

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 28, 2002
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, January 28, 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, Parriman and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen, and Deputy City Clerk Barb Fairhurst were present. Dave Samson of the Helena Citizens Council was also present.

Pledge of Allegiance Mayor Smith lead Boy Scout Troop 214 and those persons present in the pledge of allegiance.

Members of the troop include Merit Badge Counselor Bill McBride; Assistant Scout Master Pat Clinch and scouts Evan McBride; Jared Newman; Max Wheeler; Chris Lustgraf; Chris Miltenberger; Levi George; Shawn Clinch; Andy Murphy and Tony Swanson

State of the City Address Mayor Smith delivered the State of the City Address, a copy of the speech is attached and made a part of the record.

Minutes The minutes of the regular city commission meeting of January 14, 2002 were approved as submitted.

Appointments APPOINTMENTS:
A. Commission Appointments
B. Civic Center
C. OSBAC
D. Transportation Coordinating Committee

Mayor Smith asked for commission concurrence on the following appointments:

Commission Appointments:

Jim Smith: Gateway Economic Development - no specific term
Rocky Mountain Development Council - no specific term
Transportation Coordinating Commission - term expires 12/31/03

Steve Netschert: Mayor Pro Tem
Audit Committee - term expires 12/31/02
Information Technology Committee - no specific term
Transportation Coordinating Commission - term expires 12/31/03

Sandy Oitzinger: Audit Committee - term expires 12/31/02
Business Improvement/Helena Parking Commission
City-County Board of Health - no specific term
Open Space Bond Advisory Council - no specific term
Public Art Committee - no specific term

Marc Parriman: Board of Adjustment - term expires 12/31/04
Audit Committee - term expires 12/31/02
Infrastructure Committee - no specific term

Tom Pouliot: Civic Center Board - no specific term
City-County Administration Building Board of Directors -
term expires 12/31/02
Helena Chamber of Commerce Liaison - Local
Government Committee - no specific term
Pre-Release Screening Committee - no specific term

Civic Center Board

Ellen M. Livers - Term will expire March 1, 2005

Open Space Bond Advisory Committee

Julie Horne - Term will expire on February 28, 2004
Mike Lamb - Term will expire on February 28, 2004
Tom Palmer - Term will expire on February 28, 2004
Leo Berry - Term will expire on February 28, 2005

Transportation Coordinating Committee

Paul Reichert - Term will expire December 31, 2003
Dave Stahly - Term will expire December 31, 2003

Motion

Commissioner Netschert moved approval of the commission appointments and appointments to the Civic Center Board, Open Space Bond Advisory Committee and Transportation Coordinating Committee.
Commissioner Parriman seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA

- A. Claims
- B. Acceptance of contract funding in the amount of \$22,565 from the Helena Housing Authority for the period of January 1 to June 30, 2002.
- C. Resolution of Intention to establish a Type B residential parking district for a portion of Stuart Street and setting a public hearing for February 11, 2002.
- D. Amendment to the Treasure State Endowment Program (TSEP) #MT-TSEP-PE-01-160 contract to extend the completion of work date to May 30, 2002.

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

Motion

Commissioner Netschert moved approval of the consent agenda, items A-D. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Parriman reported he sat on a committee to select an architectural design firm for various upcoming projects for Public Works. This committee met with staff from Public Works and a local firm, Schlenker and

McKittrick, was selected. Community Facilities Director Gery Carpenter, chair of that committee, contacted Schlenker and McKittrick to get a preliminary design and budgeting in order to incorporate those into the upcoming budgets.

Commissioner Netschert congratulated Mayor Smith on the well-prepared State of the City speech.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY
City Attorney David Nielsen had no items to report on.

Report of the City Manager

REPORT OF THE CITY MANAGER
City Manager Tim Burton had no items to report on.

Blue Stone House

CONSIDER AN ADDITION TO THE BLUE STONE HOUSE LOCATED IN THE SOUTH-CENTRAL HISTORIC DISTRICT.

Staff Report

Senior Planner Kathy Macefield reported the Blue House was originally built in 1889 and is a primary structure located in the South-Central Historic District and in the Urban Renewal District. Federal funds were used for the restoration of this building in the 1970's; as a result, a scenic easement (covenant) was placed upon this property. The scenic easement for this property states: *Once the exterior of the premises have been restored as depicted in the attached renderings, no construction, alteration, or remodeling shall be undertaken or permitted which would affect either the lot herein described or the exterior, including the roof of any building or other improvement located thereon without the written permission of the grantee, the City of Helena, duly signed by its Mayor.*

The current owner, Michael Meloy, would like to expand the existing office building by adding a 61-foot by 18-foot addition to the north side of the building. A portion of the hill behind the building would be excavated to accommodate the addition and then reclaimed. One double-hung window would be located on the east side, 4 windows would be on the north side and 2 would be on the west side. The applicant proposes to remove the stone from the existing north exterior wall and reuse it for the façade of the new addition. Derek Brown Construction will be the contractor for the project. Architect Louis Archambault has stated it was his intent that the new addition not be distinguishable from the original building.

The Helena/Lewis and Clark Historic Preservation Commission (HPC) discussed this proposal on December 12, 2001 and visited the site on January 16, 2002. The HPC stated support for the project as presented, although there was some discussion about the Secretary of the Interior's Standards for Rehabilitation, particularly:

#3. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and the environment.

At the January 16, 2002 monthly meeting, the HPC again extensively

discussed the Secretary of the Interior's standards. City-County Historic Preservation Officer indicated the proposed building without the chimney addition would be most consistent with these standards. The HPC also determined that some modifications could be made to some of the details of the addition so the new construction could be differentiated from the original building. Mr. Archambault stated his client agree to not including the chimney addition. The HPC then unanimously voted (9:0) in support of the proposed addition contingent upon minor modifications to the design to distinguish old construction from new construction.

The applicant would have expanded office space essentially doubling the size of the building footprint. According to the submitted site plan, the applicant has significantly more than the required amount of onsite parking. The new construction would be similar to the existing construction with stone, similar window shapes, building height and scale.

Motion

Commissioner Netschert moved approval of the construction of a new 61-foot by 18-foot addition to the north side of the Blue Stone Building that would remove the stone from the existing north wall for replacement on the exterior of the new addition, contingent upon minor modifications to the design to distinguish old construction from new construction and without the chimney tower. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Lewis & Clark Archers Club

CONSIDER LEASE AGREEMENT WITH THE LEWIS AND CLARK ARCHERY CLUB FOR PROPERTY IN DRY GULCH.

Staff Report

Director of Parks and Recreation Randy Lilje reported the Lewis and Clark Archery Club has leased city-owned property for the past 20 years to use as an outdoor archery range. The latest lease expired at the end of September 2001. With the acquisition of open space over the past few years, the area around the archery range has experienced increased use by hikers and mountain bikers. Some of these individuals, including Montana Fish, Wildlife Parks, Trails Program employees, have questioned the appropriateness of the range being located in an area that is beginning to attract so many other uses. This is a question that HOLMAC will include in the development of the management plan. However, we do not expect the plan to be completed until next fall. In the meantime, the club would like to renew the lease for a one-year period so that they can tell their members that they will definitely have a range. At its last meeting, HOLMAC endorsed extending the lease agreement for one year while it reviewed the issue in the development of its plan. This will allow the club to continue to operate at the existing range while the issue goes through the process in the development of the management plan.

Discussion

Commissioner Netschert asked if the Lewis and Clark Archers Club members offered any suggestions on how to mitigate the safety hazards that may exist in the interim? Mr. Lilje responded the members suggested fencing, signage or taking out some of the targets and rearranging them.

Motion

Commissioner Oitzinger moved approval of the lease agreement with the Lewis and Clark Archery Club for the use of the existing archery range off Dry Gulch. Commissioner Parriman seconded the motion. All voted

aye, motion carried.

**TCI Montana
(AT&T Franchise)**

CONSIDER AN AMENDMENT TO THE TCI MONTANA (AT&T) FRANCHISE AGREEMENT.

Staff Report

City Attorney David Nielsen stated through a franchise agreement with TCI Montana (now AT&T), the city receives a franchise fee of 5% on the gross revenue of the cable company. In October 2001, the Federal Communications Commission ruled that cable companies that pay franchise fees based upon revenue from non-subscriber sources such as advertising and home-shopping commissions could recover this fee from subscribers. This means that cable subscribers in Helena would pay 5.23% rather than 5% on monthly bills. This is about 9 cents on a \$40 monthly bill. The franchise fee is paid to the city semi-annually. The fee on non-subscriber revenue is about \$6,425 for six months. The total franchise fee for six months is about \$99,154. Steve Proper of AT&T agreed to a quarterly payment rather than semi-annual. The city would gain the time-value of the earlier payment in exchange for exempting the non-subscriber revenue from the fee. Exempting the fee on non-subscriber revenue would benefit the subscriber who would otherwise have to pay for it.

Discussion

Commissioner Oitzinger asked if the quarterly payment of the franchise fee would allow the city to recoup, through time value of money, some of the loss if they chose to exempt these fees? City Attorney Nielsen reported that was correct. AT&T has already added on to the subscriber's bill, that additional .23%. Commissioner Oitzinger asked if they have already placed this on the bills, what would happen if the city exempts, would the subscribers get a refund? City Attorney Nielsen explained that is correct and if they overcharge on the franchise fee, they would have to make an adjustment so the subscribers who are paying that additional .23% would see a reduction in their bill to make up for it. Commissioner Oitzinger asked if they went through with an amendment, does that mean the entire franchise agreement could be renegotiated? City Attorney Nielsen stated the entire agreement would not be reopened, but it is certainly something that could be discussed. Whatever amendment the city is able to negotiate, it would come back before the commission for approval. Commissioner Oitzinger stated because of how long ago the franchise agreement was crafted, this would be something that would help it keep pace with the need for this kind of service in our community and it would be advantageous for the commission to work with AT&T on this issue.

City Manager Burton stated the \$13,000 is represented in the memo and would come off the general fund revenues. That would be the fund affected by any change that the commission proposes.

Mayor Smith stated the cable subscribers have already been assessed the .23% and they are paying the fee. If the commission doesn't amend the franchise agreement, will subscribers eventually receive a rebate? City Attorney Nielsen stated those subscribers who did pay the .23% would get a credit within a certain time period. The \$13,000 represents the .23% over a year's period. City Attorney Nielsen stated the \$13,000 is 5% of the non-subscriber revenue, which then is translated into .23% for the subscribers.

Motion

Commissioner Oitzinger moved approval to amend the franchise agreement between the city and TCI Montana (AT&T) to exempt non-subscriber revenue from the franchise fee and to provide that collected franchise fees be remitted to the city no later than on a quarterly basis.
Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Helena Bus and Trolley

CONSIDER APPROVAL OF PROPOSED OPERATING BUDGET FOR THE HELENA BUS AND HELENA TROLLEY AND AUTHORIZE STAFF TO COMPLETE AND SUBMIT THE FY03 SECTION 5311 TRANSPORTATION GRANT APPLICATION.

Staff Report

Transportation Superintendent Ed Robinson reported the FY2003 Section 5311 Transportation Grant is a primary funding source for the Helena Bus system. This budget is proposed to cover the cost of operations for the Helena Dial-A-Ride Bus System and one month operation for the proposed Helena Trolley for FY2003. The total proposed budget for FY2003 is \$381,527.00. The requested federal match for this projected budget is \$169,864.00, which is 50% match of the estimated net operating deficit. Capital expenditures proposed for the Helena Dial-A-Ride Bus system and Helena Trolley include one (1) new 21-passenger bus, one (1) new trolley bus, canopy roof repairs and facility exterior repairs and painting. The city's 20% match would be \$10,700.00 for the new 21-passenger bus, \$24,000.00 for the trolley bus, \$700.00 for the canopy roof repairs and \$1,000.00 for exterior repairs and painting of the bus facility. The total city match would be \$36,400.00. The federal grant appropriation would be \$145,600.00. Total capital expenditures would be \$182,000.00. The proposed budget is based on historical costs and additional costs. This budget incorporates numerous recommendations identified in the 2001 Greater Helena Area Five Year Transit Plan Update.

Discussion

Commissioner Netschert asked if the funding for the trolley would be reimbursed by the Business Improvement District? Mr. Robinson reported that is correct.
City Manager Burton stated this is the grant proposal and the commission will have the opportunity further along in the budget process to refine this, but it leaves maximum opportunity available to bring in the grant program.

Motion

Commissioner Parriman moved approval of the proposed operating budget for the Helena Bus and Helena Trolley and authorize staff to complete and submit the FY03 Section 5311 Transportation Grant application. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Heavy Pollutants at Wastewater Treatment Plant

CONSIDER A RESOLUTION ADOPTING REVISED LOCAL LIMITS FOR HEAVY POLLUTANTS AT THE WASTEWATER TREATMENT PLANT.

Staff Report

Director of Public Works John Rundquist reported the 1994 local limits are to be reviewed and revised if necessary every five (5) years at a minimum as per EPA requirements. It has been fifteen (15) years since the original resolution setting the rate for hauled waste at \$26.60 per 1,000 gallons. During re-codification of the Industrial Wastewater Ordinance, application and permit fees were deleted and will be set by resolution.

- To revise local limits and set Industrial Wastewater fees by resolutions.
- Adopt the revised version of our local limits as proposed by our consultant.
- In reviewing our fees for hauled waste and discharge that is not domestic waste, the consultant determined that the rate should be increased to \$35.04 per 1,000 gallons to cover the cost of treating this waste stream.
- To process an application for an Industrial Waste Discharge Permit. The fee will be \$75.00 for each application.
- An annual fee of \$75.00 for each permit will be charged to cover administrative costs to monitor and reconcile each permit fee.

Revision of the local limits will benefit compliance with our MPDES permit and our Industrial Wastewater Program compliance requirements. Setting application and permit fees will help cover the administrative cost to address and permit each industrial user. Increasing the fees for hauled waste will cover the added treatment cost in treating special waste.

Discussion

Commissioner Netschert stated the Environmental Protection Agency levels can't be measured in a sufficient way, so how do these levels that are being proposed relate? Mr. Rundquist stated the city's samples and tests go to an outside laboratory that is capable of measuring amounts at these levels. The city is looking for the pounds per day of the waste that is generated as a part of our treatment process. Commissioner Netschert asked if the local limits that are being proposed are easily obtained by people serviced by the system? Mr. Rundquist stated they are obtainable.

City Manager Burton stated these are limits that the city is agreeing to ourselves in terms of the product that is coming out of the plant. It does not necessarily affect the front end, but it does include the back end of the treatment process.

Mayor Smith asked if the heavy metals, at the conclusion of the treatment process, are what is being monitored? Mr. Rundquist stated that is correct, but most of the containments are present in the water supply and that is why they end up being in the wastewater supply. Natural drainage that gets into the sanitary sewer has arsenic in it as well. On the water supply side, the EPA has enacted new regulations on arsenic, bringing it down from 50 parts per million down to 10. Our treatment plants currently have the capacity to treat arsenic down to below the 10 parts per million standard. It's not a problem in the Rimini water supply or Tenmile Creek, but it is a problem in the Missouri river where natural contaminate levels of arsenic are up around 20 parts per million.

Motion

Commissioner Pouliot moved approval of a resolution adopting revised local limits for heavy pollutants at the Wastewater Treatment Plant.
Commissioner Oitzinger seconded the motion. All voted aye, motion carried.
Resolution 11726

Fee for hauled waste

CONSIDER A RESOLUTION OF INTENTION TO INCREASE THE FEE FOR HAULED WASTE DISCHARGED INTO THE CITY OF HELENA SEWER SYSTEM (ORIGINALLY SET BY RESOLUTION NO. 9894 PASSED ON NOVEMBER 3, 1986).

Staff Report

Public Works Director John Rundquist stated this is a revision to the fee that charges for septic tank pumpers in the county that deliver waste to the

wastewater treatment plant. We provide a service to them by treating and disposing of the waste. The intent of the fee is to cover costs for treating that waste.

Motion Commissioner Parriman moved approval of a resolution of intention to increase the fee for hauled waste discharged into the city of Helena sewer system to \$35.04 per 1,000 gallons. (originally set by Resolution No. 9894 passed on November 3, 1986) and set a public hearing date of February 11, 2002. Commissioner Pouliot seconded the motion. All voted aye, motion carried. Resolution 11725

Industrial waste discharge applications and permits CONSIDER A RESOLUTION OF INTENTION TO ADOPT FEES FOR INDUSTRIAL WASTE DISCHARGE AND APPLICATION PERMITS

Staff Report Public Works Director John Rundquist stated this is the last item associated with our new industrial pre-treatment ordinance. The ordinance is a revision of the old ordinance. The new ordinance will not set the fees, however, the fees will be set by resolution. Industrial waste discharge application and permits is something the city already charges for, but the way it is set up, there is a fee schedule.

Discussion Mayor Smith asked about the fee structure that is in place now. With some fees higher and some fees lower than \$75, what is the underlying rational basis for the fee? Is it volume or frequency? Mr. Rundquist stated it was based on the size of the industry and how much flow they generated relative to the permit size. One permit fee for everyone would be easier to track.
City Manager Burton stated staff took the high rate and low rate and averaged it out in the middle to make it revenue neutral and easier to administer.
Mayor Smith asked for an example of an industrial waste that requires pre-treatment. Mr. Rundquist stated dentist offices and photo processors. Photo processors generate heavy metals associated with the chemicals they use. Restaurants generate grease and they are regulated under industrial pre-treatment program. Grease causes problems in the collection system. Any industry that is known to generate certain substances that can cause problems relative to our discharge or relative to upsetting the wastewater treatment plant or the collection system can be brought into the pre-treatment program.

Motion Commissioner Oitzinger moved approval of a resolution of intention to set Industrial Waste Discharge Application fees to \$75.00 per application and \$75.00 per Industrial Waste Discharge Permit per year and set a public hearing date of February 11, 2002. Commissioner Pouliot seconded the motion. All voted aye, motion carried. Resolution 11724

Setting the annual appropriations CONSIDER A RESOLUTION TO AMEND RESOLUTION NO. 11685, AND SET THE ANNUAL APPROPRIATIONS FOR THE CITY OF HELENA, MONTANA IN THE FISCAL YEAR 2001-2002 BUDGET, INCLUDING A REALLOCATION OF THE EXISTING TAX INCREMENT PROJECT APPROPRIATION TO THE TIF HISTORIC LIGHTING FUND.

Staff Report

Administrative Services Director Tim Magee stated on August 31, 2001, the City Commission adopted Resolution 11685, as previously amended, granting budget authority at various fund and department appropriations levels. The budget is not a static document, and budget amendments become necessary in light of new or changing circumstances. Staff is proposing the following budget amendments:

1. \$3,012 for unanticipated city election expenses, to be funded from General Fund cash reserves.
2. \$20,000 reallocation of the existing Tax Increment Project Appropriation to the TIF Historic Lighting Fund to extend lights on Lawrence St. and Cruse Ave. adjacent to Holter Museum, reducing the uncommitted Fire and Building Code Compliance Project appropriation.
3. \$11,066 for unanticipated police overtime, to be funded by a reimbursed overtime revenue increase.
- 4a. \$10,000 for unanticipated dispatcher expenses for overtime and temporary employee expenses due to resignations and medical leave, to be funded by a support services fund contact payment.
- 4b. \$10,000 Support Services Fund Contract Payment increase to fund item
- 4c. \$10,000 911 Fund Contract Payment increase to fund item 4b, and to be funded from 911 cash reserves.
5. \$3,000 for Emergency Program Dispatcher Training as provided in the ambulance services contract with St. Peters Hospital, to be funded by resimbursement revenue from St. Peter's Hospital.
6. \$37,324 for extended 911 equipment and MPC energy charges, to be funded from 911 fund cash reserves.

This allows the city to pay unavoidable expenses and properly maintain emergency service levels.

Motion

Commissioner Netschert moved approval of a resolution of intention to amend Resolution 11685, and set the annual appropriations for the City of Helena, Montana in the Fiscal Year 2001-2002 budget, including a reallocation of the existing Tax Increment Project Appropriations to the TIF Historic Lighting Fund and set a public hearing date of February 11, 2002. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 11723**

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. [TABLED FROM JANUARY 14, 2002]

Staff Report

Planner Lucy Morell-Gengler reported the applicant has requested an indefinite postponement of consideration of this CUP for an elementary school in an R-2 district. The applicant is requesting this postponement to allow them more time to evaluate and address the traffic concerns and the property value issues that were discussed at the January 14, 2002 city commission meeting when this issue was tabled. Ms. Morell-Gengler clarified that if the motion for postponement is granted, it be limited to a year's time. If the applicant has not returned within a year, it will be considered that the application has been withdrawn. If the issue is brought back after a year, a new CUP would have to be applied for. Any significant changes to the proposal, if it were brought back, would require a new CUP. This postponement is limited just to the perimeters of the CUP that were submitted.

Discussion

City Manager Burton stated at the conclusion of the January 14th meeting, the commission closed the public hearing. The public hearing will be reopened to accept additional information on traffic and property values. This information will be accepted at tonight's public hearing.

Mayor Smith asked if the commission was restricted in accepting testimony that is not on traffic or property values?

City Attorney Nielsen stated the commission would be restricted because when it was tabled, it was limited to those two items. Staff was asked to do research on property values, but instead, that burden was put back on the applicant. The applicant would have an opportunity at this public hearing to put in additional evidence on the issues of traffic and property values.

Public Testimony

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

Proponents of the tabling motion:

Jennifer Charles, 59 Cloverview, stated the members of the First Lutheran Church had written a letter to the city planning department and also discussed the indefinite postponement with City Attorney Nielsen. The reason for a postponement is because they talked to several real estate companies and appraisal companies and they wanted to make sure it was clear they were not hiring those companies for an opinion or a report. They were to volunteer as a service to the commission in regards to the issues requested. The companies then would be volunteering their time and they felt two weeks was not enough time for that in-depth study. They would like time to acquire information from the real estate, appraisal companies and the Department of Transportation; have another neighborhood meeting and fulfill prior obligations towards the CUP to resolve those concerns by commissioners.

Opponents of tabling motion:

Gary Blair, 2130 Highland, stated he does not want an extension, but if it is granted, he will wait to present his testimony.

Tony Smith, 2230 Broadway, stated he agrees with Mr. Blair and if a postponement is granted, he will also wait to present testimony.

Mr. Blair asked if this would be an indefinite postponement?

Mayor Smith stated it will be indefinitely postponed for up to a year if the commission chooses and if action is not initiated, the CUP is withdrawn and there would be no subsequent hearing.

Mr. Smith asked if this part of the hearing is closed to make a decision on the postponement, and you choose not to grant an extension, would it be reopened?

City Attorney Nielsen stated that because it is continued without date, it would be re-advertised and then it would be reopened.

Mayor Smith stated that if the commission does not grant the postponement, then the public would be invited to discuss their comments on traffic patterns and or property values.

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

Discussion

Commissioner Parriman stated it was important the applicant have time to gather the information requested. It was encouraging the church wanted to have another neighborhood meeting to work out their differences. Commissioner Parriman is in favor of the indefinite postponement.

Commissioner Pouliot is also in favor of granting the indefinite postponement because the proponents stated they did not receive the traffic count information they had asked for from the city.

Commissioner Oitzinger asked if the Helena Citizens Council considered the possibility of the indefinite postponement of the CUP and Dave Samson of the HCC reported it was not discussed at the last HCC meeting, but is on the agenda for February.

Motion

Commissioner Pouliot moved approval for indefinite postponement, up to one year, of a Resolution for a Conditional Use Permit (CUP) to allow an elementary school to be located 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. All voted aye, motion carried.

Amending HCC
6-1-10 - Solid Waste

CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN AUTOMOTIVE REPAIR SHOP IN A B-2 (GENERAL COMMERCIAL) DISTRICT. LEGALLY DESCRIBED AS TRACT B-2-A, RIVER ROCK MINOR SUBDIVISION, HELENA, MONTANA; GENERALLY LOCATED NORTH OF CUSTER AVENUE AND EAST OF MCHUGH DRIVE.

Staff Report

Planner Belinda Waters stated the property is currently vacant and undeveloped. The subject property is adjacent to McHugh Lane and will have immediate access from a proposed street that is not yet constructed. The total property is 56,450 square feet with a proposed building size of 9,750 square feet. The applicant is proposing to construct a facility that will target small repairs and would produce a finished repair for customers in a very short time span. The business will be operated for the repair of auto body damage and the replacement and repair of automotive glass. This new facility will be designed for small collision repair. The vehicles being repaired are in drivable condition and

require few or no parts. The facility will have a staff of approximately 12 new employees at full capacity. The facility will be designed for maximum efficiency and flow for vehicle repairs. No outside storage will be allowed. The proposal meets parking and landscaping requirements. The proposed conditional use permit would encourage the development of property in this area as well as facilitate in-fill development. This project is consistent with the various goals, objectives and policies of the 2001 Growth Policy.

Approval of the CUP shall be subject to the following ten conditions as recommended by the Zoning Commission:

1. Sidewalks:
All sidewalks constructed along the proposed 53-foot right-of-way will be boulevard sidewalks.
2. Streets:
Any road connecting directly with McHugh Lane will be designated as a collector street and will conform to street standards for construction of pavement and right-of-way widths.
3. Access:
No access will be permitted onto to McHugh Lane to maintain safety and minimize vehicular conflicts.
4. Improvements:
The property owner will sign a waiver of protest for the creation of a future special improvement district for street improvements (including curb, gutters and boulevard sidewalks) to McHugh Lane.
5. Parking:
The handicapped parking space shown on the site plan must be changed in order to come into compliance with City Code.
6. Site:
The property where the proposed business will be located cannot be sold without subdivision review and approval.
7. Storm water drainage:
A storm water drainage plan, as specified in Section 6-6-9 of the Helena City Code and shall be submitted to the City Engineer for review and approval prior to issuance of a building permit.
8. Financial Guarantees:
Infrastructure improvements shall be installed or financially guaranteed in accordance with Section 11-21-3-G of the Helena Zoning Ordinance.
9. Time Frame:
All conditions must be satisfied prior to issuance of a building permit and a building permit must be obtained within one year.
10. Storage:
Outside storage is prohibited, and no inventory, materials, wrecked vehicles or equipment may be stored outside.

Discussion

Commissioner Pouliot asked about the outside storage and what was anticipated? Ms. Waters reported that it is an automotive repair and people had visions of wrecked vehicles or motors lying around outside that were discarded so that was a concern that that not be allowed outside.

Commissioner Parriman asked where the vehicles would be parked that was being worked on if they were not outside? Ms. Waters reported that junked cars would not be allowed to be stored there but vehicles that were being

repaired would be parked outside.

Public Testimony

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

Dick Anderson, 1800 Lodgepole, stated this is a different facility than most body shops as it would deal strictly with cars that have had minor dents, minor repairs and probably wouldn't require parts. The owner is Barry Reddick, owner of Collision Pro. This is a new state of the art facility and would be a drive-in, drive-out in the same day operation. If there are vehicles that require extensive repair, they would go to the other facility.

Commissioner Pouliot asked Mr. Anderson if he did not intend to have any engine repair at this site and Mr. Anderson stated that was correct.

City Manager Burton asked if Mr. Anderson is agreeable to the conditions in the staff report? Mr. Anderson stated he was agreeable to the conditions.

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

Discussion

Commissioner Netschert stated that in regards to the condition of sidewalks, language be included that states "or prevalent design in that area." If there were curb-side sidewalks, everything would line up properly.

Ms. Waters reported there are no sidewalks along McHugh Lane or in that area. If it starts out boulevard sidewalks on that new street to be constructed, then the rest of the area would be developed boulevard as well. Now is the time to make sure there is enough right-of-way. The applicant is aware they have to abide by street standards for the city, which include boulevard sidewalks. In regards to McHugh Lane, depending on the right-of-way width, staff is not sure if they will be curb or boulevard. If there is enough right-of-way, they would be boulevard. It is all vacant land now.

Commissioner Netschert asked the applicant if they would be open to that or if they see that being a problem?

Mr. Anderson replied that once McHugh becomes developed, he is open to any type of sidewalks. He would prefer to have a berm type of landscaping. A berm would hide the parked cars so the public would see more of the landscaping, than the cars.

Commissioner Netschert asked if that design would be incorporated into the boulevard? Ms. Waters reported boulevards could have different types of landscaping in them. They can be trees, grass or rock but the meandering is the question. Commissioner Netschert stated that there are set amounts of space allotted to the boulevard and sidewalk and according to whatever action is taken, that design needs to be incorporated. Ms. Waters reported that when they build the new street, all the city standards could be met at that time.

City Manager Burton stated it is hard to anticipate what the overall design will be, but in terms of the ordinance that the city follows, it does allow for reengagement of the commission. The city has allowed meandering sidewalks. Sometimes they pull up to the curb depending upon right-of-way and sometimes they pull away. The commission has shown flexibility based upon what the right-of-way distance is and how the final design would look.

Commissioner Oitzinger stated at the zoning commission meeting there was an opponent until these conditions were offered. The conditions were very

specific. Commissioner Oitzinger does not want to do anything that would deviate from the existing conditions.

Motion

Commissioner Parriman moved approval of a resolution for a Conditional Use Permit (CUP) to allow an automotive repair shop in a B-2 (General Commercial) District. Legally described as tract B-2-A, River Rock Minor Subdivision, Helena, Montana; generally located north of Custer Avenue and east of McHugh Lane. Subject to the ten (10) conditions outlined above. Commissioner Netschert seconded the motion. All voted aye. Motion carried. **Resolution 11728**

Public Communications

PUBLIC COMMUNICATIONS

City Manager Burton clarified that transportation data for the elementary school CUP cannot be put in an envelope and mailed out and the person needs to come into the office. Staff is willing to work with the applicant. There was not a product that could immediately be mailed to the applicant following the city commission meeting.

Meetings of

The next administrative meeting will be February 6, 2002 and the next city commission meeting will be February 11, 2002.

Interest

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:10 p.m. this 28th day of January, 2002.

MAYOR

ATTEST:

CLERK OF THE COMMISSION