



consent agenda.

**Motion**

**Commissioner Netschert moved approval of the consent agenda, items A and B.** Commissioner Pouliot seconded the motion. All voted aye, motion carried.

**Communications**

**COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS**

Commissioner Pouliot reported Gateway Economic Development Corporation was formed three years ago and is this regions local development organization. Over the past three years, they have done a lot of work in the community by providing free business consultations, marketing, business planning, and technical and financial assistance to businesses. The directors have acted as the membership for this organization and at this stage of development, with the organization solidly in place, Gateway is seeking to expand that and be more inclusive in their membership. They are asking for a general membership and asking persons and businesses to join in their work. This is an excellent idea and the city should join and be a member of this organization. Mayor Smith asked if Commissioner Pouliot had an amount in mind. Commissioner Pouliot stated the amount to join would be \$100.00. City Manager Burton stated the level that was discussed at the administrative meeting was \$100.00 and that was what Lewis and Clark County Commission considered and approved. Commissioner Pouliot stated one membership level is a \$50.00 and it goes up to \$250.00. Mayor Smith hopes the commission will look favorably upon this. This is a natural transition to a membership organization. The \$100.00 would come out of the commission budget and funds for items such as dues, subscriptions and memberships.

**Motion**

**Commissioner Pouliot moved the City of Helena join and pay the membership dues of \$100.00 to Gateway Economic Development Corporation.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Commissioner Netschert stated persons from "Preserve Memorial Park" recently contacted him. They are trying to prevent any further problems regarding Memorial Park and issues of further development. They asked that this issue be put on an agenda for an Administrative meeting. Mayor Smith stated the next administrative meeting will be April 17, 2002 and requested that previous correspondence regarding this issue be compiled and included in the packet.

Commissioner Parriman stated at the last administrative meeting, there were discussions regarding the State taking over the Armory building. Everyone is concerned with the loss of the gym space. The commission should show their support in retaining that gym space if possible. Will a letter be drafted to show their support? City Manager Burton stated that he visited with Clerk of the Commission Debbie Havens and she is working on draft letter to the Governor.

Commissioner Oitzinger stated a press release was received on the Wastewater Treatment Plant. The staff at the Wastewater Treatment Plant has done such a great job in the running of the plant that there is a reduction in the fee with the Department of Environmental Quality. Public Works Director John Rundquist stated due to operating procedures, it costs less for the State to administer our program and we reap the benefit of lower costs for our permits and therefore, we are able to get the reduction in costs.

**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 reported that Wednesday, April 10 is the City Employee awards luncheon. It will be held at noon at the Civic Center.

Mayor Smith reported he will be out of town Wednesday and asked Mayor Pro Tem Netschert to attend the luncheon.

Commissioner Netschert stated there is a delegation from Kazakhstan in Helena.

**Appleton Inn**

CONSIDER A RESOLUTION OF INTENTION TO ANNEX LOTS 1-4 IN BLOCK 175 OF THE WALLACE'S SUBDIVISION IN THE SYNDICATE ADDITION LOCATED IN LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED AT 1999 EUCLID AVENUE, AT THE SOUTHEAST CORNER OF EUCLID AND JOSLYN, INTO THE CITY OF HELENA, MONTANA, AND ESTABLISH THE CONDITIONS FOR ANNEXATION.

**Staff Report**

Project Manager Hal Fossum reported the owners of this property, located at 1999 Euclid Avenue, at the southeast corner of Euclid and Joslyn Street have applied for annexation to the City of Helena. The property owners, Tom Woodall and Cheryl Boid, own and operate an existing commercial establishment - the Appleton Inn - on this site. No significant building or land use changes are anticipated in the near future. The applicants have applied for annexation because they want to connect to city utilities. The property is adjacent to Euclid Avenue and Joslyn Street, which are within city limits.

It is the usual practice of the city to establish conditions to annexation as an intermediate step toward the finalization of annexation. Establishing conditions enables city staff to work with the applicants to make arrangements to complete a variety of city requirements.

No public hearing is required for this action. Commission review of this proposal will satisfy all legal and procedural requirements and enable the city commission to establish conditions of annexation.

All properties in the city are required to meet certain standards for infrastructure including sewer, water, storm drainage, fire hydrants, streets and sidewalks. Under MCA 7-2-4610, the timing and financing of city services may be mutually agreed upon by first class cities and property owners of the area to be annexed. Under the present proposal, we expect that some required city infrastructure improvements will be completed by the time of annexation and need not be deferred. These include completion of sewer and water main extensions. Staff expects that any required improvements to streets and sidewalks may be deferred until the needed improvements are completed on a larger scale.

The site plan submitted with the annexation application, and a spring 2001 aerial photograph of the site serve to document present conditions for purposes of future zoning and building review. No further site plan documentation is necessary at this time.

Although no construction is anticipated in the near future, any construction work following passage of this resolution would be undertaken in anticipation of annexation. Therefore, any construction prior to annexation should be completed in conformance with city requirements, including zoning,

building, public works, and fire codes. Building permits for commercial structures outside city limits are permitted by the state, the review of which covers fire and building codes. A condition is included to ensure that any further building prior to the completion of annexation would be reviewed by the city for conformance with its zoning and infrastructure requirements.

The payment in full of all taxes and assessments is required by city ordinance. The recommended condition for timely notification and completion of conditions is intended to provide a reasonable time frame for completion of this process.

Annexation of the private property is consistent with city policy, and consistent with the policy of annexing properties served by city infrastructure.

Staff recommended approval of the resolution of annexation subject to the following conditions:

1. Infrastructure: The applicant must install infrastructure improvements as required by the city and to city standards, including water, sewer, fire hydrants, street, curb, gutter and sidewalks, or enter into a development agreement acceptable to the City of Helena that defines responsibility for the installation or deferral of the improvements.
2. Review of new construction: For all construction commenced subsequent to the adoption of this resolution, the property owners shall submit plans for review by the City of Helena to ensure compliance with infrastructure, zoning and Uniform Fire Code requirements of the city.
3. Fire code compliance: The applicant shall arrange for inspection by the city fire department and bring facilities into compliance with Uniform Fire Code under a schedule agreeable to the city.
4. Taxes and Assessments: Taxes and assessments shall be paid and current at the time of filing the Resolution of Annexation.
5. Completion of Conditions: The applicant shall notify City Planning in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within one (1) year of the date of approval of this Resolution of Intention, the city is under no obligation to annex the property or to continue any city services, including water and sewer.

#### Discussion

Commissioner Netschert asked if this property is contiguous to the City of Helena? Project Manager Hal Fossum stated this property is contiguous with the corporate corridors of Euclid Avenue and Joslyn Street, both of which are now within the City of Helena. The main body of the city is about a block and a half to the east. Euclid Avenue is part of the city, all the way out to Kessler School, which is within city limits. Commissioner Netschert asked when the applicants expect to complete annexation? Mr. Fossum stated that Mr. Woodall has informed staff he expects to hook onto the city's sewer and water systems before the summer tourist season, so completion should be by this spring.

Mayor Smith asked Mr. Woodall if he is in agreement with the conditions. Mr. Tom Woodall, 1999 Euclid, reported he is in agreement with the conditions. The only concern Mr. Woodall has is the chance he may have to put in a fire hydrant.

Commissioner Netschert stated he doesn't have issues with the conditions for annexation or the services, but he does have problems with

creating pockets throughout the city. He would like to have this issue put on the agenda for the next administrative meeting.

**Motion**

**Commissioner Pouliot moved approval of a resolution of intention to annex Lots 1-4 in Block 175 of the Wallace's Subdivision in the Syndicate Addition, Lewis and Clark County, Montana, into the City of Helena, Montana, and generally located at 1999 Euclid Avenue, subject to the conditions outlined above.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution No. 11743**

**Mikal Kellner  
Foundation**

CONSIDER A RESOLUTION OF INTENTION ESTABLISHING THE CONDITIONS FOR ANNEXATION FOR PROPERTY LEGALLY DESCRIBED AS A TRACT OF LAND SITUATED IN THE WEST HALF OF SECTION 23, T10N, R4W, PMM, LEWIS AND CLARK COUNTY, DESCRIBED IN BOOK 236, PAGE 656 OF DEEDS, AND CONTAINING 5.303 ACRES, MORE OR LESS; GENERALLY LOCATED ADJACENT TO AND SOUTH OF SPRING MEADOW LAKE.

**Staff Report**

Project Manager Hal Fossum reported the owner of this property; the Mikal Kellner Foundation has applied for annexation to the City of Helena. The property is located adjacent to and south of Spring Meadow Lake State Park; about 1 block removed from existing city limits. A wildlife rehabilitation center is now being developed on the site, and subsequent to its development, ownership of the property is expected to pass to the State Department of Fish Wildlife and Parks. The applicants have applied for annexation and arranged to connect to city water and sewer utilities in the course of moving utility lines.

It is the usual practice of the city to establish conditions to annexation as an intermediate step toward the finalization of annexation. Establishing conditions enables city staff to work with the applicants to make arrangements to complete a variety of city requirements.

No public hearing is required for this action. Commission review of this proposal will satisfy all legal and procedural requirements and enable the city commission to establish conditions of annexation.

All properties in the city are required to meet certain standards for infrastructure including sewer, water, storm drainage, fire hydrants, streets and sidewalks. Under MCA 7-2-4610, the timing and financing of city services may be mutually agreed upon by first class cities and property owners of the area to be annexed. Under the present proposal, we expect that most required city improvements will be completed by the time of annexation. Staff expects that any required improvements to street and sidewalk may be deferred until the needed improvements are completed on a larger scale.

The site plan submitted with the application serves to document present conditions for purposes of future zoning and building review. The site and infrastructure plans have been reviewed by the city for conformance with zoning and public works requirements. The buildings have been reviewed and permitted by the state. No further site plan documentation is necessary at this time.

Any construction work following passage of this resolution would be undertaken in anticipation of annexation. Therefore, construction should be completed in conformance with city requirements, including zoning, building, public works, and fire codes. Building permits for commercial buildings outside city limits are issued by the state, the review of which covers fire and building

codes. A condition is included to ensure that any construction prior to the completion of annexation would be reviewed by the city for conformance with its zoning and infrastructure requirements. The applicants are working with the city in this manner already.

The payment in full of all taxes and assessments is required by city ordinance. The recommended condition for timely notification and completion of conditions is intended to provide a reasonable time frame for completion of this process.

Annexation of the private property is consistent with city policy, and consistent with the policy of annexing properties served by city infrastructure.

Staff recommended approval of the resolution of intention subject to the following conditions:

1. Infrastructure: The applicant must install infrastructure improvements as required by the city and to city standards, including water, sewer, fire hydrants, street, curb, gutter and sidewalks, or enter into a development agreement acceptable to the City of Helena that defines responsibility for the installation or deferment of the improvements.
2. Review of new construction: For all construction commenced subsequent to the adoption of this resolution, the property owners shall submit plans for review by the City of Helena to ensure compliance with infrastructure, zoning and Uniform Fire Code requirements of the city.
3. Fire code compliance: The applicant shall arrange for inspection by the city fire department and bring facilities into compliance with Uniform Fire Code under a schedule agreeable to the city.
4. Taxes and Assessments: Taxes and assessments shall be paid and current at the time of filing the Resolution of Annexation.
5. Completion of Conditions: The applicant shall notify City Planning in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within one (1) year of the date of approval of this Resolution of Intention, the city is under no obligation to annex the property or to continue any city services, including water and sewer.

#### Discussion

Commissioner Netschert asked if this property is contiguous to the City of Helena. Mr. Fossum stated this property is not contiguous to the City of Helena. This property is 150 yards removed from the current corporate limits of the city. The property is north of Kessler School. Upon annexation of this property, the city would propose this street corridor up through the extent of that property line for inclusion in the city.

Commissioner Parriman asked if subsequent to the development of the rehab center, would Fish, Wildlife and Parks take ownership of that deal. Mr. Fossum stated the Mikal Kellner Foundation has acquired this property and have anticipated for some time, developing it for a land swap with Fish, Wildlife and Parks. FWP owns and manages Spring Meadow State Park, which is contiguous to this complex to the north.

Commissioner Pouliot asked who would pay for the road. Right now it's a dirt road and will have to be paved. Mr. Fossum stated that is a double shot chip and seal. It is a form of paving, but not up to city standards. The cost of the improvement of that road would fall to the property owners being annexed. The

improvements would be an infrastructure cost that would fall to the property owner and be incorporated into a development agreement.

Kelly Kuntz, Chairman of the Board of Directors of the Mikal Kellner Foundation, stated the Wildlife Rehabilitation Center is on site. They had agreed not to protest annexation. They have built everything to city codes.

Commissioner Netschert stated the only difference between this parcel and the last is that this parcel is contiguous to the city. He has problems with this issue since it is not contiguous.

Mayor Smith asked if Mr. Kuntz was acceptable to the five conditions. Mr. Kuntz stated they were agreeable with the conditions.

**Motion**

**Commissioner Oitzinger moved approval of a resolution of intention to annex a 5.3 acre parcel of land in the west half of Section 23, T10N, R4W, PMM, Lewis and Clark County, Montana, described by Book 236, page 656 of Deeds; generally located at adjacent to and south of Spring Meadow Lake State Park, on Helena's western fringe, subject to the conditions outlined above.** Commissioner Pouliot seconded the motion. Motion carried 4-1 with Commissioner Netschert voting no. **Resolution 11744**

**East side property**

CONSIDER A RESOLUTION OF INTENTION TO ANNEX CONTIGUOUS GOVERNMENT PROPERTY, BEING TRACT A1 IN THE NE 1/4 OF SECTION 4, TOWNSHIP 9 NORTH, RANGE 3 WEST, P.M.M. IN LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SADDLE DRIVE AND SOUTH HILLS DRIVE, INTO THE CITY OF HELENA, MONTANA.

**Staff Report**

Project Manager Hal Fossum reported the City of Helena owns two parcels of land on the upper east side adjacent to existing city limits and on the Saddle Drive right of way. One of these parcels (Tract A1) is in the process of being declared surplus property, and a sale for residential development is contemplated. Staff recommended the property be annexed to the city prior to this sale.

Because the property is contiguous government-owned land, it may be annexed to the city by a method specifically targeted to that situation, as set forth in 7-2-4401 et seq., MCA. Briefly, annexation by that method would be initiated by passage of a resolution of intent by the city commission, at which time a public hearing date would be set. The matter would then be advertised for two successive weeks, and the required 20-day comment period would be held. Following the close of comments, the city commission may then hold a public hearing and act on the proposal for annexation. The annexation is effective 30 days following passage of a resolution of annexation by the city commission.

Should the commission pass a resolution of intention on April 8, 2002, the following timeline is projected.

- April 1 Receipt of request from city manager to annex the subject properties
- April 8 City Commission consideration of resolution of intent to annex
- April 14 First publication of legal ad
- April 21 Second publication of legal ad
- May 4 End of public comment period (20 days from first publication)
- May 6 City Commission public hearing on proposed annexation

The required zoning action is also expected to come before the City

Commission at its May 6 meeting.

Annexation of this city-owned property will ensure that the properties, if developed, will meet city standards.

Discussion

Commissioner Pouliot asked if there were any trails or paths around the 15 acres or are any planned. Mr. Fossum stated most of the property is quite steep along the southern tier of the property. The city, through the open space bond, has acquired a 40-acre parcel to the east. It is likely that a portion of the property in the southern extent would be too steep to develop.

Commissioner Oitzinger asked if the Helena Citizens Council approved this annexation. Mr. George Hoff, member of the HCC, stated this particular issue was not raised at their last meeting.

Motion

**Commissioner Parriman moved approval of a resolution of intention to annex adjacent property owned by the City of Helena and setting a public hearing for May 6, 2002. The property is legally described as Tract A1 located in the NE 1/4 of Section 4, T9N, R3W, P.M.M., Lewis and Clark County, Montana, as shown on COS #597474/B, containing 14.98 acres more or less, generally located on the upper east side adjacent to existing city limits and on the Saddle Drive right of way.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution No. 11745**

Moisture  
Density Gauge

CONSIDER A RESOLUTION TO DECLARE THE CITY ENGINEER DIVISION'S MOISTURE DENSITY GAUGE AS SURPLUS PROPERTY.

Staff Report

Public Works Director John Rundquist reported the city owns a nuclear densometer (moisture density gauge) for testing the compaction of soils and asphalt paving. The city no longer has the required certified operator and the remaining staff has recommended that the gauge be sold and any required compaction testing is included in our construction contracts or consultant services agreements.

The United States Nuclear Regulatory Commission has certain requirements for the transfer of devices like this Troxler gauge as specified in 10 CFR 30.41

This proposal will eliminate the liability and cost of owning, operating and licensing a nuclear moisture density gauge.

Discussion

Mayor Smith asked if there would be a buyer for this gauge. Mr. Rundquist stated one of the consultant firms that do construction inspection and materials testing would probably be interested.

Commissioner Netschert asked what the gauge would sell for. Mr. Rundquist didn't have an approximate value, but estimated it would be around \$2,000.

Motion

**Commissioner Netschert moved approval of a resolution declaring tangible property owned by the City of Helena to be surplus property and authorizing the sale of that property.** Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution 11746**

Release of a  
Portion of Stormwater

CONSIDER RELEASING A PORTION OF A STORMWATER DRAINAGE EASEMENT ON LOT 4, BLOCK 1, REEDERS VILLAGE, HELENA, MONTANA.

**Drainage**  
Staff Report

Public Works Director John Rundquist reported there is encroachment by a proposed house onto a retention basin easement on Lot 4, Block 1, Reeders Village. The property owner, through his contractor, is requesting release of a corner of the easement. The property owner has also re-designed the existing basin to fit within the new easement, without reducing capacity. The contractor will reconfigure the basin during construction of the house.

If this request is approved, a notarized letter of release will be prepared that the owner can file with his deed to keep his title clear of encumbrances.

This proposal allows the property owner to build the desired house on this lot. The release of easement will not impede the capacity of the basin and will allow the owner to blend the reconfigured basin into his landscaping.

Discussion

Commissioner Pouliot asked if the entire easement was being released. Mr. Rundquist stated that just a small piece was being released, not the entire portion.

**Motion**

**Commissioner Netschert moved approval to release a portion of the stormwater retention basin easement as shown and requested by Pierce and Associates.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Stormwater  
Drainage Consultant**

CONSIDER APPROVAL OF COMMITTEE'S RECOMMENDATION FOR STORMWATER DRAINAGE CONSULTANT.

Staff Report

Public Works Director John Rundquist reported the Selection Committee for this project has reviewed consultant submittals and interviewed five of the consultants that responded to the initial request for qualifications (RFQ).

The committee has ranked the top three consultants as follows:

1. HDR
2. Robert Peccia and Associates
3. Anderson-Montgomery Engineers

This ranking was based on a number of factors considered by the committee including qualifications of the project team, schedule, past experience and understanding of the project as a whole.

This project was budgeted in this fiscal year for an inventory of our stormwater conveyance systems and an update of our stormwater drainage master plans. The consultants have also been requested to look at our rate structure and ordinances, develop a capital plan, assist in the upcoming NPDES Phase II stormwater permitting process and provide the city with a GIS layer for stormwater.

This proposal will allow the city to begin a process to bring out stormwater inventory and condition assessment to an acceptable level, allow an update of the stormwater basins, provide a GIS layer for stormwater, provide capital planning and develop a potential rate structure to provide funding. All of these work items will be critical for identification and scheduling of capital projects, provisions for a sustainable stormwater fund and the future NPDES Phase II permit and its requirements.

Discussion

Mayor Smith asked what HDR stands for. Kevin Hart, Utilities Manager stated HDR is a nationwide firm. They have offices in Missoula. We do

work with them related to the water system. They have a responsive, hands on approach to the work done so far. We have full faith and confidence that effort and activity will continue with the stormwater program.

**Motion**

**Commissioner Pouliot moved approval of the Selection Committee's recommended ranking of consultants and authorize the city manager or his designee to begin contract negotiations with the top ranked firm.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Open Space Management Plan**

CONSIDER RETAINING A CONSULTANT CONTRACTOR TO ASSIST HOLMAC AND CITY STAFF IN THE PREPARATION OF THE OPEN SPACE MANAGEMENT PLAN

**Staff Report**

Director of Parks and Recreation Randy Lilje reported the commission had approved a recommendation from HOLMAC to retain Fischer and Associates to prepare the plan and directed staff to negotiate a contract. We were unable to successfully negotiate an acceptable contract and staff within budget.

City policy is that if staff is unable to negotiate an acceptable contract, they go to the second-ranked consultant and try to negotiate an acceptable contract. Since Ecosystem Research Group (ERG) was a very close second in the consultant selection process, HOLMAC was agreeable to go to ERC. An acceptable contract has been negotiated and is within budget.

ERG is ready to start immediately and will provide all the services requested within the scope of services required in the RFP.

**Discussion**

Commissioner Netschert asked if there is a sunset date as to when they expect this study and the work to be finished? Mr. Lilje stated under the timeline, it should be February of 2003. Commissioner Netschert asked if this is the last consultant needed to do the management plan for the open spaces. Mr. Lilje stated that is the only one anticipated.

Mayor Smith stated this is the management plan from which we hope to see recommendations concerning the use of the trail system by walkers, hikers and bikers. Mr. Lilje reported it concerns forestry issues, wildfire management, reviewing the natural resources and the esthetics as well as recreational opportunities.

**Motion**

**Commissioner Oitzinger moved approval of the Professional Services Agreement with Ecosystem Research Group for the development of the open space management plan.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**PUBLIC HEARING**

**Water Use Reduction Staging Plan**

CONSIDER SECOND PASSAGE OF ORDINANCE 2934 AMENDING HELENA CITY CODE CHAPTER 6-4 AND ENACTING A WATER USE REDUCTION STAGING PLAN IN THE EVENT OF WATER SHORTAGE DUE TO DROUGHT OR EMERGENCY.

Staff Report

Public Works Director John Rundquist reported the Water Conservation Citizens Advisory Committee was created for the purpose of developing standardized water conservation procedures and educational materials. The commission established this committee following the severe drought of 2000 that stretched the city's ability to provide adequate water supply. Although water conservation efforts at that time were successful, the commission suggested that a conservation plan was needed for consistent implementation of water conservation strategies and public information.

To that end, the advisory committee drafted a Water Use Reduction Staging Plan. This plan will institute increasing voluntary and mandatory water conservation measures with increasing drought or state of emergency. With the voluntary and mandatory measures is a proposed public information program that includes regular water supply status reports on television and in the newspaper, public service announcements, paid advertisements and direct contact with larger users.

The committee recommends approval of the addition to HCC 6-4 enacting a Water Use Reduction Staging Plan.

The Water Use Reduction Staging Plan will standardize voluntary and mandatory conservation procedures such that they may be quickly implemented in the event of drought or emergency. The plan will minimize the risk that drought or other emergency would cause water supply interruption to any customer. A codified plan will formalize the city's reaction in a manner that is consistent and does not have to be relearned with any event.

Discussion

Commissioner Netschert asked if notices should be sent via certified mail. City Attorney David Nielsen stated it is expensive and when the Post Office delivers it, anybody can sign for it. Nothing is gained for the additional cost.

Commissioner Oitzinger stated if there was a legitimate problem with receipts, the owner could take it up with the judge. If there is a problem that occurs, there would still be a way to correct it.

Commissioner Netschert stated in light of Mr. Nielsen's comments and Commissioner Oitzinger's comments, he has no problem with using first class mail.

Public Testimony

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

Jack Stults, 714 Red Letter, stated he is chair of the committee. It's important that the city adopts a plan like this. It's good to have a structure in place that we all can understand and follow when getting into an emergency situation. The committee did look at information from around the west and decided on this format and structure because it was fairly straightforward and easy to follow. We have gone through three years of drought and it is a very serious situation across the state. The community has a good response sense already to the stresses that drought puts the water system under. We had a voluntary compliance with a request for reductions in those years that was astounding. We went from a maximum of 14,000,000 gallons a day and we were down less than 10,000,000 gallons a day. We had a tremendous response in terms of voluntary compliance. This community has a natural culture of response and conservatism when it comes to situations like that.

There being no other persons wishing to address the commission, the

public portion of the hearing was closed.

Discussion

Commissioner Pouliot asked which section was being amended. City Attorney David Nielsen stated the section of the code that is being amended is 6-2-3 and that is water rule number 8.

Commissioner Netschert thanked Mr. Stults for his service to this community as a commissioner and for chairing the committee and asked if he agreed or disagreed with the proposed amendments. Mr. Stults said the committee supports the amendment.

Commissioner Oitzinger congratulated the citizens of Helena for their wonderful conservative efforts during the drought seasons and Mayor Smith recommended proclaiming a water conservation day.

Public Works Director John Rundquist introduced other members of the committee. They are Maureen Shaughnessy, owner of Native Designs in Helena, Ed McHugh, Becky Blend and Jess Aber with DNRC.

Motion

**Commissioner Netschert moved 2<sup>nd</sup> passage of Ordinance 2934, amending Helena City Code 6-2-3, Rule 8 to enact a Water Use Reduction Staging Plan.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance 2934**

***Welding Repair Shop***

CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW A WELDING REPAIR SHOP (SIC # 7692) TO BE LOCATED IN A B-2 (GENERAL COMMERCIAL) DISTRICT. LEGALLY DESCRIBED AS THE NORTH 115 FEET OF LOTS 25-32, BLOCK 67, CANNON ADDITION, SECTION 25, T10N, R3W, HELENA, MONTANA; GENERALLY LOCATED NORTH OF EUCLID AVENUE AND EAST OF GRANT STREET WITH A PROPERTY ADDRESS OF 1030 EUCLID AVENUE.

Staff Report

Planner Lucy Morell-Gengler reported the applicant is requesting a conditional use permit (CUP) to allow a welding repair shop to be located in a B-2 (General Commercial) District. Earl Ebert's Auto Repair is currently located on the subject property but will vacate the property if the welding use is permitted.

On March 12, 2002, the Zoning Commission unanimously recommended APPROVAL (by 5 to 0 vote) of the proposed CUP subject to the following conditions:

Site Plan:

1. A revised site plan must be submitted and approved by the city including accurate dimensions of the existing lots and proposed building, plus the location of the required paved parking, landscaping and dumpster prior to obtaining a building permit.

Code Compliance:

2. All applicable city code requirements and all conditions of the CUP including but not limited to sidewalks, screening and landscaping must be met or financially guaranteed prior to utilizing any portion of the property for the proposed welding use.

Building Permit:

3. A building permit must be obtained within one year of approval of this CUP.

The applicant also proposes the business would include some metal fabrication, including but not limited to ornamental iron, as an accessory use to the welding repair. With this proposal, a 1,692 square foot addition would be constructed on the south and east sides of the existing 1,328 square foot building. The owner would operate the business 7:30 a.m. - 5:30 p.m., Monday - Friday. The owner is the only proposed employee. The site plan submitted with the application does not specify the landscaping or parking areas. A revised site plan was submitted on March 12 at the Planning Board meeting that indicates area for parking and landscaping. If approved, final evaluation of the site plan for compliance with city codes will be done when the applicant requests a building permit.

The proposal allows for higher utilization and expansion of an existing structure. Approval of the CUP would require improvements to the property.

Discussion

Commissioner Pouliot asked what is the difference between the use of the property if one is an auto repair and one is a welding repair shop. Ms. Gengler doesn't anticipate significant additional impacts. Because of the CUP requirements for landscaping and improvements to the property, the location would see some improvements in the appearance to the property. As far as intensity to the use, staff does not anticipate a significant impact.

Commissioner Parriman asked if a welding shop is a permitted use in that area presently. Ms. Gengler noted the welding shop is not permitted by right because of some of the impacts associated with welding. There are some safety constraints the applicant will meet in obtaining the building permit. Staff looks at the facilities impact on adjacent properties and felt that this impact would be minimal.

Public Testimony

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

Jamie Neer, 1400 Joslyn, has owned Westside Welding for 27 years. He started out doing welding and was able to purchase another building on Euclid where he did body repair and welding. His whole career has been on Euclid Avenue as a welding repair facility. He has no problem with any of the conditions.

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

Discussion

Mayor Smith asked about the site plans and conditions and if it would re-involve the Helena Zoning Commission. Ms. Gengler stated it would not re-involve the Zoning Commission. Compliance with the Zoning Ordinance would be required with the building permit. Mayor Smith asked Mr. Neer if he agrees with the conditions. Mr. Neer noted he concurs with the conditions.

Commissioner Oitzinger asked Mr. Neer if he now does ornamental ironwork and Mr. Neer stated that is correct and has done some work for the city/county building.

City Manager Burton stated he is complimentary of Mr. Neer's work. It blends with the historic nature of building.

Motion

**Commissioner Netschert moved approval of a resolution for a conditional use permit (CUP) to allow a welding repair shop to be located in**

**a B-2 (General Commercial) District; legally described as the north 115 feet of Lots 25-32, Block 67, Cannon Addition, Section 25, T10N, R4W, Helena, Montana; generally located north of Euclid Avenue and east of Grant Street with a property address of 1030 Euclid Avenue, subject to the conditions outlined above.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution 11747**

**Car dealership**

CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR A ZONE CHANGE FROM R-3-T-25 (MULTIFAMILY FAMILY RESIDENTIAL) DISTRICT TO B-2 (GENERAL COMMERCIAL DISTRICT) TO OPERATE A "CAR DEALERSHIP" LEGALLY DESCRIBED AS LOT 5, BLOCK 9 OF THE FLOWER GARDEN ADDITION LOCATED IN THE SW 1/4 OF SECTION 20, T10N, R3W, HELENA, LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED ON THE SOUTH SIDE OF CHESTNUT MID-BLOCK BETWEEN MONTANA AND COOKE STREETS WITH A PROPERTY ADDRESS OF 1213 CHESTNUT STREET.

**Staff Report**

Planner Lucy Morell-Gengler reported the applicant has stated the rezoning of this property would allow him to operate a "car dealership" at this location. Lots 1-5 are under the same ownership; lots 1-4 are currently zoned B-2 and lot 5 is zoned R-3-T-25. The applicant would like consistent zoning for all of the lots and thus be able to utilize the entire property for the proposed "Up Front Auto" sales. Currently the applicant is constructing the auto dealership on lots 1-4 while lot 5 continues to be vacant. The proposed rezoning would provide a boundary line consistent with the R-O and B-2 boundary line located south of the subject property.

On March 12, 2002, the Zoning Commission unanimously recommended APPROVAL (by 5 to 0 vote) of the proposed zone change from R-3-T-25 to B-2.

The zone change would allow zoning consistent with adjacent property under the same ownership.

**Discussion**

Commissioner Pouliot asked if the public came to the zoning commission meeting. Ms. Gengler stated the only communication received in regard to this proposal was from a person who was concerned about exhaust from the trucks that may deliver the vehicles to the property. The applicant indicated the trucks would be coming off Montana Avenue and would be unloading the trucks closer to Montana Avenue and not adjacent to the residential area.

Mayor Smith asked if Lot 5 should have been zoned identical to Lots 1-4. Ms. Gengler stated the history of the area indicates that property has been used as a commercial or business type use for a number of years. There have been some zone changes in the area. The area was predominately R-3. Through the years, the B-2 has been zoned next to Montana Avenue and the R-O is a buffer between the residential and the B-2.

**Public Testimony**

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

George Hoff, 1409 Cannon, asked if sidewalks and curbs were discussed at the zoning commission meeting. Ms. Gengler reported the sidewalks were discussed at that meeting. The property will have to comply with the zoning ordinance for sidewalks, which is a foot off the property line and a minimum five-foot sidewalk and the remainder being a boulevard.

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

Discussion

Commissioner Pouliot stated the applicant and the property owner are two different people. Does that create a problem? Ms. Gengler reported both individuals signed the application and both were in agreement of the request of the zone change.

Motion

**Commissioner Netschert moved approval for first passage of an ordinance for a zone change, from R-3-T-25 (Multifamily Family Residential) District to B-2 (General Commercial District) for property legally described as Lot 5, Block 9 of the Flower Garden Addition located in the SW 1/4 of Section 20, T10N, R3W, Helena, Lewis and Clark County, Montana; generally located on the south side of Chestnut mid-block between Montana and Cooke streets with a street address of 1213 Chestnut Street.**  
Commissioner Parriman seconded the motion. All voted aye, motion carried.  
**Ordinance 2935**

Appleton Inn

CONSIDER FIRST PASSAGE OF AN ORDINANCE PREZONING LOTS 1-4 IN BLOCK 175 OF WALLACE'S SUBDIVISION IN THE SYNDICATE ADDITION IN LEWIS AND CLARK COUNTY, MONTANA, GENERALLY LOCATED AT 1999 EUCLID AVENUE, AT THE SOUTHEAST CORNER OF EUCLID AND JOSLYN, PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA.

Staff Report

Project Manager Hal Fossum reported on February 11, 2002, the owners of property located at 1999 Euclid Avenue, applied for rezoning to the City of Helena.

On March 12, 2002, the Zoning Commission held a duly advertised public hearing and unanimously (5-0) recommended rezoning the property in the General Commercial (B-2) District.

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. Rezoning has no effect of regulating land use prior to the effective date of annexation.

The proposed B-2 District is recommended. This zoning classification is similar to existing county zoning of the property. Staff analysis indicates that the designation would be reasonably applied to all properties fronting Euclid Avenue between this site and the main body of city limits, less than two blocks to the east.

The current land use (lodging) is permitted by right in the B-2 District.

The recommended rezoning would complete a necessary step for incorporation of this property into the city. The proposed rezoning and annexation would enable connections to the nearby city utilities, and is expected to improve environmental quality in the area.

Discussion

Commissioner Pouliot stated this property had not been zoned by the city prior to this meeting. This was county zoning prior to this meeting. Mr. Fossum stated that is correct. The property on either side of this property is not city zoned. Staff analysis concluded if the city zone applied to the neighboring properties to the east, along the Euclid Avenue corridor, the B-2 zone is likely what staff would recommend and would be fitting for these properties as well.

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 Parriman moved approval for first passage of an ordinance establishing zoning to the General Commercial (B-2) District prior to annexation of property legally described as Lots 1-4, Block 175, Wallace's Subdivision of the Syndicate Addition, Lewis & Clark County, generally located at 1999 Euclid Avenue, Helena. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Ordinance 2936**

**Kellner Foundation** CONSIDER FIRST PASSAGE OF AN ORDINANCE PREZONING A 5.3 ACRE PARCEL IN THE SE ¼ NW ¼ AND THE NE ¼ SW ¼ OF SECTION 23, TOWNSHIP 10 NORTH, RANGE 4 WEST, P.M.M. IN LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED ADJACENT TO AND SOUTH OF SPRING MEADOW LAKE PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA.

Staff Report Project Manager Hal Fossum reported on October 5, 2001, the Mikal Kellner Foundation applied for prezoning to the City of Helena for a 5.3-acre parcel of property located adjacent to and south of Spring Meadow Lake State Park, on Helena's western fringe. By mutual consent, processing the application was delayed until early 2002. The Kellner Foundation is developing a wildlife rehabilitation center on the site, ownership of which is expected to be transferred to the State Department of Fish Wildlife and Parks after its completion.

On March 12, 2002, the Zoning Commission held a duly advertised public hearing and unanimously (5-0) recommended prezoning the property in the Public Lands and Institutions (PLI) District.

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. Prezoning has no effect of regulating land use prior to the effective date of annexation.

The Zoning Commission recommended the property be prezoned PLI. This zoning classification is in keeping with the institutional nature of this property and could be logically extended to the adjacent parks land (Spring Meadow Lake State Park, Green Meadow Country Club) to the north.

The proposed land use (a wildlife rehabilitation center) is permitted by right in the PLI District. In that district, all development proposals are subject to review by the Chief Building Official for adequacy of yards, parking and other site features.

The recommended prezoning would complete a necessary step to incorporation of this property into the city. The proposed prezoning and annexation enables connections to the nearby city utilities, and so is expected to improve environmental quality in the area. The facility being developed on the site is expected to be an asset to the city and an expansion of the Spring Meadow State Park complex.

Discussion Commissioner Oitzinger asked what is the discretion of the governmental entities that are zoned PLI. Do they have any restrictions on height? Mr. Fossum stated the height restrictions and set back restrictions on a PLI zone are

much less specified than they are in most other zones. In the PLI zone, heights are not set in numeric values in the code. The applicants work directly with the building department for review. Any controversy would be brought to the commission for their action. Commissioner Oitzinger stated the Mikal Kellner Foundation has wonderful community support.

**Public Testimony**

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

Kelly Kuntz, chair of the Mikal Kellner Foundation, stated the commission's support is truly and greatly appreciated.

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

**Motion**

**Commissioner Oitzinger moved approval for first passage of an ordinance zoning in the Public Lands and Institutions (PLI) District prior to annexation of property legally described as a tract of land containing 5.3 acres, more or less, situated in the west half of Section 23, T10N, R4W, PMM, Lewis and Clark County, described by Book 236, Page 656 of Deeds, Lewis and Clark County, Montana, and generally located adjacent to and south of Spring Meadow Lake State Park, on Helena's western fringe.**

Commissioner Parriman seconded the motion. All voted aye, motion carried.  
**Ordinance 2937**

**Public Communications**

Commissioner Netschert stated there was conversation about the recommendations to the I15 committee regarding prioritization of the different projects. On April 5, those projects were to be submitted and the commission was going to discuss them. In the future, the representative should convey the consensus of the commission in his proposals. Mayor Smith had met with former Mayor Ken Morrison, Transportation Coordinator Kathy Harris and City Manager Tim Burton and they did submit the prioritization as discussed at the administrative meeting. City Manager Tim Burton stated that at the April 5 meeting, there was also discussion on following up with commissioners who could not attend the meeting. It was to bring everyone up to speed on where the EIS has been, where we are and where we will go for the remainder of the process.

**Meetings of Interest**

Mayor Smith stated a few members of the commission will be attending a conference in Big Sky during June.

Commissioner Oitzinger stated this Friday, April 12, 2002, the Kay McKenna Youth Foundation is holding a Twist and Shout dance/auction at the Civic Center.

**Adjournment**

There being no further business to come before the commission, the meeting was adjourned at 8:20 p.m. this 8th day of April, 2002.

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MAYOR

ATTEST:

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CLERK OF THE COMMISSION