

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
MAY 20, 2002  
6:00 P.M.**

**Time & Place** A regular City Commission meeting was held on Monday, May 20, 2002, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

**Members Present** Mayor Pro Tem Netschert indicated for the record that Commissioners Oitzinger, Parriman and Pouliot were present. Mayor Smith was excused. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Barb Fairhurst were present.  
Dennis Crawford of the Helena Citizens Council was also present.

**Pledge of Allegiance** Mayor Pro Tem Netschert lead those persons present in the pledge of allegiance.

**Minutes** The minutes of the regular city commission meeting of May 6, 2002 were approved as submitted.

**Appointment** APPOINTMENT  
A. Helena International Affairs Council

Mayor Pro Tem Netschert asked for commission concurrence on the following appointment:

**Helena International Affairs Council**  
Jesse Long - Unexpired term will expire October 28, 2004.

**Motion** **Commissioner Pouliot moved approval of the appointment to the Helena International Affairs Council.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Consent Agenda** CONSENT AGENDA  
A. Claims  
B. Commit the balance of funds remaining in the city's 1994 Community Development Block Grant Housing Rehabilitation project in the amount of \$4,443.92 for Habitat for Humanity and Rocky Mountain Development Council.  
C. Commit \$1,000.00 from Community Development's economic development fund to transport a former Helena street car from Big Sandy to Helena.  
D. Consider 2nd passage of Ordinance No. 2938 amending City of Helena Ordinance No. 2359 and amending the official zoning map thereof in reference to that property described as Lots 1-24 and 27-49 in Block 2 and Lots 8-16 and 41-54 in Block 3, all in the Capital Hill Addition in Helena, Montana (Carroll College)

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

**Discussion** Commissioner Oitzinger stated that in regard to item D on the consent agenda, she has been advised by the City Attorney, that such zoning considerations can be on the line as to whether they are quasi judicial. She did

have an ex parte contact with John Stevenson about this ordinance. The content of the conversation was that negotiations between homeowners and Carroll College were ongoing. This conversation will not affect her vote.

Commissioner Pouliot was contacted by Gary Anders in regards to item D on the consent agenda. Mr. Anders mentioned an impact study that was not done. Commissioner Pouliot does not believe the study was the responsibility of the city.

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

**Bid Award** Bid Award  
A. Polymer Chemicals - Wastewater Treatment Plant

**Staff Report** Public Works Director John Rundquist reported existing annual chemical contracts will expire and going out for competitive bid was necessary due to annual costs. The bidding process provides for competitive polymer prices at the Wastewater Treatment Facility. It also helps for budget purposes to be able to estimate chemical costs more closely. The bid received for FY03 is \$0.67 per pound and is lower than the \$1.17 per pound paid in FY02.

**Motion** Commissioner Pouliot moved to accept the polymer bid from Polydyne, Inc. for Clarifloc NW-110 for FY 2003 as outlined in the Bid Opening Summary. Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

There were no communications/proposals from the commissioners.

**Report of the City Attorney** REPORT OF THE CITY ATTORNEY

City Attorney David Nielsen had nothing to report on.

**Report of the City Manager** REPORT OF THE CITY MANAGER

City Manager Tim Burton asked Public Works Director John Rundquist to explain the next engagement within the International Resource Cities Program and the City of Pavlodar. Mr. Rundquist reported the Kazakstan delegation will arrive June 2. There are three aspects of the program which we would like to accomplish. One is a continuation of the review of water technologies. Specifically UB disinfection systems and underground, trenchless pipeline rehabilitation. Second, the chairman of their city commission is coming and his area of focus is non-government organizations/community activism programs. The third is review of drug and alcohol rehabilitation programs and facilities in the area.

**Industrial Development  
Revenue Bonds**

CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES FOR THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS.

Staff Report

Administrative Services Director Tim Magee reported state law authorizes the city to issue IDR Bonds for third parties. IDR Bonds receive the benefit of lower interest rates as they are tax exempt, and are therefore attractive to third parties. The city has issued IDR Bonds for both non-profit and for-profit corporations in past years.

The city incurs substantial costs to issue these bonds through time spent by the Commission, City Manager and other staff. In the past, no fee has been charged to cover these costs. The fees recommended are similar to fees currently charged by Lewis & Clark County.

Carroll College is currently exploring the feasibility of issuing IDR Bonds to build a new residence hall and refund current debt. The College is a non-profit organization and contributes to the economic health of the city. City staff was exploring the possibility of fees prior to learning of Carroll College's desire to issue new IDR Bonds. The proposed resolution allows non-profit organizations to request waiver of the fees by the Commission. Since Carroll College's project was in progress prior to this recommendation, we feel it should be specifically exempted from any fees adopted by the Commission.

Staff recommends the following fees be adopted:

1. A non-refundable administrative and processing fee of \$1,000 for each application for issuance of such bonds prior to placing the issue on the City Commission agenda, and
2. Upon sale of the bonds, an issuance fee of Three Dollars per One Thousand Dollars or portion thereof (\$3/\$1,000). The minimum issuance fee is \$1,000 and the maximum issuance fee is \$25,000. The \$1,000 administrative and processing fee will be credited against the issuance fee.
3. The foregoing fees may be waived for non-profit organizations at the Commission's discretion.

Discussion

Commissioner Pouliot asked if this is a policy that has been followed from previous years or is this a new policy? Mr. Magee stated this is new in the way of fees.

Commissioner Oitzinger stated there are debt limits for local governments. Are we close to the debt ceiling? Mr. Magee stated we have no revenue bond ceiling. Industrial Development Revenue Bonds are not done on a regular basis.

Commissioner Parriman asked if the waived fees for Carroll College pertain to just the new residence hall? Mr. Magee stated the waived fee is for the residence hall in process. We anticipate a waiver would be on a one-for-one basis or as they occur. We waive these fees for non-profits such as Carroll College.

Motion

**Commissioner Oitzinger moved approval of a resolution of intention to establish fees for the issuance of IDR Bonds and set a public hearing date of June 17, 2002 and to exempt the IDR Bond being explored by Carroll College from any fees adopted.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution 11755**

**Dial-A-Ride  
Bus Service**

CONSIDER A RESOLUTION OF INTENTION TO INCREASE FARES FOR DIAL-A-RIDE BUS SERVICE.

Staff Report

Shop Superintendent Ed Robinson reported the Helena Dial-A-Ride bus fares are currently \$.85 for Checkpoint, \$1.50 for Curb-to-Curb service and the disabled and elderly fare is \$.85. These fares have been held at this level for over ten years. Fares raise an estimated \$35,000.00 annually at this level. The average cost per ride in FY2001 was \$7.88. Advertising rates are \$50.00/mo. For the large signs at the rear of the bus and \$35.00/mo. For any other signs.

Staff is recommending authorization to increase fares to \$1.50 for Checkpoint, \$2.50 for Curb-to-Curb service and \$1.00 for Disabled and Elderly. These fare increases will provide an additional \$12,000.00 per year in revenues. Staff is recommending that the fare increases begin July 1, 2002. The objective of the proposed fare increase is to generate additional revenues for the operation of the Helena Bus service. Staff is not recommending increasing advertising rates at this time.

Approval would allow the Helena Bus System to generate additional revenues to assist in paying for the cost of operation.

Motion

**Commissioner Parriman moved approval of a resolution of intention setting Helena Dial-A-Ride Bus fares effective July 1, 2002 and set a public hearing date of June 3, 2002.** Commissioner Pouliot seconded the motion. Commissioner Parriman, Commissioner Pouliot and Mayor Pro Tem Netschert voted aye. Commissioner Oitzinger voted no. Motion carries 3-1.  
**Resolution 11754**

**Crestview Sub-  
Division**

CONSIDER A PROPOSAL FOR CONSTRUCTION OF ROAD FILL ON CITY WATER DIVISION PROPERTY (CRESTVIEW SUBDIVISION).

Staff Report

Public Works Director John Rundquist reported the preliminary plat for the Crestview Estates Subdivision was approved last year by the City Commission with a number of conditions. One of these conditions was that the developers obtain separate approval (easement) from the city for any proposed road fill that would be placed upon the adjacent city owned property. The proposed plan at that time indicated about a 15 ft. high fill on city property associated with the proposed construction of Hoback Street.

On March 22, 2001, a new proposal for the street alignment was submitted to the Public Works Department for conceptual approval. This proposal indicated a new street alignment that would result in more than 30 feet of fill on the adjacent Water Department property. Due to the substantial (0.34 acres) nature of the fill, the steep (3:1) fill slope and the impact to city property and a popular city trail, a new set of conditions was suggested to better the design for safety and longevity and mitigate the visual and recreational impact of the fill.

Staff suggested that a guardrail be provided at the top of the fill to protect the city's reservoir from damage and to protect pedestrians on the trail below. With Crestview Drive approaching Hoback Street at an 8% downhill grade, the potential is significant for vehicles to fail to negotiate the 90-degree turn

especially in icy conditions. A guardrail will help to prevent this type of mishap by providing both a barrier and a visual warning of the steep slope beyond.

The 30+ feet of fill on City Water Department property would be a substantial visual impact (0.34 acres) to neighboring residential property and would disrupt a popular city trail. Currently, the existing ground is vegetated with native grasses. The large, steep fill slope will be difficult to revegetate and preserve with the mere reseeding of native grasses. Staff suggested a professional landscaping plan with grasses, shrubs and trees planted, irrigated and maintained for both slope protection and mitigation of visual impacts.

In their letter dated April 30, 2002, the developer has expressed opposition with most of the proposed conditions and suggests that the city participate in the cost of any landscaping other than grass seeding. The developer has previously indicated that there are other alternatives to street locations that can be implemented that would not require the use of city property. In reviewing the plat, it appears that one alternative could be to extend Hoback Court north to directly intersect Rhode Island Street. This may eliminate the need for any fill on city property and could reduce the total amount of street and utility construction.

Staff recommends that the proposal to use City Water Department property for construction of road fill be denied.

Denial of the proposal would prevent installation of potentially unsafe street, retain existing city property (open space) in the natural condition and prevent unsatisfactory recreational and visual impacts.

#### Discussion

Mayor Pro Tem Netschert asked if that is the only trail that provides access to those areas. Mr. Rundquist stated no, but from Woodbridge to Rhode Island, this is the most popular connection route for pedestrian and bicycle traffic. Mayor Pro Tem Netschert asked if the fill was put in there, would there be a possibility of reestablishing the trail? Mr. Rundquist stated yes, there is a possibility the trail could be constructed on the fill or around the fill. Mayor Pro Tem Netschert asked if there are any plans to develop or surplus any or all of the property? Mr. Rundquist stated there are no intentions to surplus any of that property. The property serves as a buffer around our reservoir. Mayor Pro Tem Netschert asked if that land will be slated for open space. Mr. Rundquist stated yes. Mayor Pro Tem Netschert stated the staff memo mentions the steep 3-1 fill-in slope. Is vegetation a problem on a slope like that? Mr. Rundquist reviewed the proposal with Director of Parks and Recreation Randy Lilje and Mr. Lilje feels the 3-1 slope will be difficult to revegetate.

**James Nicholson**, of Morrison-Maierle, Inc. stated when the preliminary plat was in front of the commission, the condition was placed on that they had to come back and ask for approval to fill in this slope. Since that time, the fill height has increased slightly. From preliminary plat to final plan design, they generate better mapping. Due to engineering office concerns, they flattened the intersection slope to the west of the fill slope which has caused the fill to increase in height just slightly. They have worked with city engineering and a guardrail will be placed at the top of the slope. They agree to revegetate the slope with native grasses. One concern is with the trail replacement. They want to know what standards were used for the trail so they can construct it to the same standards. Another concern is the period required for maintaining the slope. A two-year period would be adequate to reestablish the slope in lieu of the five years suggested by staff. One item mentioned in staff's memo is that there may be other alternatives for road alignments on the site. They have explored those and

would need help from the commission in order to implement those. They would need relief on street grade standards; a 10% grade vs. the 8% maximum grade stated in the regulations now. One requirement placed on this project is to pave 1/2 block of Beattie street which brings access to the project. There is a condition of preliminary plat approval requiring that it be paved. There is also a condition that says the curb needs to be replaced if damaged by the contractor. Our concern is that staff is suggesting that the applicant is responsible for replacing the curb up front.

City Manager Tim Burton stated these are significant issues that need to be addressed, but since they have not been placed on the agenda, they need to be addressed at a future meeting.

Commissioner Oitzinger asked about the alternative directly linking Hoback Court to Rhode Island Street. Would that create a 10% grade? Mr. Rundquist stated no. Commissioner Oitzinger thinks the developer was agreeable to meeting many of the concerns outlined in staff's memo. The trail issue is the issue that seems to be outstanding and the developer is proposing to return the trail to its existing condition. Where is this in the trail plan? Mr. Rundquist stated Director of Parks and Recreation Randy Lilje felt that with the material coming out of that site and the steepness, he would prefer a 5-1 if we are trying to establish a grassland type slope. With a 3-1, Mr. Lilje suggested that we get a professional landscape plan. Mr. Rundquist is encouraged by some of the things he has heard from the developers, but he hears a reluctance to participate in keeping this property in its existing condition. Commissioner Oitzinger would be reluctant to not deny this proposal.

Commissioner Pouliot stated since the developers conceded the guardrail; revegetating with native grasses and maintaining the slope for two years, would that change staffs mind about denying the proposal? Mr. Rundquist stated he knew about the guardrail and he knew they had concessions to make regarding landscaping, but didn't know what they were specifically. Staff's recommendations are reasonable and feasible.

City Manager Tim Burton stated it is rare to come before the City Commission and negotiate business. There are details that need to be worked out. Another option of the commission is to table this issue.

Commissioner Pouliot asked the developer if he required a variance from the city's street grade. Is that the alternative that has been suggested, that Hoback Court North directly intersect with the Rhode Island Street? Mr. Nicholson stated to comply with city standards, which require a flat area near the intersection, they would need a 10% grade or 100-150 feet. Commissioner Pouliot asked if they were given the variance, is that an alternative they think would be useful or possible? Mr. Nicholson stated that is something he would have to talk with the applicant about. The issue is timing. They are hoping to start construction fairly soon.

Mayor Pro Tem Netschert stated the city's street grade ordinance does not allow for any variances whatsoever. City Manager Burton stated that is correct.

Commissioner Netschert stated we would have to change our current ordinance which would further delay the project. City Manager Burton stated if it's over 8%, he agrees. In the Public Works Director's opinion, this potential other route is 8% or less which would require a consideration from the commission to change the alignment on the preliminary plat, but it doesn't create a variance situation in terms of the road grade. Commissioner Netschert asked if this was denied tonight and the applicants went forward with an alternative

design and if that design did not meet that 8%, they are dead in the water, are they not? City Manager Tim Burton stated the applicants can't go forward with an alternate design without approval of the commission because the commission has already approved the preliminary plat which they are operating under now. If there is a realignment of the preliminary plat and it complies with the grade angles, then the commission can consider a different alignment that is in fact in compliance with the ordinances which won't require any ordinance change at all. It is a reconsideration of the preliminary plat.

Commissioner Parriman feels this proposal is premature. He would like to understand what it is he's approving and denying. He would like to see something more concrete come before the commission in order to approve or deny. The discussions tonight should be taking place at staff level with the developers rather than brought in front of a commission meeting.

Mr. Nicholson stated their hope tonight is to get conditional approval. One of the reasons they wanted to come before the commission is to get the issue decided with conditions so they could go out and do the detailed landscape plan. They could do that upfront without having to expend money.

Commissioner Netschert summarized that the commissioners would like to see a concrete proposal and have some of the details worked out.

City Manager Tim Burton stated from a staff perspective, a conditional approval is outlined in Mr. Rundquist's memo of April 2. Those are the conditions that staff is proposing.

#### **Motion**

**Commissioner Oitzinger moved to table the proposal to use City Water Department property for the construction of road fill associated with the Crest View Estates Subdivision and Hoback Street to June 3, 2002.**

Commissioner Parriman seconded the motion. Commissioner Oitzinger, Commissioner Parriman and Mayor Pro Tem Netschert voted aye. Commissioner Pouliot voted no. Motion carries 3-1.

#### **Discussion**

Commissioner Pouliot would like to see the developers be able to move forward as soon as possible. We still don't know if the alternative would be agreeable or acceptable or come within the 8% standard. The developers are saying they need a 10% grade and staff says 8% or less.

Commissioner Netschert asked the staff and developers to work out the fine points.

Commissioner Pouliot disclosed he knows and is friends with the developers.

#### **Public Communications**

##### **PUBLIC COMMUNICATIONS**

There were no public comments.

#### **Meetings of Interest**

The next administrative meeting will be May 29, 2002 and the next City Commission meeting will be June 3, 2002. Commissioner Oitzinger reported the Last Chance Bear Encounters unveiling will be May 29, 2002.

#### **Adjournment**

There being no further business to come before the commission, the meeting was adjourned at 7:00 p.m. this 20th day of May, 2002.

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MAYOR

ATTEST:

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CLERK OF THE COMMISSION