes Street, Section 20, T10N, R3W, Helena, Montana; generally located west of I-15 and north of Cedar Avenue with a property address of 2300 N. Oakes Street to the September 10 commission meeting. Commissioner Smith seconded the motion. All voted aye, motion carried.

**Fee Establishment
Public ROW**

CONSIDER A RESOLUTION ESTABLISHING A FEE TO BE CHARGED FOR PRIVATE AND PUBLIC/PRIVATE USERS OF 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 by resolution complies with Helena City Charter requirements. Mr. Nielsen stated this will be interpreted by the adjacent property owners and surface rights-of-way.

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.

Mayor Morrison noted he had contacted by numerous citizens expressing concerns that this would require public utilities having to pay large fees under this proposal. Mayor Morrison clarified this is not the intent of the proposal.

Motion

Commissioner Groepper moved approval of a resolution to establish fees to be charged for private and public/private use of public rights of way. Commissioner Smith seconded the motion. All voted aye, motion carried. **Resolution No. 11682**

**Fee Establishment
Easements**

CONSIDER A RESOLUTION ESTABLISHING A FEE TO BE CHARGED FOR EASEMENTS ACROSS CITY OWNED PROPERTY OTHER THAN RIGHTS OF WAY

Staff Report

City Attorney David Nielsen reported that at the June 27th administrative meeting with the commission, a proposed methodology was presented for determining fees the city would charge for easements across city owned property. The proposal would adopt a uniform methodology for determining the fees to be charged for easements granted for city owned property other than rights of way and to either restrict or prohibit the placement of underground utilities. The proposal would also establish clearer guidelines for whether above ground utilities will be permitted on city property. Charging for easements across city property may encourage other property owners to start charging the city for easements

needed across their property, however, the impact should be minimal.

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 establish fees to be charged for easements granted across city owned property other than rights of way. Commissioner Smith seconded the motion. All voted aye, motion carried. **Resolution No. 11683**

Public Communications

PUBLIC COMMUNICATIONS
There were no persons wishing to address the commission.

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