

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**February 11, 2002**  
**6:00 P.M.**

**Time & Place**                    A regular City Commission meeting was held on Monday, February 11, 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. Jerry Hutch of the Helena Citizens Council was also present.

**Pledge of Allegiance**            Mayor Smith lead those persons present in the pledge of allegiance.

**Minutes**                            The minutes of the regular city commission meeting of January 28, 2002 were approved as submitted.

**Tabled items**                    Mayor Smith indicated for the record that items 16D (Fee for hauled waste), 16E (Fees for industrial waste discharge application and permits) and 16F (Type B residential parking district for a portion of Stuart Street) are tabled due to no legal notice being advertised in the Helena Independent Record. These items will be advertised and public hearings reset for the February 25, 2002 city commission meeting.

**Introduction**                    Chief Troy McGee reported under Montana law, once an officer is hired, they are on a year's probation and upon completion of that year, they must be confirmed by the mayor and the city commission. Officer Ruth Godwin was born in Columbus, Mississippi and raised in Tacoma, Washington. Officer Godwin graduated from Washington High School in Tacoma and attended Skajet Ravalli College in Mount Vernon, Washington where she studied law enforcement. She attended basic training at the Montana Law Enforcement Academy and graduated March of 2001. Prior to her employment with the police department, Officer Godwin was employed as a corrections officer with the Washington State Department of Corrections.

Officer Godwin stated she dearly loves her job and she would like to thank the commission, Chief McGee, her daughter and husband.

**Motion**                            **Commissioner Oitzinger moved the confirmation of Officer Ruth Godwin as a police officer with the Helena Police Department.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Appointments**                APPOINTMENTS:  
A.     Civic Center  
B.     OSBAC

Mayor Smith asked for commission concurrence on the following appointments:

**Civic Center Board**

Judy Kline - Term will expire March 1, 2005  
Margaret (Peggy) Weedman - Term will expire March 1, 2005  
Rayleen Beaton - Term will expire March 1, 2005  
Jeanne Schutt - Term will expire March 1, 2005

**Open Space Bond Advisory Committee**

Gary Dunn - reappointment -Term will expire on February 28, 2005

**Motion**

**Commissioner Netschert moved approval of the appointments to the Civic Center Board and the Open Space Bond Advisory Committee.**

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

Commissioner Netschert stated in the past, the commission had received the applications for the boards and asked if that practice would still be maintained? Mayor Smith stated he intends to maintain that practice, especially for new appointments. Commissioner Netschert stated it would be helpful for him and also the new commissioners.

**Consent Agenda**

CONSENT AGENDA

- A. Claims
- B. Utility bill insert - Montana Lewis and Clark Bicentennial
- C. Acceptance of a CDBG grant award for a loan to Great Northern Town Center and contract approval with the Department of Commerce in the amount of \$400,000.00
- D. Approval to commit CDBG grant funds in the amount of \$1,960.00 for planning and development activities.
- E. Request to relinquish a public access easement on Getchell Street that provides access to Carroll College.

City Manager Tim Burton recommended approval of the claims and the consent agenda and noted there is an additional memo dated February 6, 2002 through Michael Barros and Belinda Waters which further clarifies the legal description of the Getchell easement on item E.

Commissioner Netschert asked for discussion on item E.

**Motion**

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

**Discussion**

Planner Belinda Waters stated access to Carroll College is done by a 40 foot wide easement and a 13 foot alley. When they realign and do the new access for Carroll College, they will move it over 90 feet to the west. Staff did receive a preliminary plat. One home and one garage will be demolished in order to put a new access into Carroll College. The easement that is 40 feet wide has been existing for a long time. They plan on landscaping it because the utilities will remain in that particular area.

Commissioner Netschert asked who is paying for the demolition? Ms. Waters reported Carroll College would pay for the demolition, as they own the homes.

Mayor Smith asked that when this is complete, will Getchell street cross Lyndale without a jog? Ms. Waters stated that is correct and there will be an amended plat with the new location of the street.

City Manager Tim Burton stated this is in Carroll College's long-term plan. With the Lyndale/Main Street project, this will be the main entryway to the college. No longer will they have the focus on the Benton Avenue entryway.

**Motion**

**Commissioner Netschert moved approval of item E on the consent agenda.** Commissioner Pouliot seconded the motion. All voted aye, motion carried.

***Bid Award***

A. Biosolids and Green Waste Management Project.

**Staff Report**

Assistant Public Works Director Phil Hauck reported the city opened bids December 22, 2001 and the bid called for receiving biosolids and green waste and managing it for beneficial reuse as opposed to disposal. There were three schedules: Biosolids management; Biosolids and Green Waste Management and Green Waste Management by itself. The city received three bids, one for each schedule. The Diehl Ranch Company bid on schedule one, biosolids. Big Butte Compost bid on schedule two, a combination of green waste and biosolids. Johnson Brothers bid on schedule three, green waste.

Staff's recommendation is to award all three bids in managing each of the different product volumes. Staff has been looking at other alternatives and discussing options with the parks department. There is a possibility that the parks department could utilize and chip the excess branches and brush at a lower cost. That would be the excess not needed for composting.

At this time, staff recommends the commission award the biosolid green waste bids to the Diehl Ranch Company and Big Butte Compost. Staff will continue to explore options for any excess branches and leaves that are not needed for the compost operation.

**Discussion**

Commissioner Parriman stated there is a substantial pile of green waste existing at the landfill. Mr. Hauck stated there is a pile at the landfill that has been used as a windbreak for the current composting company. They are looking at other options besides piling up branches to provide the windbreak, such as tire bales. Commissioner Parriman was referring more to the green waste, the leaves and grass clippings than the branches. Mr. Hauck reported that is mixed in with the pile. There is some debate as to how much is out there. Commissioner Parriman is trying to find a way to lessen the pile. What is the plan for minimizing the pile? Mr. Hauck reported what is piling up are the branches and brush. The grass will have to be monitored and managed to make sure they don't end up with piles of grass as well.

Commissioner Pouliot asked about the branches and brush. Isn't there a contract with Johnson Brother in Missoula to take the branches and brush and get rid of them? Mr. Hauck stated Johnson did bid on it, but the city does not currently have an agreement with them. Commissioner Pouliot asked if this was the first time bid for burning branches and brush? Mr. Hauck reported they bid for someone to handle green waste. The only bid they did receive was to burn it. Commissioner Pouliot asked who the pile at the landfill belongs to? Mr. Hauck reported it belongs to Big Butte Composting. Commissioner Pouliot asked if Big Butte could remove the pile? Mr. Hauck stated through management and through awarding it this way, if it is not necessary for the compost operation, than the city can chip it and use it for our own parks department instead of adding to the pile.

Commissioner Oitzinger stated that she hoped the commission would give the staff some flexibility to deal with the branches since they want to try to do something with it other than burn it.

Mayor Smith stated it is staff's recommendation that we do not award the bid to Johnson Brothers for hauling of branches and brush to Missoula. Mr.

Hauck reported that is correct. Mayor Smith asked Mr. Hauck if he is confident that the city parks department may be able to use the chippable product? Mr. Hauck reported it has great possibilities, but staff did not have ample time to work out a plan. Staff plans on bringing a plan back to the commission in the near future.

City Manager Tim Burton stated right now, Big Butte Composting has a contract with the county. That pile is fine where it is for another year, plus several months. There is not an immediate need for anybody to deal with it, but the city does want to incorporate it into a use other than landfill.

Commissioner Netschert asked if staff is looking at alternative #4 or 4a? Mr. Hauck reported they did not go back to the alternatives. Commissioner Netschert asked instead of hauling it to Missoula for Johnson Brothers, why can't the city self chip that part? Then, all the grass and leaves would be composted by Big Butte? Commissioner Netschert would have an amendment to go ahead and contract with Big Butte for this year and provide the grass and leaves as needed when the existing pile that is at the landfill has been depleted. They would have to utilize the existing greenwaste that is already out there before we provide them anymore. That way, we don't have an excess pile.

Mayor Smith asked if this amendment was on paper?

Commissioner Netschert stated he passed out a paper to the commission which is alternative #1 with the amendments that basically do the same thing as #4a.

**Amendment Motion**

**Commissioner Netschert moved to amend the recommendation 4a to contract with Big Butte and to only provide grass and leaves as needed when the existing pile is depleted.** Commissioner Oitzinger seconded the motion subject to discussion.

**Discussion**

Commissioner Oitzinger asked if the pile at the landfill is interchangeable with what the city would give them in order to balance off the sludge provisions? Mr. Hauck reported with the volumes of sludge they have been providing, it has actually been increased a little bit over last year. They will be able to continue to compost what is out there within a year. Commissioner Oitzinger asked if Commissioner Netschert's amendment will work then? They can clean off what is at the county landfill and mix it with the sludge the city is providing and that will still work? Mr. Hauck stated that is the city's intention. Staff was hoping for flexibility in management. They don't want to destroy a windbreak before there is another alternative.

**Amended Motion**

**Commissioner Netschert moved to amend the previous amendment to allow staff the flexibility to provide Big Butte the green waste necessary to compost at their discretion.** Commissioner Oitzinger seconded the amendment motion. All voted aye, motion carried.

**Motion**

**Commissioner Netschert moved approved to award the biosolid green waste bids to the Diehl Ranch Company and Big Butte Compost with the amendments as stated in the above Amended Motion and to authorize City Manager Tim Burton to begin contract negotiations with the Diehl Ranch Company and Big Butte Compost, Inc.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Discussion

City Manager Tim Burton asked if the motion, as stated on Commissioner Netschert's sheet, is alternative #1? Commissioner Netschert stated he is using alternative #4a with the amendment to the grass and leave portion as just passed. The branches and brush will be self-chipped and not contracted with Johnson Brothers out of Missoula.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Netschert asked for a discussion on pets in the natural parks. Should they be on leashes? Mayor Smith stated they are looking for recommendations from the Helena Open Space Management Advisory Committee, when those are received. They will discuss this issue at the next administrative meeting. A new animal control officer is being hired.

**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 stated there is a letter on the commissioner's desks from the Montana Historical Society dated February 5, 2002. The Historical Society, in partnerships with the Governors Office, the Historical Society Board and also, a request to the city and the county, as well as private individuals, are looking to hire an independent consultant to select proposed alternative sites for the construction of a new museum. They have asked the city to contribute \$10,000 toward this effort. On February 7, 2002, the county commission agreed to provide \$10,000. This demonstrates a partnership for a multi-million dollar project. There is \$10,000 in the city manager's budget that could be utilized toward this project. Mr. Burton recommends a motion from the commission that would affirmatively tell this partnership to proceed.

Discussion

Commissioner Netschert stated he has discussed this issue with City Manager Tim Burton. It is not known what private parties have been contacted, to engage their participation.

**Motion**

**Commissioner Netschert moved approval to allow City Manager Tim Burton to appropriate up to \$10,000 for the purposes of studying a site for the Historical Society and to encourage the Historical Society to seek similar donations from the private sector.** Commissioner Pouliot seconded the motion. All voted aye, motion carried.

**HAZMAT**

City Manager Tim Burton stated the HAZMAT issue came before the city/county joint work session on February 7, 2002. It was a presentation from Paul Spengler from Disaster and Emergency Services and the people working on the HAZUS program. There was a partnership between the state, the city and the county that is coming to conclusion. There request was to extend the partnership for four months. The HAZUS program is an earthquake mitigation response tool they are developing on the GIS system. The commission has a memo regarding HAZUS from Director of Administrative Services Tim Magee dated February 11, 2002. The city portion would be \$4,256. The state has already agreed to partner, as well as the county, for this continued program. Staff would recommend approval of this expenditure, and this program continuing, in the amount of \$4,256 with the money coming from the commission

contingency budget. That would leave a balance remaining of \$24,597 in the contingency fund.

**Motion**

**Commissioner Oitzinger moved approval to authorize \$4,256 from the city's contingency fund to provide additional HAZUS project funding.**  
Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Kazakhstan**

City Manager Tim Burton reminded the commission that Public Works Director John Rundquist, Superintendent of Water/Wastewater Treatment Leonard Willett and Executive Director of Boyd Andrew Mike Ruppert will be leaving Helena February 14, 2002 to continue the International Resource City's Program with Pavlodar, Kazakhstan. Some of the issues they will be working on will be potable water, drug treatment, youth programs and university issues.

Public Works Director John Rundquist stated Kazakhstan is directly half way around the world. The time zone is 13 hours difference and it is 36 hours travel time. The people in Kazakhstan are wonderful, hospitable people. They are glad to be out from underneath the Soviet umbrella and they are really searching for solutions to model their systems more like the systems in America.

**Pay Study**

CONSIDER A CONTRACT FOR THE DEVELOPMENT OF A PAY STUDY.

**Staff Report**

Human Resource Director Salty Payne reported the current pay plan was originally done in FY95 and the recommendation made at that time was to repeat the study in five to six years. If implemented in FY03, the time span will have been eight years. It is much more cost effective to periodically update the current pay plan than to, at some future point, have to totally develop and implement a new plan. To do so would insure the internal equity of positions, maintain competitiveness in recruitment and retention of quality employees and maintain employee confidence in the pay and classification system. It is staff's recommendation that the city accept the proposal from Carl Becker Co., Inc. of Denver Colorado to conduct a Compensation and Benefits Study for the City of Helena.

**Discussion**

Commissioner Pouliot asked if the city would pay \$11,850, plus travel expenses to this company, for their work? Mr. Payne reported that is part of the RFP. All companies that submitted proposals include travel expenses. That is standard for doing this type of a study. That is part of the total bid which was \$13,950 and had been broken down.

Commissioner Parriman stated the bids were wide ranging in the terms of costs, from \$14,000 - \$50,000. Why was there such a wide range? Is the city getting what we want from this bid of \$14,000? Mr. Payne stated we had this same situation in 1995. There were a wide range of bids and when staff contacted and talked to individuals, they were all bidding basically the same thing. Each company has a different process they use to develop their costs. Some of their costs are related to how familiar they are with Montana. If they are not familiar with our area, it will cost them more to develop that information to provide to us. The ones that generally will bid in the lower categories are ones that have done studies in Montana within a relatively short period of time, maybe the last 12 months. That is one of the reasons you get a wide variety of bids. Staff did contact the low bidder and discussed everything requested in the proposal and is satisfied Carl Becker Co., Inc. will provide the materials the city needs.

**Motion**

**Commissioner Pouliot moved approval of a proposal from Carl S. Becker Co., Inc. to perform a pay and benefits study in the amount of \$11,850.00 including an estimated \$2,100.00 in travel expenses for a total of \$13,950.00.** Commissioner Netschert seconded the motion. All voted aye, motion carried.

***Architectural Consultant***

CONSIDER A RECOMMENDATION FOR THE SELECTION OF AN ARCHITECTURAL CONSULTANT FOR FOUR PUBLIC WORKS PROJECTS: 1) DESIGN AND CONSTRUCTION OF OFFICE/STORAGE BUILDING - UTILITIES MAINTENANCE DIVISION; 2) DESIGN AND CONSTRUCTION OF VEHICLE MAINTENANCE REPAIR BUILDING - SOLID WASTE DIVISION; 3) REMODEL OF ADMINISTRATIVE OFFICES - WATER/WASTEWATER TREATMENT DIVISION; AND 4) REMODEL OF THE SHOP BUILDING - VEHICLE MAINTENANCE DIVISION.

**Staff Report**

Community Facilities Director Gery Carpenter reported requests for qualifications for an architectural firm capable of providing architectural services to assist the City of Helena with four Public Works Department projects were advertised on December 30, 2001 and January 6, 13, 2002. The requests for qualifications were received on Wednesday, January 16, 2002. An architectural selection committee reviewed the requests on January 23, 2002. A committee comprised of Marc Parriman, Gery Carpenter, Phil Hauck, Bill Michalson, Ed Robinson, Leonard Willett and Kevin Hart met to review the requests for qualifications received from the architectural firms of Dowling, Tintinger; Karhu and Cullen; Schlenker and McKittrick; Crossman, Whitney and Griffin and Myhre & Atwood and Entranco. The committee reviewed and discussed the material provided by the submitting firms and is forwarding its recommendation that the city manager be authorized to negotiate a contract with the firm of Schlenker and McKittrick Architects, P.C. with E. Rick Schlenker as the principal architect for the project. The committee found that E. Rick Schlenker of Schlenker and McKittrick Architects, P.C. could continue the process of bringing these projects to completion in the most efficient and economical manner possible for the City of Helena.

**Motion**

**Commissioner Parriman moved approval of the selection of Schlenker and McKittrick Architects, P.C. as the architectural firm with E. Rick Schlenker as the principal architect for the four Public Works Department projects noted above and that City Manager Tim Burton be authorized to negotiate a contract.** Commissioner Netschert seconded the motion. All voted aye, motion carried.

***Open Space Management Plan***

CONSIDER A RECOMMENDATION FOR THE SELECTION OF A CONSULTANT TO PROVIDE SERVICES IN THE PREPARATION OF AN OPEN SPACE MANAGEMENT PLAN FOR HELENA'S 1600-ACRE NATURAL OPEN SPACE SYSTEM.

**Staff Report**

Director of Parks and Recreation Randy Lilje reported four proposals for consulting services for the open lands management plan were received on December 12, 2001. The review and evaluation committee consisted of members of the Helena Open Lands Management Advisory Committee as well

as the parks superintendent Rich Lynd and Director of Parks and Recreation Randy Lilje. The committee narrowed the selection to two firms for interviews. The firms were interviewed on January 12, 2002. The committee selected Fischer and Associates of Billings, associating with Land and Water Consulting, Inc. of Helena. While both firms had very good qualifications in the area of technical expertise, GIS capabilities, and came highly recommended by their references, Fischer had a much better public input and evaluation process. It was also apparent that Land and Water Consulting Inc. had more first-hand knowledge of Helena's open lands system. HOLMAC and staff recommend that the City Commission approve the selection of Fischer and Associates and direct the city manager to negotiate a contract for services.

Discussion

Commissioner Netschert asked how much will this cost the city or HOLMAC? Mr. Lilje reported the budget is \$50,000. \$20,000 will come out of the Open Space bond and the rest will either come out of city funds or grants for planning for conservation type activities. Commissioner Netschert asked if any grants have been identified for that funding? Mr. Lilje reported they have been identified, but have not been received.

City Manager Burton stated we do have one grant of \$6,000 through the U.S. Forest Service and Lewis and Clark County. That has already been awarded. We will continue to go for grants, but if none are received, we will rely on general fund allocation. This was split 60/40 and 60% is the amount of property that the city owned prior to any open space allocation or acquisitions and the 40% is the newly acquired property.

Mayor Smith asked about the arrangement between Fisher and Associates and Land and Water Consulting. Will they jointly be working on this under the award to Fisher? Mr. Lilje stated that Fisher is the primary consultant and Land and Water is a sub-consultant to Fisher. They will be doing some of the background work on the natural resource area of the project. We already have quite a bit of that information so their input will be just to review what we have and maybe add a few things where we are lacking. They will be the natural resource people on this project.

Motion

**Commissioner Netschert moved approval of HOLMAC's recommendation to select Fischer & Associates as its consultant to develop the open lands management plan and direct City Manager Tim Burton to complete negotiations for the contract not to exceed \$50,000.**

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

**Greater Helena  
Area 2001  
Transportation  
Development  
Plan**

CONSIDER THE GREATER HELENA AREA 2001 TRANSPORTATION DEVELOPMENT PLAN UPDATE.

Staff Report

Assistant Public Works Director Phil Hauck reported Montana Department of Transportation (MDT) requires transportation districts to complete or update their transportation plans every five years. In FY2001, the City of Helena was required to complete an update of their FY1996 transportation plan in 2001. Robert Peccia and Associates (RPA), was contracted to complete the update of the previous plan. In January 2002, RPA completed the Greater Helena Area 2001 Transportation Plan Update. Copies of the Transportation

Development Plan Update were delivered to the commission in advance of the January 23, 2002 administrative meeting. Staff recommends the city commission approve the updated transportation development plan. Approval would allow the Dial-A-Ride bus to finalize its requirement for completion of the five-year plan update and begin to address recommendations identified by the plan in the FY2003 budget.

Discussion

City Manager Tim Burton reported this draft first came before the commission last summer and the commission reviewed the recommendations and staff asked the consultant, Robert Peccia and Associates to go back and attach numbers. Ultimately, the plan came out to be a good document.

Motion

**Commissioner Pouliot moved approval of the Greater Helena Area 2001 Transportation Development Plan.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Annexation of  
60.03 acres**

CONSIDER A RESOLUTION OF INTENTION ESTABLISHING THE CONDITIONS FOR THE ANNEXATION OF 60.03 ACRES FOR PROPERTY LEGALLY DESCRIBED AS LOTS 1 AND 6 OF COS#501240/E LOCATED IN THE SOUTHEAST QUARTER OF SECTION 13, T10N, R3W, AND THE EAST HALF OF SECTION 18, T10N, R4W, LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED ABOUT 1200 FEET NORTH OF CUSTER AVENUE, EAST OF GREEN MEADOW DRIVE AND WEST OF PIONEER VILLAGE SUBDIVISION.

Staff Report

Project Manager Hal Fossum reported when a proposed subdivision is also proposed to be annexed to a municipality, state subdivision laws (MCA § 36-3-601, 605) direct the city government to coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible, including joint hearings on preliminary plat and annexation. It is the common practice of the city to initiate the process of annexation by means of a resolution of intention to annex. The function of the resolution is to establish any conditions that must be met before annexation can be completed, and to coordinate the completion of annexation with the subdivision so as to minimize the duplication of requirements.

Annexation is proposed to be completed under the petition method, which is detailed in state law under MCA § 7-2-4601 et seq. All affected property owners have requested annexation. Under the applicable laws, whenever more than 50 percent of property owners petition for annexation, the city commission may approve or disapprove the petition upon its merits. When the governing body approves the petition, staff will prepare a resolution providing for the annexation for the commission's consideration.

The key practical significance of annexation is to provide for the provision of city services to the developing area. Annexation is linked to the subdivision process under city codes (6-5-4), which require that properties be annexed before they can receive city utility services. The city received a completed application for annexation and rezoning of Lots 1 and 6 of COS #501240/E from the applicants, Scenic Developers, on November 13, 2001. The property is proposed for residential land use.

MCA § 7-2-4610 specifies that city services may be provided (a) according to a plan for extension of services, or (b) when otherwise mutually

agreed upon by the municipality and the real property owners of the area to be annexed. Any plan for extension of services must comply with MCA § 7-2-4736, which concerns the extension of city garbage services to newly annexed areas.

The annexation of related road rights of way are expected to include segments of Green Meadow Drive and Benton Avenue from the existing city limits through the northern extent of the subdivision. Those annexations would be coordinated with the resolution of annexation at a later date.

All procedural and due process requirements have been completed.

Under this proposal, the 60-acre Crystal Springs Subdivision would be annexed to the City of Helena on or before the time of approval of the final plat for phase I of the development, with the timing of that annexation coordinated with the wishes of the applicant. Provision of city services called for in MCA § 7-2-4610 will be provided either by a development agreement to be reached between the city and property owners, or by a plan for extension of services to be prepared by city staff.

The main elements of the provision of services involve infrastructure requirements, which are embodied in the conditions of the subdivision preliminary plat, and would be incorporated by reference into the service plan or development agreement. Other elements of services, such as police, fire, and garbage services would be identified in the service plan or development agreement and presented to the city commission for its approval prior to annexation.

Annexation of this 60 acre proposed subdivision would enable services to be extended to the area consistent with state and local laws.

This annexation approval is subject to the following conditions:

1. The applicant must notify the City Community Development Department in writing upon completion of the conditions for subdivision.
2. Taxes shall be paid and current at the time of annexation.

Discussion

Commissioner Netschert asked if there would be any wholly surrounded parcels created by this annexation? Mr. Fossum reported that no wholly surrounded parcels would be created.

Mayor Smith asked about the absence of a park plan and should it be discussed with this agenda item or in a future item? Mr. Fossum stated that issue is best brought up in the context of item 16B, the preliminary plat.

Motion

**Commissioner Netschert moved approval of a resolution of intention to annex property legally described as Lots 1 and 6 as shown in COS#501240/E, Lewis and Clark County, Montana under the method provided for under MCA 7-2-4601 et seq. The property consists of 60 acres, more or less, and is generally located about 1800 feet north of Custer Avenue between Green Meadow Drive and Benton Avenue, in the SW 1/4 of section of 13, T10N R4W, Lewis and Clark County. Staff is directed to prepare documents in compliance with state and local laws pursuant to a resolution of annexation, which shall be heard by the city commission prior to consideration of a final plat for subdivision of this property. This annexation approval is subject to the conditions outlined above.**

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

**Resolution 11730**

**PUBLIC HEARINGS**

**Prezoning to R-2  
and R-3 Districts**

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PREZONING TO R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT FOR 29.71 ACRES AND R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT FOR 30.32 ACRES PRIOR TO ANNEXATION. GENERALLY, THE DEMARCATION BETWEEN THE TWO PROPOSED ZONES IS THE CRYSTAL SPRINGS DRAINAGE WAY THAT BISECTS THE PROPERTY RUNNING FROM WEST TO NORTHEAST.

**Staff Report**

Project Manager Hal Fossum reported on November 13, 2001, Scenic Developers applied for annexation and prezoning for a housing development, Crystal Springs, on Green Meadow Drive.

On January 8, 2002, the Zoning Commission held a duly advertised public hearing and unanimously (5-0) recommended prezoning the proposed Crystal Springs subdivision. The Single Family Residential (R-2) District is proposed for the southern portion of the subject property, and the Medium Density Residential District (R-3) is proposed for the northern portion.

The City Zoning Ordinance (11-2-8-D) requires properties that seek annexation to the City of Helena be zoned prior to the completion of annexation, a procedure referred to as prezoning. Prezoning has no effect of regulating land use prior to the effective date of annexation.

Staff anticipates that annexation would be finalized at the time of filing the final plat for the first phase of the development. City infrastructure requirements would be secured through the subdivision review.

With the completion of a public hearing by the city commission, all procedural and due process requirements will have been satisfied. Two land use zones are proposed by the applicant, with the line between them generally following the existing drainage way, which runs from west to northeast through the property.

The recommended prezoning would complete a necessary step to the development of this property as an extension of the City. The proposed development would entail development of a compact urban neighborhood, like many existing neighborhoods in the city.

**Discussion**

Commissioner Netschert stated in the zoning minutes, a Mrs. Barboa had expressed concerns about the extension of Benton Avenue. Would this be the appropriate time to address that concern? Mr. Fossum stated we could address that concern here, but it would be discussed and brought up in more detail with the preliminary plat item.

Mayor Smith asked if questions about the park issue should also be discussed during the preliminary plat discussion and Mr. Fossum stated that is correct.

**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 Netschert moved approval of first passage of an ordinance zoning prior to annexation to Single Family Residential (R-2) of a portion of Lot 1, and Medium Density Residential (R-3) Districts of Lot 6 and the remaining portion of Lot 1 and find that the zoning is consistent with the evaluative criteria. The property is legally described as Lots 1 and 6 as shown on COS # 501240/E, Lewis and Clark County, Montana. The property consists of 60 acres, more or less, and is generally located about 1800 feet north of Custer Avenue between Green Meadow Drive and Benton Avenue, in the SW 1/4 of Section 13, T10N, R4W, Lewis and Clark County.**  
Commissioner Parriman seconded the motion. All voted aye, motion carried.  
**Ordinance 2933**

**Subdivision/  
Preliminary Plat**

B. CONSIDER A MAJOR SUBDIVISION/PRELIMINARY PLAT FOR THE CRYSTAL SPRINGS MAJOR SUBDIVISION CREATING 108 RESIDENTIAL LOTS ON 60 ACRES.

**Staff Report**

Planner Lucy Morell-Gengler reported the applicant is requesting approval of the preliminary plat for the proposed Crystal Springs Subdivision which is accompanied by simultaneous requests for annexation and pre-zoning to R-2 (Single-family Residential) District for 79 lots and R-3 (Multifamily Residential) District for 29 lots. Annexation of the property must occur prior to filing the final plat.

Existing Lot 6 will provide part of the right-of-way for proposed Horseshoe Bend Road; although Lot 6 is included in the request for annexation and pre-zoning at this time, it is anticipated the remaining 19.271 acres of Lot 6 will be further subdivided into R-3 lots at a later date. The impacts of the future subdivision of Lot 6 are not being fully evaluated at this time. Lot 6 must be submitted for subdivision review when it is further subdivided. The proposed subdivision of Lot 1 is divided into four phases as shown on the plat.

On January 15, 2002, the Planning Board unanimously recommended APPROVAL of the proposed subdivision preliminary plat (7:0 vote) subject to conditions in the staff report as amended by the Planning Board.

The Planning Board requested staff meet with the applicant in regards to the traffic study and the water system. Staff has met with the applicant's engineer to discuss the traffic study and the revisions to the traffic study required by Montana Department of Transportation (MDT). It was determined that the MDT requested revisions would address the same concerns staff had regarding the traffic study. Staff has requested the revised traffic study be submitted to the city as well as MDT.

Based on the meeting with the applicant's engineer, staff also proposes amending condition 2(B) 5 as follows: (additions are shown in CAPITALIZATION and deletions are shown with ~~strikeouts~~) will be 2(B)4 if condition 2(A) 2 is deleted.

The developer must provide 38 feet of right-of-way, which is half of the 76 feet needed for a minor arterial, along the eastern length of the subdivision from the southern lot line of existing Lot 1 ~~through~~ **TO** existing Lot 6 ~~to the northern end of adjacent existing Lot 5; the full 76 feet of right of way should be provided where existing Lot 6 extends further to the east (adjacent to existing Lot 4)~~ to accommodate the future expansion of Benton Avenue.

The proposed change would allow proper alignment of the Benton Avenue extension with existing property lines in conjunction with the future

development of Lot 6.

One of the concerns expressed at the public hearing by area residents was the unsafe route school children used to walk to Four Georgians elementary school. Currently Cooney Drive, which does not have sidewalks and may experience traffic increases as a result of this proposal, is the primary route for children walking to the elementary school from the Barney and Pioneer Village subdivisions. Since the Planning Board public hearing, there are indications that the city will acquire a 30-foot wide access along the subdivision. This access, in conjunction with existing city right-of-way, can accommodate a temporary bike/pedestrian path that could connect the subject subdivision to Custer Avenue at a signaled intersection. This trail could provide safer access to Four Georgians School for the children living in the proposed subdivision until the Benton Avenue extension is constructed. Therefore, in order to improve the public health and safety of the children from the proposed subdivision, and to mitigate some of the anticipated traffic impacts on children attempting to access the Four Georgian elementary school, staff recommends the addition of condition 2(B)9 which should state:

**If there is a city owned or controlled right-of-way, the developer must provide, in conjunction with Phase I, a temporary bike/pedestrian path that connects the subject subdivision to the existing bike/pedestrian system. The trail must be design and construction to city standards.**

One of the Planning Board amendments to the staff conditions included in the rewording of condition number 2(A) 2, deleting the requirements for the water main that would be located in Green Meadow Drive and instead allowing the main to follow lot lines within the subdivision. According to the Public Works Department, installing mains through lots and the parkland rather than street right-of-way is contrary to city code and city policy and is thus unacceptable. Since Green Meadow right-of-way is available for the location of a water main, that right-of-way should be utilized. **Therefore staff is requesting that condition 2(A)2 be reinstated as originally recommended by staff.**

Approval of major subdivision/preliminary plat of 60 acres creating 108 single-family lots for property legally described as Lots 1 and 6 of COS#501240/E located in Section 13, T10N, R4W and Section 18, T10N, R3W Lewis and Clark County, Montana; generally located east of Green Meadow Drive and west of Pioneer Village subdivision.

The proposed subdivision would provide residential development adjacent to other city development and reduce some of the impacts of development by utilizing city water and sewer.

Staff recommends approval of the preliminary plat subject to the following conditions which must be completed prior to filing the final plat:

**1) Agriculture and Agricultural Water User Facilities**

- A) Access to the two existing water wells located on the subject property must be maintained through 20-foot wide access easements.
- B) The applicant must submit to the City documentation as to the disposition of the water rights for the property including but not limited to the existing two water wells and their maintenance responsibility, the irrigation canal, and stream. Utilization of the water wells must be in compliance with the City Title 6 3 well ordinance.

**2) Local Services**

A) Water and Sewer

- 1) A preliminary water system design must be submitted for staff review and approval
- 2) In compliance with the 1978 Water Master Plan, the developer must extend a 12-inch water main through the Green Meadow Drive frontage. If the City Public Works Department determines the water system design must be loop to provide adequate water service to the subdivision, the developer must install a 12-inch main connecting to the existing main in Custer Avenue.
- 3) High groundwater in this area may contribute to the design decisions for water and sewer main materials. Therefore, a geotechnical investigation must be conducted by the developer to determine depth to groundwater, soil resistivity and provide recommendations for system design. Public Works must approve water and sewer system designs.
- 4) Leakage testing must be conducted on sanitary sewer mains and manholes.
- 5) An engineer must inspect and certify the installation of the utilities complies with the plans and the Montana Public Works Standard Specifications.
- 6) Adequate provisions for future water main and sewer main extensions must be provided for connectivity to future development adjacent to existing Lot 1.
- 7) The design of the water and sewer systems must conform to City standards for types of materials, spacing of hydrants and valves, manholes, and other appurtenances

B) Access and Traffic

- 1) Proposed approaches to Green Meadow Drive must be approved and permits obtained through MDT; **AN ACCESS PERMIT FOR PROPOSED GREENFIELD DRIVE MUST BE OBTAINED** prior to filing the final plat for phase I of the subdivision, **AND AN ACCESS PERMIT FOR PROPOSED HORSESHOE BEND ROAD MUST BE OBTAINED PRIOR TO FILING THE FINAL PLAT FOR PHASE IV OF THE SUBDIVISION.**
- 2) The northern-most access to Green Meadow Drive must align with existing Horseshoe Bend Drive.
- 3) A non-access restriction must be noted on the plat limiting vehicular access, such as private driveways, onto Green Meadow Drive and Benton Avenue for lots abutting those streets. This restriction must also be stated in the covenants.

- 4) The developer must provide 38 feet of right-of-way, which is half of the 76 feet needed for a minor arterial, along the eastern length of the subdivision from the southern lot line of existing Lot 1 to existing Lot 6 to accommodate the future expansion of Benton Avenue.
- 5) The northern extension of Benton Avenue must be paved in conjunction with Phase I **IV** to accommodate two traffic lanes with curb, gutter, and boulevard sidewalks on the developer's side, through the length of the proposed subdivision of existing Lot 1. The final design must provide for the development of the remaining adjacent east section of Benton Avenue.
- 6) The connection between proposed Hunters Chase and Colter Loop in Pioneer Village must be constructed in conjunction with Phase I of the development.
- 7) Because adjacent lots and the length of blocks 4 and 6 limit access to the parkland, non-motorized access to the parkland must be developed and approved by the City to allow better access from Crystal Springs Drive and Brookside Drive.
- 8) If there is City owned or controlled right-of-way, the developer must provide, in conjunction with Phase I, a temporary bike/pedestrian path that connects the subject subdivision to the existing bike/pedestrian system. The trail must **BE A MINIMUM OF 5 FEET WIDE, CONSTRUCTED OF DECOMPOSED GRANITE**, be designed and constructed to City standards.

**3) The Natural Environment**

- A) The developer must preserve or mitigate all wetlands within the subdivision since they provide an important feature of the natural environment.
- B) Wetland areas must be graphically shown on the final plat. If wetlands are located within a lot, the wetlands area must be designated as a conservation area where land disturbances are restricted and no construction is permitted.
- C) The covenants must protect wetlands located on private property.
- D) An erosion control plan that addresses erosion control mechanisms, a weed control plan, and a revegetative plan must be submitted to the City for approval with each Phase.

**4) Wildlife And Wildlife Habitat**

The wetlands on the subject property provide wildlife habitats within the project site and must be preserved or mitigated.

**5) Habitat Public Health And Safety**

- A) Fire Hydrants

The fire protection system, including the location and placement of fire hydrants meeting fire flow requirements, must be submitted for approval by the Fire Marshal. Fire hydrants must be installed by the developer in accordance with the requirements of the Helena Fire Department and as required by the Fire Marshal.

B) Stormwater Drainage

- 1) A stormwater drainage plan, complete with drainage calculations provided by an engineer, not allowing drainage in excess of the historical run-off, must be submitted to the City for review and approval.
- 2) The final designs for any stormwater detention basins and drainages must meet all City of Helena Standards and, must blend the detention basins into the landscaping.
- 3) Ground water studies must be conducted. If areas of high ground water are found, those areas must be designated on the final plat and construction of basements must be restricted. The final plat must state "basement construction only allowed if the owner of the lot can provide adequate proof to the City that the construction of basements will not adversely affect, or be affected by groundwater." Restrictions must also be stated in the covenants.

**6) The Survey Requirements Provided For In Part 4 Of This Chapter**

The final plat for this subdivision must be tied to the City coordinate system and provided to the City on acceptable digital formats which include AutoCad 14 and higher for archival and mapping purposes.

**7) Helena Subdivision Regulations**

A) Chapter 2

- 1) An overall development phasing plan indicating the applicant's intention for the development of the of the tract, including incremental provisions for infrastructure and estimated timing of construction, must be submitted to the City prior to filing the final plat.

B) Chapter 4

1) Streets

- (a) Due to phasing this development, streets that may temporarily dead-end and are over 150 feet long must incorporate a temporary turn around that meet Fire Department design standards.
- (b) The new Horseshoe Bend roadway must provide for future connection, and not dead- end into the sewer lift station.
- (c) The Horseshoe Bend roadway must be constructed to collector standards with a minimum right-of-way width of 64 feet to accommodate anticipated traffic volumes.
- (d) A street sign plan must be included with the submitted street design. Signing must be designed to City standards and approved by the City Engineer.

- (e) All final street designs must be engineered to soil and groundwater conditions and a geotechnical report must be submitted with that final design. The roadway pavement section must be submitted for approval by the City.

## **2) Financial Guarantee**

All of the following improvements must be installed or the improvements must be financially guaranteed in accordance with Section 12-4-13 and 12-4-14 of the Helena Subdivision Regulations:

- (f) Stormwater drainage improvements;
- (g) Fire hydrants;
- (h) Streets, curbs, and gutters;
- (i) Sidewalks;
- (j) Erosion control;
- (k) Water and sewer mains; manholes and other appurtenances;
- (l) Streetlights; and
- (m) Parkland fence

### **2) Building Permits**

The developer must install utilities and service lines, and the streets must be constructed to final base course or paved prior to building permits being issued for any lots.

## **C) Parkland**

- 1) The developer must submit a park development plan that contains recommendations for improvements to the proposed park and financing options for the installation of improvements and maintenance. The park plan must identify the neighborhood or community park that will serve this subdivision. If an accessible park is not available, the park plan must include how the proposed park area will function as a neighborhood park to meet the recreational needs of the proposed subdivision residents. The parkland dedication and park plan must be resubmitted to the Park Board for review and ~~recommendation~~ **APPROVAL**.
- 2) Any parkland in excess of the required dedication for existing Lot 1 may be credited to the future subdivision of existing Lot 6.
- 3) To mitigate impacts to the park areas from construction encroachment, the developer must **SURVEY AND STAKE ON SITE TO DELINEATE THE PARKLAND AND** install temporary barriers around the designated park area during the construction phases of the development.

### **8) Easements**

Easements for stormwater drainage, natural or man-made, and/or detention basins must be graphically shown on the plat. These easements must restrict any encroachments that may inhibit the required stormwater drainage. These restrictions must be included in the covenants.

9) Historic

Historic documentation of the property and its structures must be submitted to the Historic Preservation Officer, including photos of the interiors and exteriors of the arched roof barn, the hog barn, and the large shed or barn immediately to the east of the existing dwelling and their settings and a written description of the history of the property that may be available to the property owner.

The applicant is opposed to paving the Benton Avenue extension and installing a water main in the Green Meadow Drive right-of-way.

Discussion

Commissioner Pouliot asked where the trail would be located? Ms. Morell-Gengler stated it would be in the right-of-way, along Pioneer Village and down through Barney. This would provide access to children to Custer Avenue. Commissioner Pouliot asked if the trail was a condition from the Planning Board? Ms. Morell-Gengler stated it would be, but the Planning Board did not have that information available to them. Previously the city did not have access to this section of right-of-way. Staff anticipates having access to that right-of-way and making that trail possible. If the city does not acquire that right-of-way, than that condition would not be applied. Commissioner Pouliot asked if the right-of-way went all the way to Custer Avenue? Ms. Morell-Gengler reported the 30 foot right-of-way adjacent to Barney and Pioneer Village ends with Barney. There are negotiations in which the city may acquire this right-of-way in the near future. Commissioner Pouliot asked if one of the conditions is that they extend Benton Avenue? Ms. Morell-Gengler stated not the street. The extension of Benton Avenue referred to in the conditions would be the area only adjacent to the subdivision. Commissioner Pouliot asked if the extension is something the city would do? Ms. Morell-Gengler reported it is something the city would look at with future annexation and development of this property. Currently, there is not adequate right-of-way width in this area to construct a roadway. There is only 30 feet of right-of-way. The additional right-of-way would be acquired when this section was annexed into the city. Commissioner Pouliot asked what is the right-of-way width adjacent to the property owner's property? Ms. Morell-Gengler reported when these developments were proposed, a local road was envisioned. As areas have developed and traffic has increased in this area, staff has determined that is insufficient for the traffic volume anticipated on Benton Avenue. Staff envisioned Horseshoe Bend being a collector that may someday connect to McHugh. This would provide our two major traffic routes for the area and then local access roads throughout. Commissioner Pouliot asked what is the width requirement? Ms. Morell-Gengler reported that 38 feet is the required width.

Commissioner Netschert stated in the minutes of the Zoning Commission hearing on January 8, there were concerns of a Myrtle Barboa about right-of-way access. Ms. Morell-Gengler reported Ms. Barboa's property is located directly south of this proposal. It is a large, vacant area. Commissioner Netschert asked if the right-of-way concerns have been addressed? Ms. Morell-Gengler stated Ms. Barboa was not aware of any right-of-way that she had donated to the city and she has not donated any to the city for the construction of Benton Avenue.

Commissioner Parriman asked how the children will get to and from the subdivision and school? Ms. Morell-Gengler stated Custer has been an issue for pedestrian access. Staff envisions that the students from this development would come along a sidewalk area connecting to a trail to Custer. At Custer, depending on the facilities at this intersection, they would proceed over to

Cooney where most of the children from these developments now access Four Georgians School. They would come down along Custer to Green Meadow to the light to access Capital High School. Commissioner Parriman asked if access has been looked at regarding all three intersections? Ms. Morell-Gengler stated that Custer and Green Meadow are MDT right-of-ways. Staff's ability to make improvements to those intersections is severely limited. There has been discussion with MDT to make improvements to Cooney. Staff anticipates that those improvements will be made to allow better pedestrian access in this area.

Commissioner Oitzinger asked about increasing the priority of the Custer/Cooney traffic signal? City Manager Burton stated Cooney Street, because of the location of the school, has been submitted for a safety project which includes a new light to help get the kids across the street. There is still work that needs to be done at MDT and there will be a report ready by March at the Transportation Coordinating Committee meeting. It is not related to this subdivision, but is moving forward through MDT because of the existing situation. Commissioner Oitzinger asked what the timeline is between the subdivision and the light? City Manager Burton stated the timeline should be fairly quick.

Commissioner Pouliot asked if Crystal Spring and Hunter Chase streets would hook up with streets in the Barney subdivision and go further east? Ms. Morell-Gengler stated the connection would be through Pioneer Village and through Colter Loop for this subdivision. Future development of the property to the south may connect to the Barney subdivision. There are roads that have been stubbed out that would allow for connectivity in that area. Staff would like an access that is not adjacent to vehicular travel and would provide a safer access that the children might opt for. A trail, if approved, would be constructed the same time as Phase I.

Commissioner Parriman asked if this will be a city created SID or is the developer planning on putting in all the improvements and then passing them off on the cost of the lots? Ms. Morell-Gengler stated the subdivision regulations provide for various mechanisms for financing improvements. One of those is an SID. In describing the structure of an SID, the subdivision regulations have provisions as to how you go about doing it. The developer is responsible for making those improvements, but he can distribute the cost through an SID. The subdivision regulations indicate that a waiver of SID could be included in the covenants. The cost could be spread between the property owners of this development. Staff recommends that the construction of a 2-lane roadway to city standards be constructed in the Benton Avenue right-of-way to service Phase IV and be developed at the time of Phase IV. The developer would like to delay the development of Benton Avenue until the entire area is ready for development which could be a number of years beyond the development of Phase IV. Staff's concern is that the alternate route is a local road and would be serving as a collector.

Mayor Smith asked about the water main. Ms. Morell-Gengler stated the development is being served by 8 inch water mains throughout the proposal. The main in the Green Meadow Drive is recommended to be 12 inch by the city's water master plan. Rebates are not available for a 12 inch main. The applicant would be required to pay for the 12 inch main in Green Meadow Drive. The subdivision and our codes indicate that connectivity is important in subdivisions and annexations. That main should be extended through the length of the property frontages. These issues of connectivity include main size. When we have a plan that indicates a main size, staff likes to follow the recommendations of that plan when recommending main location and sizing. Staff's

recommendation is a 12 inch main. Mayor Smith asked about the rebate program. Ms. Morell-Gengler stated city codes now allow for developers to recoup part of their costs for a main that is put in for their development, but may later provide service to adjacent properties as they develop. If the properties to the west were to develop and connect to this, they would provide a rebate to the developer of this property for a portion of the cost of that main.

Commissioner Netschert asked what size line would be up for rebates? Ms. Morell-Gengler stated there are two different rebate programs. One is oversized lines which are lines over 12 inches. If the city requires a line to exceed 12 inches in an area to serve the greater needs of the area, then the city rebates the oversize cost of that line. That is the city's payment to the developer. The other rebate is a rebate when others connect onto the line.

Commissioner Netschert asked if any SID's that are associated with this project fall directly on those people within that project and not any adjacent property owners? People who have existing homes along that area should not have to pay an SID for somebody else's development. City Attorney Nielsen stated when an SID comes in, if there is a protest of more than 50%, that that SID does not happen. If a developer were going to bring it in, they could include the properties, but it is up to the commissioners to whether they want to finally approve the boundaries. It is premature at this point to define the boundaries of an SID.

Public Testimony

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

Proponents:

Doug Camrud, 937 South Holt Drive, Lakewood, CO. Mr. Camrud is a partner with the Crystal Springs subdivision. This is a logical location for expanding the city boundaries. It is near sewer mains, water mains and major roadways. It is also adjacent to existing city limits. With anticipated growth in the area, this subdivision would be a nice addition to the city.

The water main and Benton Avenue are the two issues they are in disagreement with. They are also in disagreement with the language on the conditions of the final plat approval. A letter was sent addressing these items and the reasons they should be modified or removed. The first condition which requires installation of a 12 inch water main through the Green Meadow frontage, parallel to the water main proposed, which is approximately 150 feet away, is an expensive redundancy. They had proposed during the planning board meeting to increase the size of the main, inside the subdivision, from 8 inches to 12 inches to accommodate increased capacity for future development of other properties and to pay for the cost of increasing that main inside the subdivision.

One of the problems with the main going down Green Meadow is that there is not a lot of development on the west side of Green Meadow. A large portion is wetlands and farmland. City engineering, public works and staff would not permit a house there. They would not be able to cross Green Meadow Drive and tie into the main. There would be two main points for the people on the other side of Green Meadow to tie in at a future time. Because of the wetlands, you would have to tunnel under 150 feet to install a main and it would be difficult to install and maintain.

Presently, there is a 6 inch Montana Power gas line right there that they are asking Montana Power to relocate. When Montana Power installed their gas

main down Green Meadow Drive, they got permission from the previous landowner to go inside the property and put the main at one of the easiest crossing points across Crystal Springs Drive. Right now, they are asking Montana Power to put their main back along Green Meadow to get it out of the subdivision and out of the lots. It will all be located in street right-of-ways or city parklands. Locating the water main inside the subdivision would be easier to maintain than alongside Green Meadow. Besides the gas line being located along the majority of Green Meadow, there are also telephone and fiber optic cables which makes the area very congested.

It doesn't seem reasonable to install a portion of Benton Avenue when it has not been required in the past. The best way to install Benton Avenue is a creation of an SID which encompasses the whole area that would get serviced by that road.

We are working on a park plan and looking at moving Horseshoe Bend Road to the north to avoid the sewer lift station.

Opponents:

Debbie Phillips, 3200 Dunlap Drive, stated at the Zoning Commission meeting there were upsetting developments from that meeting such as the proposed routing of traffic through Colter Loop down Cooney to Custer and talk about extending Benton Avenue but not requiring standard city street width. At this meeting, there have been a lot of issues that have been cleared up, but they still have those two main concerns. What is the purpose of the Benton Avenue extension? There is a sufficient right-of-way to make an arterial size street. We are not interested in an arterial street 20 feet away from our backdoor. Cooney does not have a safe walking path down that street. On part of it, there is a sidewalk that is adjacent right to the street. Part of it does not have any kind of walkway. Part of it has a bit of a walkway, but is never maintained. Getting kids to go down Cooney is not viable as long as the current conditions exist. Getting them to the corner of Custer and Benton Avenue area is not viable either unless you can get them across the street. There are no walkways on the north side of the road. The walkway is on the south side of the road. Another concern is the SID. They are not willing to pay extra taxes for something that inhibits their quality of life.

Amy Harris, 130 Horseshoe Bend Road, stated she favors the subdivision being close to the city and thinks it is a wise land use. A pedestrian bike path connecting the subdivision to existing city trail systems is really important and has to be done. If it stops on the north side of Custer, it has not actually connected. The developer should work with the Montana Department of Transportation to determine how best to get people across that street at Benton and Custer. They have to get on to the main bike path and at that point it has to connect. Otherwise, you haven't connected to the city. The only traffic study done to date shows Benton Avenue being in and this study is inaccurate and misleading. It shows how much traffic would be on Green Meadow at certain intersections and how much would be on Benton. The impact of safety to people that live there right now have not been fully appreciated and we don't have an opportunity to mitigate that if we don't look at the traffic study.

Terry Phillips, 3200 Dunlap Drive, stated the city is under an Insurance Services Offices rating which determines the classification at what rate we pay our insurance. Under those guidelines, for this particular subdivision, the first due responding engine from the fire department is required to be within a mile

and a half coverage. This subdivision is well over a mile outside of that mile and a half coverage. It will affect the entire city of Helena because the city gets a classification based on water supply, method of alarm and fire protection. The maximum daily consumption in the water system is the water that is used on the highest consumption day in a given year. What is left in the water system is what is left to fight fire with. Using a formula that is recognized by ISO for areas that can't account for that maximum daily consumption, there would be an additional 69,000 gallons of water consumed based on 143 gallons of use per person. That is using a three people average in each household. If we require this to be a sprinkler subdivision, we would have a precedented setting subdivision in the State of Montana as well as in Lewis and Clark County. We would have a much safer property if we require fire sprinklers to be installed in these residences. Chances of surviving a fire in your home increase by 90% with a fire sprinkler. Sprinkler buildings are not considered in ISO's consideration when surveying the city for fire protection. They are removed from that needed fire plan. There is heavy truck traffic on that street that comes out of the gravel pit. It is a concern to have more kids on that street. There was an individual from that subdivision that was killed in that intersection two years ago when crossing that street. The water line is critical that it be put in where it has been recommended along Green Meadow.

Al Siewert, 3212 Dunlap Drive, stated when he moved there, he was not told that Benton Avenue, which is now an easement, would become a street. There would then be traffic front and back. There are concerns about the value of the property. Having a walkway for children would not be objectionable, but car traffic on a street that narrow is not a good idea.

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

#### Discussion

Mayor Smith asked Mrs. Phillips if there was anything she neglected to tell the commission in her public testimony? Ms. Phillips stated that she is in favor of establishing subdivisions that are within the city limits. This is what Helena's growth needs to be, but there are significant concerns in approving it the way it stands.

Commissioner Pouliot asked if Mr. Phillips is a firefighter. Mrs. Phillips stated that he was a firefighter. Commissioner Pouliot asked if the fire issues were addressed to the planning board? Mr. Phillips stated they were not because there was never an opportunity to discuss the fire issues. The planning board indicated that this was an issue better brought to the city commission because it involves the city more directly.

Commissioner Parriman asked if there will be water wells in the area? Is that not a part of this development? City Manager Tim Burton stated that is not related to this issue at all. Jack Anderson, the prior owner, was engaged and there have been conversations taking place, but it is not related to this issue.

Commissioner Netschert asked Mrs. Phillips and Mr. Siewert if provisions were made such as screening or bushes, to address the noise that might occur, would they feel more comfortable with having that road? Mrs. Phillips stated that noise is not the only issue. They are also talking about exhaust fumes. A hedge or a tree barrier would probably address both issues. Mr. Siewert stated the noise is not the real problem. It is having the traffic that close to the back yard. Why not jog Benton Avenue over and put a row of houses in like you would normally do under the same conditions?

Commissioner Netschert asked if the fire department weighed in on this and considered this proposal? Ms. Morell-Gengler stated one of the conditions of approval is they meet fire flow standards. Typically what is done is a modeling and that indicates if there are adequate fire flows. That has not been done at this point. It is done between preliminary and final plat. If there is not adequate fire flows with the water system as proposed, then an alternative route would be to extend the main from Green Meadow from the development all the way down to connect to Custer. That would provide a stronger and better loop for the development. Staff feels that fire flows can be met through either the system that has been presented or through an alternative that would require the main being extended all along Green Meadow to connect to Custer. Commissioner Netschert asked if the commission approves this tonight, than the fire flow situation will be addressed between then and the final plat approval? Ms. Morell-Gengler stated that is correct.

City Manager Tim Burton stated there have been discussions with the fire chief in terms of future planning, the potential of a third fire station and where that could be located. All ISO conversations surrounding station 1 and 2 are in a 5-mile radius.

Commissioner Netschert asked if there will be designations of preferred pedestrian travel? The trail down Benton had been mentioned. Would it be feasible to designate those trails with perhaps some temporary signage? Ms. Morell-Gengler recommended including that with condition 2(b)(8). Language can be included that requires signage for the proposed trail to identify that as a bike/pedestrian trail.

Ms. Morell-Gengler identified part of the subdivision regulations that require the applicant opportunity to rebut.

Mayor Smith stated it was his intention to give Mr. Camrud the opportunity to respond.

Mr. Camrud stated the traffic study is currently being revised. There have been comments received from the Montana Department of Transportation and Stahly Engineering in presently revising the traffic study to incorporate those comments. One of the comments was addressing traffic numbers without Benton Avenue being installed. In Stahly's preliminary evaluation, it has been indicated that a fire flow requirement, as the water system is currently being proposed, will be met. We are at the low end of the fire system, so there is quite a bit of pressure of water going down the hill. That should not be a problem. Most of the traffic that comes from Phase I, II and III will be heading out onto Green Meadow and turning onto Custer.

**Motion**

**Commissioner Pouliot moved approval for Crystal Springs major subdivision/preliminary plat creating 108 residential lots from 60.03 acres to be located in an R-2 and R-3 District on property legally described a Lots 1 and 6 of COS#501240/E located in Section 13, T10N, R4W, and Section 18, T10N, R3W Lewis and Clark County, Montana, subject to the conditions outlined and amended above.** Commissioner Netschert seconded the motion for further discussion and amendment.

**Discussion**

Commissioner Oitzinger asked about the traffic study issues. There is an existing traffic study, but we have had testimony that it was not adequate because the Benton Avenue extension was considered and now it won't be with us until Phase IV? Ms. Morell-Gengler stated that is correct. The traffic study that was submitted with the application was deemed by staff as having some

inadequacies. There was a recommendation by staff to include additional requirements of the traffic study. The Planning Board removed that condition. Since that time, staff has received MDT's letter indicating that they are requiring additional information for the traffic study. There requirements reflect what staff had indicated as additions required of the traffic study. The deletion of that condition would not harm our evaluation of the proposal since MDT is requiring that information.

Mayor Smith asked how the traffic study would relate to approval of this preliminary plat? Ms. Morell-Gengler stated most of the impact will be on state owned right-of-way. The improvements to those roadways are beyond our control. MDT will be looking at the traffic study to determine what improvements will be required for the access permits on to Green Meadow. They will evaluate the impacts to their network caused by the subdivision. Mayor Smith asked if MDT could add or impose requirements separate and distinct from what the commission may do? Ms. Morell-Gengler stated that is correct.

Commissioner Netschert asked that in condition 2(b)(5), is the developer only being required to provide that portion of Benton Avenue as it relates to Phase I of this project or is this to install the entire length throughout the entire development? Ms. Morell-Gengler stated it is through Lot 1, not Phase I. The requirement in the city commission memo is to be constructed during Phase I. That extension would be through the existing Lot 1 which is the subdivision they are proposing now. That property is currently labeled Lot 1. Commissioner Netschert asked if that included Phase I and II? Ms. Morell-Gengler stated that should extend through all phases because it connects to Phase IV out by the parkland. Horseshoe Bend would be connected to Benton Avenue.

Commissioner Netschert stated it does not make sense to construct the entire Benton Avenue as was being discussed.

Commissioner Oitzinger asked why they are not adopting staff's memo of February 11, 2002? A park plan should be included.

Mayor Smith has concerns there are serious areas of disagreement. Staff reports were just received today with amendments.

City Manager Tim Burton asked what the statutory time frame is that the commission is under? Ms. Morell-Gengler stated the commission has until February 28, 2002 to deal with this issue. If tabled, there would still be one more meeting. City Manager Tim Burton stated the commission has a staff report and there is a motion on the floor. It is staff's obligation to bring new information forward. The City/County Park Board did take an action last Thursday and then there were additional conversations as recently as today and those memos are in front of the commission. If the commission deals with the motion, then those two letters also need to be dealt with along with the substance of them.

Mayor Smith stated if action is delayed, there would be another opportunity to discuss it at the February 25, 2002 meeting. It would have to be acted upon at that meeting unless the applicant requests an extension. City Manager Tim Burton stated that is correct.

### **Motion**

#### **Comissioner Pouliot moved to withdraw his previous motion.**

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

Commissioner Netschert asked if the commission went ahead and proved the preliminary tonight, how long does the commission have before the final plat comes before the commission? Is there a set time frame? Can that be delayed until all these circumstances have been dealt with? City Attorney David

Nielsen stated from preliminary plat approval until final, the applicant has three years. With conditions set tonight, the commission can not change those. Commissioner Netschert asked if the commission includes the memos of February 11 and February 6, 2002 in the motion that is on the floor right now for further discussion and perhaps mitigation between staff and the applicant, can that be dealt with? If the commission can go forward with this tonight and have staff and the applicants deal with the concerns, then they can come back with a final submittal and be done with this issue.

Mayor Smith stated that if the motion is passed as introduced, then that will preclude the very opportunity that Commissioner Netschert is seeking for staff and the applicant to engage in further discussions on these issues. We will have imposed the condition for a 12 inch water line on Green Meadow and all the conditions with regard to traffic and access into and out of the proposed subdivision.

City Attorney David Nielsen stated that is correct. Once the conditions are set, then they no longer become negotiable. However, an applicant can always ask to be relieved from a condition that was set.

**Motion**

**Commissioner Netschert moved to table commission action on the Crystal Springs major subdivision preliminary plat as contained in the memo of January 28, 2002 to the commission meeting on February 25, 2002.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Discussion**

City Manager Tim Burton asked if the motion included the date certain to be revisited at the next commission meeting? Commissioner Netschert stated that is correct and staff and applicants have heard the commissions concerns and will be able to address them in a quick amount of time.

City Manager Tim Burton does not have a clear understanding of the concerns. There are two positions relative to water and the other issue has to do with the timing of the construction of Benton Avenue. Those disagreements exist, so should those two issues be revisited with the applicant? Mayor Smith stated that is correct. The commission has two weeks and this issue will come before the commission on February 25, 2002. Between now and February 25, there is time for the applicant, city staff and people from the neighborhood to get together and see if they can come to a mutually acceptable agreement with regard to access, traffic, the water main and any of the other conditions before the commission. City Manager Tim Burton stated that the one issue that can't be answered is the future of Benton Avenue on to this property through someone else's property. Mayor Smith stated that if that is unresolvable, than Ms. Morell-Gengler will report that on February 25 and the commission will make a decision.

Commissioner Netschert has concerns with the timeframe in which Benton Avenue would be installed and believes it should be developed in phases instead of all at once. The 12 inch water main should be put in with phases and not necessarily be extended all the way to Horseshoe Bend.

Commissioner Oitzinger asked the material for the next meeting include staff recommendations on one document.

City Attorney David Nielsen stated one of the things that state law requires on subdivision approval with conditions is that there has to be a findings made by the commission. A new procedure that Ms. Morell-Gengler has put together which will assist the commission in making those findings is in the staff report on page 11, dated January 9, 2002. These are proposed findings. If the

conditions change in the final approval, then the findings would have to be changed. Ex parte communication should be avoided with proponents and opponents during the interim. The public hearing has been closed so technically nothing else should come in except the staff report.

Mayor Smith stated this issue has been tabled for 14 days and that gives the applicant, staff and other interested parties the opportunity to revisit this on February 25, 2002.

**Annual  
Appropriations**

- C. CONSIDER A RESOLUTION AMENDING RESOLUTION 11685 AND SETTING 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.



Subdivision Regulations.

3. **Drainage Easement**

The 50 foot-wide drainage easement noted on the plat must be maintained and protected during construction.

Discussion

Commissioner Pouliot asked if the applicant is building a duplex or a townhouse? Ms. Waters reported it started out as a duplex and will look very similar to a townhouse. They got the building permit for the duplex, turned it into townhouses so very similar buildings will be there. The applicant will split the lot so a person could buy one townhouse and the other could be sold separate. Commissioner Pouliot asked if it would be two levels? Ms. Waters reported the applicant will answer that question.

Public Testimony

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

Mr. Dennis Lay, surveyor for the applicant, lives at 2230 5<sup>th</sup> Avenue and stated it is a 15 foot easement that is being abandoned, not a 7.5 foot easement. It used to go between the south half of lot 7 and lot 8. That easement is being abandoned. That easement has been approved for abandonment by U.S. West, Montana Power and the City of Helena. There are two plats and one is an amended plat. That is eliminating the boundary and the easement. The second is the minor subdivision plat which putting the boundary back in which splits through the middle of the townhouses.

Mayor Smith asked if the applicant is in agreement with the three conditions regarding water and sewer design standards and the drainage easement stated on page 2 of staff's memo. Mr. Lay stated he is a land survey and not an engineer and can not address that question.

Mr. Joe Cipriano, 3835 Beechnut, stated he is the applicant and is in agreement with the conditions. The difference between a townhouse and a duplex is the fire code. It is one-story with a daylight basement.

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

Motion

**Commissioner Netschert moved approval of a minor subdivision to create Lot 8A-1 and Lot 8A-2 for townhouse development from .676 acres; legally described as Lot 8A, Block 33, Bull Run Acres No. 1 Subdivision, Helena, and Montana; and generally located at the northeast corner of Belt View Drive and Saddle Drive.** Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Motion

**Commissioner Pouliot moved approval for the elimination of the 15 foot-wide utility easement located between the original Lot 7 and Lot 8, Block 33, Bull Run Acres No. 1 Subdivision.** Commissioner Netschert seconded the motion. All voted aye, motion carried.

**Public  
Communications**

There were no items for discussion.

**Motion**

**Commissioner Netschert moved to table items 16D, 16E and 16F until the February 25, 2002 city commission meeting.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

***Meetings of Interest***

The next city commission meeting will be February 25, 2002.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 9:15 p.m. this 11th day of February, 2002.

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MAYOR

ATTEST:

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CLERK OF THE COMMISSION