

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 14, 2002
6:00 P.M.

- Time & Place** A regular City Commission meeting was held on Monday, January 14, 2002, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.
- Members Present** Mayor Jim Smith indicated for the record that Commissioners Netschert, Oitzinger and Parriman were present. City Manager Tim Burton, City Attorney David Nielsen, and City Clerk Debbie Havens were present.
All members of the Helena Citizens Council that were present were given the oath of office and sworn-in by Mayor Smith.
- Pledge of Allegiance** Mayor Smith 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 December 17, 2001 were approved as submitted.
- Appointment** APPOINTMENT
A. City Commissioner
- Motion** Commissioner Oitzinger moved to appoint Tom Pouliot as the new Helena City Commissioner. Commissioner Parriman seconded the motion. All voted aye, motion carried.
- Oath of Office** City Commissioner
Mayor Smith administered the Oath of Office to Commissioner Thomas A. Pouliot.
Helena Citizens Council
Mayor Smith administered the Oath of Office to the Helena Citizen Council members:

Robert Hollow; Dave Laber; George T. Hoff; Mary Kunnary;
William (Bill) Roberts; Bob Habeck; Douglas Miller; James Christnacht;
Jane Redeau-Ogle; L. Randall Kaiser; Jerry McGee; Dennis Crawford;
Barbara Morris; Allen Tompkins; Mary Seitz; Jerry Hutch; Richard Gillespie

Member Bob Habeck spoke on behalf of the Helena Citizens Council and stated it was their drive to give to the commission thorough recommendations on both short-term and long-term issues. They feel they have the "ear" of the city and that they play a vital role in providing direction to the commission.
- Consent Agenda** CONSENT AGENDA
A. Claims
B. Resolution amending Resolution No. 10797 Nunc Pro Tunc in order to properly reflect the CUP's sign requirements for a Planned Unit Shopping Center located in a B-2 District, Boyce Addition, Block 25-A as approved by the City Commission on August 8, 1994. Resolution 11720
C. Final plat approval for Lots 7A and 7B, Pioneer Village Subdivision
D. Contract for conceptual design work for a Public Spaces project located north of the Lyndale pedestrian tunnel

- E. Resolution declaring certain tangible personal property to be surplus property and authorizing the sale thereof (Wastewater lachat lab equipment) **Resolution 11722**
- F. Montana Rail Link agreement for Benton Avenue railroad crossing flashers
- G. Consider a resolution authorizing the Helena Parking Commission to establish parking restrictions on portions of 13th, 14th, 15th and Front Streets in the City of Helena, Montana. **Resolution 11721**

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Motion **Commissioner Netschert moved approval of the consent agenda, items A-G.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Bid Award BID AWARD
A. Nature Park Trail

Staff Report Parks Director Randy Lilje reported a bid opening for the subject project was held November 20, 2001. This project will be funded through Open Space Bond Recreational Trails Program Grant and a Community Transportation Enhancement Program Grant. Two bids were submitted. One was from Maronick Construction in the amount of \$150,180. One was from Robinett Construction in the amount of \$114,306.15. There was an irregularity in the Robinett Construction bid. Staff was able to address the irregularities to the comfort of the Montana Department of Transportation as well as the city attorney. Entranco Engineering recommended the award of the contract to the low bidder, Robinett Construction of Helena for \$114,306.15. The bid is within the amount budgeted for the project. Staff concurs with the recommendation from Entranco Engineering.

Discussion Commissioner Oitzinger requested clarification on the irregularity of the Robinett Construction bid. Mr. Lilje stated within the bid package there are two bid proposal forms that the contractor signs and Robinett signed the city form, but did not sign the state CTEP form. He did sign the actual contract form. There were also minor mistakes in the extension of their numbers.

Motion **Commissioner Oitzinger moved to award the contract for the construction of the Nature Park Trail project to Robinett Construction Incorporated for Schedule C in the amount of \$114,306.15.** Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
A. Appointment of Commissioners to consultant selection committees for:
1) Stormwater Inventory and Master Planning – **Commissioner Pouliot**
2) Utilities Maintenance Facility, Treatment Administration Office, warm storage and Solid Waste shop relocation - **Commissioner Parriman**

Commissioner Parriman stated he is happy to be on board and welcomed Commissioner Pouliot.

Commissioner Oitzinger also congratulated Commissioners Parriman and Pouliot and Mayor Smith in their new role on the commission.

Commissioner Netschert congratulated the commission members for obtaining their seats on the commission. He thanked Mayor Smith for his leadership and getting the new commission member appointed.

Commissioner Pouliot again thanked the commission members for his appointment to the commission.

Mayor Smith welcomed Commissioners Parriman and Pouliot to the commission.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney David Nielsen congratulated Mayor Smith and Commissioners Parriman and Pouliot for being seated on the commission.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Tim Burton welcomed Mayor Smith and congratulated all the commissioners for being on the commission.

City Manager Tim Burton reported there will be meetings:

- January 23, 2002 at 3:00 New commission orientation
- January 23, 2002 at 4:00 Administrative meeting
- February 20, 2002 at 1:00 Budget goal meeting

Public Works Director John Rundquist updated the commission on the fire protection water service line at US Bank. This line serves the building sprinklers. U.S. Bank received a street cut permit through the city and excavated to repair that fire protection service line. U.S. Bank has a tunnel that runs from their drive-in facility on one side of the street to the bank on the other side of the street. The water service line is located underneath that tunnel. Staff estimates the street will be open by January 15, 2002.

Noxious Weed Management Support Agreement

CONSIDER A PROPOSED NOXIOUS WEED MANAGEMENT SUPPORT AGREEMENT WITH LEWIS AND CLARK COUNTY.

Staff Report

Director of Parks and Recreation Randy Lilje reported this agreement will control the noxious weeds along specified streets and trails. Although city residents pay a significant percentage of the Lewis and Clark county weed control assessment, support for weed control from Lewis and Clark County has been limited. This agreement increases the weed control efforts within the city by the county weed district department. This agreement will provide weed control services from the county so that weed control funds from the city may be used for other necessary weed control work.

Discussion

Mayor Smith noted this agreement is a big step in the right direction to get noxious weeds under control.

Motion

Commissioner Oitzinger moved to approve the Noxious Weed Management Support Agreement between Lewis and Clark County and the City of Helena. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Community Development Director Michael Barros also congratulated the commission members and pledged that his department will work closely with the commission.

**Gateway Economic
Development
Corporation**

CONSIDER A REQUEST FROM GATEWAY ECONOMIC DEVELOPMENT CORPORATION FOR THE 2002 ADMINISTRATIVE BUDGET.

Staff Report

Director of Community Development Michael Barros stated for the record that he is a city appointee on that board of directors, but does not participate in Gateway's budget decisions and if one comes before him, he abstains from voting. Those decisions are made by an executive committee of which he is not a member.

In September 1999, the City of Helena signed a Subrecipient agreement with Gateway that specified under Section IV "The City authorizes Gateway administrative compensation to be paid from the fund in the amount of the annual budget approved by Gateway and the City." Gateway services all existing City loans, several of which have had significant legal/collection fees. Gateway plays a leading role in all issues involved in economic development in the city. The City of Helena was a major player in the creation of Gateway. Our strategic partnership will create long-term advantages in the areas of business retention and expansion, job creation, and public private partnering in economic development.

Staff recommends approval of the request from Gateway Economic Development Corporation's transferring \$41,666 from the Helena Revolving Loan Fund to Gateway's administrative budget for FY 2002.

Lynn Robson, on behalf of Gateway, congratulated the commission members.

Motion

Commissioner Oitzinger moved to approve Gateway Economic Development Corporation's transferring \$41,666 from the Helena Revolving Loan Fund to Gateway's administrative budget for FY2002. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

***Exchanging
city-owned land***

CONSIDER EXCHANGING CITY-OWNED LAND AT THE CORNER OF LINCOLN ROAD AND MONTANA AVENUE FOR LAND OWNED BY THE MONTANA DEPARTMENT OF TRANSPORTATION AT THE CORNER OF BILLINGS AND OREGON STREETS.

Staff Report

Assistant Public Works Director Phil Hauck reported the city of Helena owns 3.15 acres of land located at Lincoln Road and Montana Avenue. The property is adjacent to a gravel pit owned by the Montana Department of Transportation. MDOT currently owns a portion of Block 110, Lot 16 of the Northern Pacific Second Addition, which is generally located on the Northeast corner of Billings Avenue and Oregon Street. This portion of the lot was acquired

by MDOT for right-of-way during construction of I-15. The city would acquire the remaining unused portion of Lot 16, Block 110, which currently serves as surface drainage for the intersection of Billings Avenue and Oregon Street. If the acquisition is approved, the city of Helena could close the existing 70 foot by 120 foot undeveloped Oregon Street right-of-way and sell the parcel as a residential lot. Development of the right-of-way will clean the area and become less of an eyesore to neighboring residents. Acquisition of the parcel from MDOT is necessary as it currently accommodates surface drainage to the area. MDOT desires to obtain the 3.15 acres adjoining their existing facility that serves as a gravel pit and sand storage area.

Staff recommends approval of the Montana Department of Transportation Agreement to exchange real property between MDOT and the city of Helena and review the transfer when appraisals are completed.

Discussion

Commissioner Parriman asked if approval is asking for the land exchange or the appraisals? Mr. Hauck noted if both parties do not agree with the appraisals, the agreement is null and void.

Commissioner Oitzinger asked Mr. Hauck to explain the stormwater that is currently located on the MDOT land. Mr. Hauck noted it is not a significant drainage problem except when there is a large run-off .

Motion

Commissioner Oitzinger moved approval to exchange city-owned land at the corner of Lincoln Road and Montana Avenue for land owned by the Montana Department of Transportation at the corner of Billings and Oregon streets and review the transfer when appraisals are completed.

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

PUBLIC HEARINGS

- A. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN ELEMENTARY SCHOOL TO BE LOCATED IN A CHURCH IN AN R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT. LEGALLY DESCRIBED AS ALL OF BLOCK 29 OF THE LENNOX ADDITION, HELENA, LEWIS AND CLARK COUNTY, MONTANA; LOCATED BETWEEN CALIFORNIA AND OREGON STREETS AND BROADWAY AND HIGHLAND STREETS WITH A STREET ADDRESS OF 2231 BROADWAY STREET.

Staff Report

Planner Lucy Morell-Gengler reported the First Lutheran Church is proposing utilizing the existing classrooms within the church complex to establish an elementary school for grades kindergarten through fifth. The proposed school would be in addition to the existing preschool currently located at the church. The maximum enrollment for the school would be 120 students. According to the applicant, the hours of operation would be 8:00 a.m. to 5:00 p.m., Monday through Friday. The school would employ six teachers and one administrator. Based on zoning ordinance requirements, eight parking spaces for the church would be utilized for the school. Modifications to the exterior of the building would be limited to two exterior doors. In addition, some internal modifications would be needed.

On November 13, 2001, the Zoning commission unanimously recommended DENIAL (by 5 to 0 vote) of the proposed CUP for the elementary school.

Ms. Gengler, using overhead maps, showed the location of the proposal. This proposal would utilize existing rooms within the structure, converting some of them to classrooms which would require internal remodeling, but the only exterior impact to the building would be the two exterior doors to accommodate fire safety and building requirements.

In 1973, the church was granted a CUP to locate the church at this site. Later in 1992, they came in for an additional CUP to allow an expansion of the building to include a preschool and Sunday school classrooms and a multi-purpose room. There was also, as part of that CUP, a request for an addition that has not been constructed at this time. In 1993, the applicant returned to the city commission requesting a variance to the sidewalk requirements. They were requesting that they be allowed curb type sidewalks instead of boulevard sidewalks. That variance was granted and in addition, they were allowed five years to complete the sidewalks. That time has expired and they will be required to put the sidewalk in regardless of the disposition of this CUP request as well as screening of the parking area.

They were also granted variances to the signage, screening for the play area and height of phase two that was never constructed. The proposal currently would generate approximately 121 vehicle trips per day and that was a primary concern on Broadway. It is still within the guidelines of the road classification for Broadway, but there was concern within the Zoning commission and neighbors that the traffic in that area is excessive at this point and difficult to maneuver.

The applicants submitted the request for this CUP in September of 2001 and the Growth Policy was adopted in October. The application went before the Zoning Commission in November. At that time, the Zoning Commission used the Growth Policy and the impacts to the neighborhood, to develop the denial recommendation. In January 2002, the applicant held a neighborhood meeting in which 19 people attended to discuss the impacts to the neighborhood.

If the city commission chooses to approve the CUP for the elementary school, the approval should be subject to the following conditions:

1. **Sidewalks**

Conditions 1 and 2 of Resolution 10537 requiring curb sidewalks along the property adjacent to Highland and Oregon Streets must be met. Said sidewalks must include ADA ramps at all intersections.

2. **Bicycle Parking Spaces**

Bicycle parking spaces shall be provided in compliance with Section 11-22-8 of the zoning ordinance.

3. **Pedestrian Pathways**

Pedestrian pathways shall be provided through parking areas to create safe and convenient access and connection to building entryways in compliance with section 11-22-8 of the Helena Zoning Commission.

4. **Financial Guarantees**

All of the following improvements shall be installed, or the improvements must be financially guaranteed in accordance with Section 11-21-3-G of the Helena Zoning Ordinance:

- A. Sidewalks
- B. Bicycle parking spaces
- C. Pedestrian Pathways through parking lot

5. **Timeframe**

Conditions for this CUP for a private elementary school, plus applicable conditions established with previous CUPs for the subject project, must be met within one year.

Discussion

Commissioner Netschert asked if there has been any determination on the questions regarding the use of the Growth Policy. Staff is looking for direction from the commission on the definition of "occasional". Commissioner Netschert noted the Growth Policy is a guideline and not required.

Commissioner Pouliot asked Ms. Gengler to show him on the map exactly where the classrooms will be located. Ms. Gengler explained where the classrooms will be located.

Commissioner Pouliot asked for the exact reason for the denial recommendation from the Zoning Commission. Ms. Gengler noted the traffic concerns and the encroachment into a residential area of a non-residential use were the main reasons for the denial. At that time, staff had not received any letters of support, but had received one letter in opposition. At the public hearing, there were several neighbors who came and spoke in opposition, but there was not a clear understanding as to whether there was support in the neighborhood based on that meeting. Since that time, the commission has received numerous letters of support.

Commissioner Pouliot asked exactly what was the encroachment problem? Ms. Gengler stated that some people felt that R2 should be primarily single family. Some felt that it should be only single family. This is not considered a residential use and so they thought it was inappropriate to expand that use in a residential area.

Mayor Smith asked Ms. Gengler to show him the location of Smith School and the nearest public lands institution. Ms. Gengler noted the PLI is usually used for buildings for public uses and R-2 is primarily single-family residential uses. However, it allows for public use such as elementary schools and churches. The conditional use process looks at these uses as generally permitted uses, but realizing each as an individual may have certain impacts that may need mitigation. If they are too extreme and can't be mitigated to protect the neighborhood, then a CUP can be denied.

Mayor Smith noted the first CUP granted to the congregation was in 1973 to establish the church. The second CUP was granted in 1992 to allow the construction of the pre-school and other uses. Mayor Smith asked for clarification on whether the conditions from the 1992 CUP had been met. Ms. Gengler explained that one of the conditions was that sidewalks be placed around the perimeter of the lot. In 1993, they came back to the city commission and requested a variance and asked that instead of those sidewalks being boulevard, they be curb-type and that the sidewalk along Oregon and Highland be postponed five years because of financial constraints. During that time, because of staff turnover and turnover at the church, the people who were aware of those conditions in 1993 lost track of them. They are now required to put those conditions in because of the preschool.

Ms. Gengler noted that playgrounds are required to have screening. The applicant obtained a variance because the playground was set back so far from the street and that area is being landscaped. There was a requirement that the

parking area be screened from the residential area. That has not been completed either. That would be another condition, regardless of the disposition of this CUP, that would have to be met in order to continue the CUP for the preschool.

Commissioner Parriman asked Ms. Gengler to show him the access locations. Ms. Gengler noted the primary access is located on California street. Commissioner Parriman asked what type of sidewalks are in the area and Ms. Gengler noted they are curb type sidewalks.

Commissioner Pouliot noted the screening condition is not noted in the conditions. Ms. Gengler noted screening requirement are already in effect from the 1992-CUP approval.

Public Testimony

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

Proponents - The following persons spoke in favor the CUP. Reverend Larry Miller, pastor at First Lutheran Church; Pam Koenig, 1205 Hilmen Road; Jennifer Charles, 59 Cloverview Drive; Lowell Bartels, 6080 Gin Dale Road, East Helena; Del Lundquist, 110 Humbolt Loop; Joyce Johnson, 200 S. California St.; Karen Antonick, 18 S. Beattie; Todd Jones, 2001 Lockey; Thomas F. Warsinski, 1401 Phoenix; Donna Weiner, 1952 University Street; Heather Gagnon, 8165 Wilburn Way; Chris Bushnell, 5990 Hauser Dam Road; Dan Elenbaas, 1105 Garrison; Rich Jorgensen, 1949 Colorado Gulch; Emil Eschenburg, 2108 8th Avenue; Laura Schwenk, 2208 Broadway; Kristin Basinger, 426 State Street; Kelly Koenig, 1205 Hilmen Road; Pam Worthy, 1132 Breckenridge; Dallas Mikes, 3444 Canyon Ferry Road; Irene Newton, 1794 Colorado Gulch.

The reasons the proponents gave in favor of the school were:

1. Parents and grandparents want quality education for their children with the plus of teaching Christian values.
2. The preschool has a very good reputation in the community and they want to carry that forward through 5th grade.
3. There are two private schools already in Helena, but none on the eastside of town.
4. The school would be co-located with the church.
5. It would be a benefit to the community.
6. The other private schools have long waiting lists.
7. Educating children is part of their ministry.
8. The city planning department has recommended approval for this application.
9. The proposed school would provide further utilization of an existing building thus better utilizing existing infrastructure.
10. This application complies with related goals, objectives and policies of the newly adopted 2001 growth policy.
11. It encourages the community to take aggressive steps to ensure that all young people have access to a broader way of support to promote healthy adolescent behavior and development.
12. Because of the three access roads to the church, traffic increase would be minimal.
13. The Lutheran church would be open to students from all over Helena and not just members of the church.
14. 32 neighbors support the school program and only 13 neighbors are

- against the school.
15. They want their kids to have a Christian education.
 16. The value of this program to the community would far outweigh any adverse impact.
 17. A task force from First Lutheran Church spent the past year studying the feasibility of a Lutheran elementary school and they worked with a consultant.
 18. Demand for private education is great.
 19. The east side of town is an excellent location for a private school.
 20. Tuition costs would be low making it affordable for all students.
 21. It would be a church supported school.
 22. People would like a choice as to where to send their kids to school.
 23. This will not diminish home values.
 24. The school curriculum would be excellent.
 25. Many parents home school or will home school if this school doesn't start.
 26. There is a lack of respect in students who attend public schools.

Opponents - The following people spoke against the CUP. Kent Crebo, 210 Graham; Tony Smith, 2230 Broadway; Betty Carkeek, 2222 Broadway; Marlene Conner, 2201 Highland.

The reasons the opponents gave against the CUP:

1. The location is in a residential (R2) zoned area.
2. Churchs historically have only conducted their business operations during a very limited part of the day or week, primarily on Sunday for church services.
3. Churchs are a very limited use entity.
4. An elementary school would operate 6-8 hours a day during the weekday. The activity in that area would be greater than most businesses in Helena.
5. Every church in Helena has under-utilized space.
6. According to reports, there are approximately 4000 vehicle trips per day on California and the same number on Broadway.
7. Any increase in traffic is a burden on the residents in that area.
8. Property value is decreased because of high traffic.
9. The whole community of Helena will be traveling through the neighborhood.
10. No one contacted any of the surrounding neighbors about this CUP before the Zoning commission meeting.
11. There were rumors that if this CUP didn't go through, they would sell the church to the hospital and turn it into a medical facility.
12. This will create more cars parked in front of residential houses.
13. Most of the people in favor of this school do not live in close proximity to the church.
14. Broadway and California streets are ambulance run streets.

General Comments – Gary Blair, 2130 Highland, expressed concerns with future expansions.

There being no other persons wishing to address the commission, the public portion of the hearing was closed

Discussion

Commissioner Netschert asked if the applicant had plans to expand the building? Ms. Morell-Gengler stated that the applicant did not have any plans for expansion.

Commissioner Parriman asked for clarification on the statement that property values would have the potential to decrease. Mr. Tony Smith stated he spoke with three different realtors and they indicated the additional traffic and an existing elementary school, along with this proposed school, would saturate the area.

Commissioner Netschert stated he would feel more comfortable if he could see documentation regarding property values.

Commissioner Oitzinger noted that based on Ms. Gengler's comments, there was some misinformation given to the opponents and reiterated that there will be no additions built to the church. The Zoning Commission voted unanimously to deny any expansion. Ms. Gengler stated that at the Zoning Commission meeting there was no one there to speak in support of the proposal, there were only opponents. There were also comments on the Growth Policy stating that it had to be supportive of the neighborhood. Since that time, there have been letters and documentation in the general area supportive of the proposal.

Commissioner Netschert clarified the opponents main concerns are the increase in traffic, the 1992 CUP conditions not being met, and the potential for additional expansion. Commissioner Netschert noted there is a recommendation for a financial guarantee for sidewalks, but did not see it for the screening of the playground.

Commissioner Parriman stated he does not consider the proposed 3% increase in traffic significant enough to cause problems with traffic flow. That area is designed to handle large amounts of traffic.

Commissioner Pouliot noted those who oppose the CUP are the adjacent property owners and he expressed concerns that a CUP is supposed to be supported by the adjacent property owners.

Mayor Smith noted this is a very complex issue and suggested this issue be tabled to allow for further study by the new commission members.

Commissioner Oitzinger asked if the Zoning Commission had received any comments regarding California Street being used as an ambulance route? Ms. Gengler noted St. Peters Hospital was notified of the proposal and they failed to submit any comments.

Mayor Smith noted that he would not support the CUP because of the concerns from the adjacent property owners.

Commissioner Netschert asked Reverend Miller how many classes are being proposed? Reverend Miller stated plans are for K-5, starting with kindergarten and progressing forward. Commissioner Netschert asked if there were any long range plans to expand the school? Reverend Miller stated that according to the CUP, there is no building on the exterior, but walls will be moved and doors added.

Commissioner Parriman stated he feels this is an attractive proposal. However, he continues to be concerned with the property values being affected. He stated he would like the opportunity to speak with realtors to clarify his concerns.

Commissioner Oitzinger noted the traffic increase doesn't seem like a big issue, however, the commission may need additional information.

Motion

Commissioner Oitzinger moved to table the resolution for a conditional use permit (CUP) to allow an elementary school to be located in a church in an R-2 (Single Family Residential) district. Legally described as all of Block 29 of the Lennox Addition, Helena, Lewis and Clark County, Montana; located between California and Oregon streets and Broadway and Highland streets with a street address of 2231 Broadway Street.

Commissioner Netschert seconded the motion. Motion carried, with Commissioner Pouliot and Mayor Smith voting no.

Discussion

City Attorney David Nielsen noted the public hearing has been closed. Therefore, if the commission wants additional information without opening another public hearing, they need to direct staff to gather that information to avoid ex parte communication.

Commissioner Netschert stated he is not comfortable with staff researching information on this issue when it should be received from the proponents and opponents concerned about this proposal.

City Attorney David Nielsen stated that city staff would not be restricted on how and from whom they obtained information. It would be localized and centralized and it will be brought before the commission in a public process and not individually.

City Manager Tim Burton spoke of his concern regarding the impact on the property values. Staff may solicit letters from realtors, but any information received will have a different point of view somewhere in the community. It will be difficult to figure out what the property value trends will be.

Commissioner Netschert asked if the city manager's recommendation is that information gathered regarding property values come from either the proponents and opponents? City Manager Burton stated it was his preference that the public hearing be opened a second time and accept information from either position.

Amended Motion

Commissioner Oitzinger moved to table the resolution for a conditional use permit (CUP) to allow an elementary school to be located in a church in an R-2 (Single Family Residential) district. Legally described as all of Block 29 of the Lennox Addition, Helena, Lewis and Clark County, Montana; located between California and Oregon streets and Broadway and Highland streets with a street address of 2231 Broadway Street, to a date certain, January 28, 2002 and reopen the public hearing for the purpose of receiving information concerning peak traffic flow and property value impacts. Commissioner Netschert seconded the motion. Motion carries 4-1 with Commissioner Pouliot voting no.

**Amending HCC
6-1-10 - Solid Waste**

CONSIDER SECOND PASSAGE OF ORDINANCE NO. 2931 ALLOWING THE PUBLIC WORKS DIRECTOR TO DETERMINE THE NUMBER OF RESIDENTIAL UNITS FOR SOLID WASTE COLLECTIONS ASSESSMENT AND AMENDING HELENA CITY CODE 6-1-10 - SOLID WASTE.

Staff Report

Public Works Director John Rundquist reported standard residential solid waste assessments are currently applied uniformly to residential properties with 4 living units or less. For example, a 4-plex is assessed at four times the standard residential assessment of \$154 per year. In a case where a four-plex does not generate sufficient garbage to necessitate a large 300 gallon container, there is currently no recourse to obtain a lower rate. If they were eligible for a commercial account they would only be charged based upon the size of the container the and number of pick-ups per week.

Although this may be inequity for a few multi-family property owners, our experience indicates that multi-family units typically generate as much waste as single-family units. To correct the small number of potential inequities it has been suggested that staff create an ordinance change to give flexibility to the Public Works Director in reducing residential assessments under these special circumstances.

This would provide a means of better-cost equity for multi-family properties up to 4-units.

Public Testimony

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

Alice Liebel, 118 S. Howie, spoke in support of 2nd passage of the ordinance because it is a good, fair plan.

There being no other persons wishing to address the commission, the public portion of the hearing was closed.

Discussion

Commissioner Oitzinger asked why apartment dwellers can't have their own permit for purposes of taking recyclables to the landfill? Mr. Rundquist reported he would do research on that issue and report back to the commission.

Mayor Smith asked that this question be addressed at a future administrative meeting.

Motion

Commissioner Pouliot moved approval of second passage of Ordinance no. 2931 allowing the Public Works Director to determine the number of residential units for solid waste collections assessment and amending Helena City Code 6-1-10 - Solid Waste. Commissioner Oitzinger seconded the motion. All voted aye. Motion carried. **Ordinance 2931**

***Amending
Chapter 4, Title 6 of
HCC - Industrial
Wastewater
Regulation***

CONSIDER SECOND PASSAGE OF ORDINANCE NO. 2932 AMENDING CHAPTER 4, TITLE 6 OF THE HELENA CITY CODE - INDUSTRIAL WASTEWATER REGULATIONS.

Staff Report

Public Works Director John Rundquist reported an amendment of current wastewater regulations is desirable to accomplish a number of needs identified by staff and our pretreatment consulting engineer to meet 40 CFR regulations. Also, consistent with recodification of Helena City Code, it is desired to remove

the applications fees from the ordinance and to set all fees by resolution. The Emergency Response Plan has been updated and needs adopted.

- Allow permit fees to be set by resolution
- Review existing Chapter 4 Ordinances and compare to current approved pretreatment program requirements under 40 CFR 403, identify deficiencies and update as needed.
- Coordinate and include changes to meet Industrial Pretreatment Program requirements in the MPDES permit.
- Review Ordinances with specific emphasis on penalty authority and include in the modifications.

Discussion

Commissioner Oitzinger asked that if this is approved, would the city be in compliance with the Environmental Protection Agency? Mr. Rundquist confirmed that with the approval of this ordinance, the city would be in compliance with the current standards.

City Manager Burton noted this ordinance brings the issue of the pretreatment program to a conclusion.

Public Testimony

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

There being no persons wishing to address the commission, the public portion of the hearing was closed.

Motion

Commissioner Pouliot moved approval of 2nd passage of Ordinance No. 2932 Amending Chapter 4, Title 6 of the Helena City Code - Industrial Wastewater regulations. Commissioner Netschert seconded the motion. All voted aye. Motion carried. **Ordinance 2932**

Public Communications

PUBLIC COMMUNICATIONS

No persons came forward to address the commission.

Meetings of Interest

There were no meetings of interest.

Commissioner Pouliot asked for additional information from City Attorney Nielsen on "creeping" CUPs which change the use of a property.

City Attorney David Neilsen will research the issue and report back to the commission at the January 23, 2002 administrative meeting.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:30 p.m. this 14th day of January, 2002.

MAYOR

City Commission Meeting
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ATTEST:

CLERK OF THE COMMISSION