

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
JUNE 17, 2002
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, June 17, 2002, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present Mayor Smith indicated for the record that Commissioners Netschert, Oitzinger and Parriman were present. Commissioner Pouliot was excused. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Barb Fairhurst were 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 June 3, 2002 were approved as submitted.

Consent Agenda CONSENT AGENDA

- A. Claims
- B. Audit Contract - Fiscal Years 2002 & 2003
- C. Renewal of applications for the annual federal Historic Preservation Grant
- D. Request to release the city's interest in an existing 10-foot utility easement along the east boundary of Block 11 of the Reber PUD; generally located east of Linden Court and south of University Street.
- E. \$1,000 grant contract with Montana Arts Council for the Youth at Risk Public Art Pilot Project.
- F. Construction agreement with MDT for cold mining, resurfacing and pavement marking upon Lyndale and Montana Avenues south to intersection with Butte Avenue.
- G. Consider a one year extension requiring the final plat to be filed for Energy Lab Minor Subdivision, legally described as COS#30181; generally located south of Lyndale Avenue and west of Yellowstone Drive.

City Manager Tim Burton recommended approval of the claims and the consent agenda, items A - G.

Discussion Commissioner Parriman asked that item D be removed from the agenda for a separate motion.

Motion Commissioner Netschert moved approval of the consent agenda, items A, B, C, E, F & G. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Discussion Commissioner Parriman is the applicant for item D and he will abstain from voting.

Motion Commissioner Netschert moved approval of consent agenda item D. Commissioner Oitzinger seconded the motion. All voted aye, motion carries 3 - 0 with Commissioner Parriman abstaining.

Bid Award

Bid Award

A. Digester cleaning contract - Wastewater Treatment Facility

Staff Report

Public Works Director John Rundquist reported the secondary digesters have not been cleaned since they went into operation in 1984. The manufacture recommends that they be cleaned every 5 years on the average depending on use. The funds have been identified and are available for this project in FY02. Because of the specialized nature of this project, we only received one (1) legal bid to perform this service.

Discussion

Mayor Smith asked for a staff estimate. Mr. Rundquist stated an estimate was not given and the budget was adjusted to make this work. The problem is that these digesters should be cleaned about every five years and it has been 25 years. The contractor stated he is anticipating the difficulty level to be high.

Motion

Commissioner Oitzinger moved to accept the bid from Wastewater Solids Management Company in the amount of \$38,200.00 to clean the secondary digesters at the Wastewater Treatment Facility. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith reported item 10E, the Dial-A-Ride issue, will be moved so it is the first public hearing.

Commissioner Netschert reported there was a group of people who attended last week's administrative meeting regarding the purchase of a trolley car for the city of Helena. The trolley is currently located in Big Sandy. \$1,000.00 has been appropriated to deliver the car to Helena. Because of the condition of the trolley, this will be a big project. Commissioner Netschert supports this project and believes outside funds may be available to help with this project. Commissioner Parriman stated this project may be a substantial undertaking. It is a good project, but it may take estimates up to \$100,000 to restore the trolley. If there are grants available to help, they should be pursued. Commissioner Oitzinger asked if the trolley would be stationary once it is renovated? Commissioner Netschert stated that was the initial idea. If the trolley was mobile, it would create an issue where more maintenance was required. Commissioner Oitzinger would support the trolley being moved to Helena. City Manager Tim Burton stated the \$1,000 would not be spent on transporting the trolley until the commission makes a decision on what combination of restoration is appropriate. The person who owns the trolley has donated it to Helena. We are looking for grant opportunities. The level of excitement from the people who went and looked at the trolley was very noticeable.

Commissioner Netschert stated the Montana Fire Alliance was in Helena this past week. They had a wonderful opening ceremony and there were a number of competitions at the fairgrounds. On Saturday, Commissioner Netschert observed a skating competition at the Skate Park. There were 150-200 participants from all over the state and out of state. It was fantastic to see that facility being utilized in the manner in which it was conceived.

Commissioner Parriman had a conversation with a local builder regarding the new system development fees for the sewer and the way they are charged out on certain types of buildings. This gentleman builds condominiums

and apartments and feels there are inequities with the system development fees. Public Works Director John Rundquist reported the system development fees are based upon water meters and service connections. In the case of a single-family residential household, you get a water meter and a sewer service connection. The sewer service connection system development fee is based on the water meter size. In an apartment complex, the one ownership concept applies. An apartment building can have just one hookup to both water and sewer. His system development fee for water is based on the proportionate size of the water meter as well as the sewer connection. If he needs a larger meter, he pays a larger water system development fee and a larger sewer system development fee. Condos are a cross between apartments and single-family residences. Staff tries to give options to condos to either go the way an apartment complex would go or go the way a single-family residence would go. In this case, the condo owner specifically wants to be more like single-family housing where each unit is individually metered. The alternative for a condo association if they want to reduce the cost for system development fees is to consider themselves more like apartments and have one metered connection for water and one connection to sewer. They could save quite a bit of money by having a single meter connection as opposed to a metered connection for each individual unit.

Commissioner Oitzinger thanked John Rundquist, Bill Michalson and Clerk of the Commission Debbie Havens for their quick response to the inquiries from Brady Street. Brady Street was graded and it created dust, but it was wet down in the morning and afternoon.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney David Nielsen had nothing to report.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Tim Burton reported on Spirit of Service Day. Eight city employees including Debbie Havens, Barb Fairhurst, Salty Payne, Kim Sell, Bob Wood, Bob Ricker, Gery Carpenter and Michael Barros participated. Commissioner Parriman donated several ladders. The volunteers painted an elderly woman's home and fence and she was very appreciative.

Two lots in an R-O zone

CONSIDER A FINAL PLAT FOR LOT 8A, BLOCK 33 OF BULL RUN ACRES NO. 1 LOCATED IN A R-O (RESIDENTIAL-OFFICE) DISTRICT AND RELEASE OF THE CITY'S INTEREST IN A 15-FOOT WIDE EASEMENT LOCATED BETWEEN THE ORIGINAL LOT 7 AND LOT 8; GENERALLY LOCATED AT THE NORTHEAST CORNER OF BELT VIEW DRIVE AND SADDLE DRIVE.

Staff Report

Planner Belinda Waters reported the City Commission gave preliminary plat approval to create two lots, Lot 8A-1 and Lot 8A-2, on February 11, 2002. This approval was subject to three conditions, and the final plat must be filed with the Clerk and Recorder within one year.

Final plat for an approved minor subdivision creating two townhouse lots from .676-acre tract. Lot 8A-1 will measure 8,475 square feet in size and Lot 8A-2 will be 20,958 square feet. The preliminary plat had three conditions, which have been satisfied. Notarized letters agreeing to release of the utility easement have been received from the three utility companies and City Engineer.

Both lots in the proposed subdivision will meet lot area and width requirements for the R-O District as well as townhouse area regulations. The two lots would permit greater density and promote affordable homeownership, which are objectives of the growth policy.

Motion

Commissioner Netschert moved approval of the final plat creating 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, Helena, Montana; generally located at the northeast corner of Belt View Drive and Saddle Drive. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Motion

Commissioner Netschert moved approval of the release of the city's interest in a 15 foot wide easement located between the original Lot 7 and Lot 8, Block 33, Bull Run Acres No. 1. Commissioner Parriman seconded the motion. All voted aye, motion carried.

PUBLIC HEARING

Dial-A-Ride

CONSIDER A RESOLUTION INCREASING FARES FOR DIAL-A-RIDE BUS SERVICE EFFECTIVE JULY 1, 2002.

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. We will continue to offer the Dial-A-Ride passes, providing 21 rides for the price of 20 for all services. The 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.

Discussion

City Manager Tim Burton stated this proposal comes before the commission on two points. The first being last year's budget process and the second that the former city commission had requested staff cut down the subsidy that exists in the bus service.

Mr. Robinson stated this recommendation came about after Commissioner Netschert recommended looking at the cost of living index. The plan represents \$.85 cents to \$1.00 for Seniors and Disabled, \$.85 cents to \$1.25 for Checkpoint and \$1.50 to \$2.50 for Curb-to-Curb.

Commissioner Oitizinger asked if this rate applies to the elderly and the handicapped riders whether they are curb to curb or checkpoint? Mr. Robinson stated yes, it does apply to them.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called

for any persons wishing to address the commission.

The following persons spoke in opposition to the increase.

Jim Meldrum, 301 Graham Street, is quite concerned about the proposed increase, particularly for those that are elderly, disabled or on fixed incomes. Please do not approve the increase.

Lance F. Busch, 1017 Hudson, works for Mr. Meldrum twice a week as a janitor. He uses Dial-A-Ride five times a week and can not afford an increase in fares.

Bruce Cook, 14 N. Jackson, uses Dial-A-Ride quite frequently. He would have to quit his volunteer activities if there is an increase in fares. At what age is someone considered elderly for purposes of Dial-A-Ride?

Michael O'Neil, 621 Hillsdale, thanked the Commission and city staff for making Dial-A-Ride available to the users so they could attend tonight's meeting. The proposed rate increases will undermine this vital city service and place an increased cost burden on those Helena citizens who can least afford that cost.

Teresa Gardner, 2300 N. Roberts, works at Montana Independent Living part-time. She uses Dial-A-Ride frequently and can't afford an increase in fares because she is on a fixed income.

Chris Bisson, 2531 Ferndale Lane, rides Dial-A-Ride five days a week and works in a fast food restaurant six days a week so her husband has to drive her on Saturdays. They are on a tight budget and the increase would be very hard on her.

Mary Harris, 5450 Hill Drive, is an on-call driver for Dial-A-Ride. She would recommend a transfer system instead of a fare increase.

Betty Beverly, 825 Helena Avenue, is the executive director of Montana Senior Citizens Association. Dial-A-Ride is a service the city is providing to the residents. The city should advertise more to get an increase in ridership or increase the hours of service to include evening hours.

Harriet Meloy, 1317 9th Avenue, stated this is a problem for senior citizens and the handicapped. She is a representative of Planned Helena which helps preserve natural, urban, rural and historic characteristics that define the desirable quality of life in Helena. They also want to develop a strong support system for those needing public transportation. This service needs to be subsidized.

Gregory Engellant, 520 Logan, #219, is disabled and uses Dial-A-Ride regularly. He enjoys the reduced rate fares.

Joe McKay, 2400 Villard, is the manager of Capital Taxi. Dial-A-Ride will probably always be a subsidized transportation program. Capital Taxi could perform part or all of the same services at a reduced subsidy from the city. The city now subsidizes \$7.50 for every rider and Capital Taxi could do that for \$4 - \$5 per rider.

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

Discussion

City Manager Tim Burton stated this is not a fun proposal to bring forth, but the five-year plan which did go through a public process also recommends a rate increase. Within the confines of the budget and those proposals, that is the purpose and reason why this is before the commission.

Mayor Smith asked what age is considered elderly for purposes of Dial-A-Ride and Mr. Robinson reported that age 55 is considered elderly.

Commissioner Oitzinger asked Mr. O'Neil if he opposes increases to rates across the board? Mr. O'Neil stated that getting into a disability class sometimes is a difficult thing. Many work minimum wage jobs and it is that population that will be impacted greatly.

Commissioner Parriman asked Mr. Meldrum about the 17 1/2% increase. Would that relate to one year? Mr. Meldrum stated yes, that was based on the \$.15 cent increase. Commissioner Parriman stated at an earlier administrative meeting, Mr. Robinson said the rates hadn't been raised in 5-7 years and if it's based over 5-7 years, it would be more like a 2.5 - 3% increase which is minimal.

Commissioner Netschert stated the reason they are dealing with this and talking about this whole issue is that the fares have been held at this level for over ten years. Commissioner Netschert asked Ms. Harris about her transfer theory. Ms. Harris previously lived in a larger city. She would ride their bus, pay a \$1.00 fee, get a transfer ticket and she would have a two-hour window of opportunity to ride the bus without paying an additional fee. If she went over the two-hour limit, she would have to pay another fee. The transfer system would work the same way in Helena.

Mr. Robinson stated under the system, the riders have to call beforehand to schedule rides. The situation where you go from one point to another to another rarely happens.

Commissioner Netschert stated Commissioner Pouliot had said that he would very much like to be a part of this discussion and decision. It would be prudent to table this issue for two weeks to look at the alternatives mentioned.

Mayor Smith asked if the public hearing has been opened and closed, this is tabled and Commissioner Netschert's alternatives in fares are researched, would this have to be re-advertised and another public hearing held? City Attorney David Nielsen stated it depends on the changes recommended. If major changes were made to fares beyond what was previously advertised and we allowed for transfers, than it would have to be re-advertised and we would go through the public process.

Commissioner Oitzinger stated we should extend the same transportation assistance to the citizens who want to attend the July 8 meeting as we did tonight. Is this a legislative issue or is it under ex parte communications? City Attorney Nielsen stated it is a legislative issue and can be discussed.

Motion

Commissioner Netschert moved to table the recommendation to increase Helena Dial-A-Ride bus fares to the July 8, 2002 City Commission meeting. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Ewing Street

CONSIDER A RESOLUTION CONVERTING EWING STREET, BETWEEN BROADWAY AND 5TH AVENUE, TO A ONE-WAY NORTHBOUND STREET WITH ANGLE PARKING.

Staff Report

Public Works Director John Rundquist reported the county, the Helena Parking Commission (HPC) and the Myrna Loy have jointly participated in a project design to increase the existing parking available around the county courthouse. After various recommendations from a consultant, the three parties agreed on design alternative #4. Alternative 4 would be supplemented by HPC

parking management (limited parking times at some on-street locations, plans to be developed separately.

The county, Myrna Loy Center and their consultant have met with City Public Works, Streets, Police and Fire staff to identify and resolve their concerns. After acceptance by these city departments, a public meeting was held on April 26, 2002. Twelve of the thirteen citizens attending the meeting voiced support for the changes. The non-supporting attendee was a courthouse employee who indicated that much more parking is needed and that this concept would not adequately address the parking shortage.

CONSTRUCTION: The county proposes constructing curb bulb-outs on Ewing Street at Broadway and Breckenridge, to enhance pedestrian safety. The construction would be combined with an existing county CTEP project scheduled for summer 2002 construction and would be funded by the county. The striping and signing changes would occur with completion of the courthouse project. The City Streets department has proposed providing the initial striping and signing (to ensure that city standards are met). The county will participate in the signing costs and will construct the changes in the parking lot, west of the warehouse on Breckenridge.

SAFETY: Because Ewing is a local street serving primarily the Myrna Loy and County Courthouse the safety of the traveling public should not be compromised by this proposed travel change. Angle parking does introduce some safety concerns, which are offset by removing the opposing travel and removing parallel parking.

PROCESS: With City Commission approval, the change to a one-way street would be implemented in later summer 2002, during the completion of the county's CTEP project for the courthouse. The CTEP Courthouse project would construct the concrete bulb-outs at Broadway and Beckenridge. After that construction, city staff would provide the initial striping for the angle parking and traffic flow on Breckenridge. City staff would also install signing for both the traffic (one-way/do not enter signs, etc.) and the parking management (2 hour parking, etc.).

This will increase public parking by 22 spaces (30%) in the County Courthouse area; implement traffic changes through a cooperative effort between Lewis & Clark County, the City and the Helena Parking Commission, which minimizes cost; provides curb bulb-outs for improved pedestrian safety at Broadway and Breckenridge intersections with Ewing; provides two handicap accessible parking spaces along Ewing Street and the angle parking will remove vehicular conflicts created by parallel parking maneuvers and head-on traffic.

Public Testimony

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

Kathy Harris, 316 N. Park, stated she is representing the county as their Transportation Coordinator. The proposal was developed with the county, the Parking Commission and the Myrna Loy. The Myrna Loy stated they would like to see some improvements made to handle the parking. An engineer was hired to develop alternatives. The alternative before the commission is the best solution found at a modest cost. The Lewis & Clark County Commissioners support this proposal.

Ed Noonan, speaking for the Myrna Loy Center, stated this process has been important for the Myrna Loy Center in looking at ways they could help to support more earned income for the center.

Eric Griffin, director of Public Works for Lewis & Clark County, 3402 Cooney, stated the proposed changes to Ewing Street between Broadway and 5th Avenue represent a partnership between the Myrna Loy, the county, the Helena Parking Commission, the public and the City of Helena. These changes will increase parking around the courthouse square area safely and cost effectively. Lewis & Clark County supports the proposed changes to Ewing Street.

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

Motion

Commissioner Netschert moved approval of the resolution converting Ewing Street to one-way, northbound between Broadway and 5th Avenue, and the parking plan Option D for Ewing Street and Breckenridge. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 11766**

Industrial Development Bonds

CONSIDER A RESOLUTION ESTABLISHING 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.

The resolution of intention to establish these fees was passed May 20th along with a recommendation to exempt Carroll College's current IDR Bond. The legal ads for the public hearing were published in the Independent Record on June 7 and 14th.

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 direction.

Discussion

Mayor Smith asked if the City of Helena ever issues these IDR bonds on behalf of another governmental entity such as the state? Mr. Magee stated we could, but typically they have their own authority.

Commissioner Netschert asked if these costs are the same for non-profits as they are for profit companies? Mr. Magee stated yes, but for non-profits, you will often choose to exclude them.

Mayor Smith asked if there is a specific exemption for Carroll College as part of the motion? Mr. Magee stated the recommended motion does recommend adopting the fees for cost of issuance and also that the fees be exempted for Carroll College.

Public Testimony

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

Mike O'Neil, 621 Hillside, would like to urge the exemption for non-profits. The type of projects that are done with this type of funding all serve a public purpose.

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

Discussion

Mayor Smith stated in the proposal, staff recommends in # 3, the foregoing fees may be waived for non-profit organizations at the commission's discretion. Will these be seen on a case-by-case basis? Mr. Magee stated yes, that is the intent. There is a large difference between types of non-profits.

Commissioner Netschert stated if staff is doing work on behalf of third parties, they should be reimbursed. We are charging along the same lines as what the county charges. The county is charging approximately \$1,000 and so we should do it for less to encourage growth within the city rather than outside the city. The city should make it \$500 across the board so it is more affordable for people to apply for these bonds.

Commissioner Oitzinger stated staff is asking for a fee that is on the ability to pay and that is the reason they put in the resolution that it would be on a case-by-case basis with non-profits for it to be waived. The fee may come down for profit businesses, but would strongly oppose having the fee applied across the board. Commissioner Oitzinger believes in Western Montana, cities are beginning to recognize the non-profit community as part of our economic development, but one must recognize it is a fragile sector. She recommends \$650 for profits and exempting non-profits.

Mayor Smith stated Commissioner Netschert's recommendation to lower the amount to \$500 deals with proposal #1 and that is the flat fee of \$1,000, but #2 is a sliding scale of \$3 per \$1,000. How does this relate to staff's recommendation in #2? Commissioner Netschert stated the minimum issuance fee as proposed is \$1,000. He would like that to be \$500 setting the maximum issuance fee at \$10,000 which is \$15,000 less than the \$25,000 proposed.

Mayor Smith is reluctant to pass over a staff recommendation.

Motion

Commissioner Netschert moved approval of a resolution establishing fees for the issuance of Industrial Development Revenue Bonds and the Administrative and Processive Fee to be \$500 for each application as recommended in proposal #1 and changing proposal # 2, the minimum issuance fee, instead of \$1,000, to be \$500 and a maximum issuance fee of \$10,000. Any foregoing fees might be waived for non-profit organizations at the commissions discretion. Motion dies for lack of a second.

Discussion

Commissioner Oitzinger asked what the implications would be for a tabling motion. City Attorney David Nielsen stated it would not have any negative

impact. The public hearing would not be reopened, but it would be reopen for discussion.

City Manager Tim Burton stated there is low volume in terms of IDR Bonds. Some of the issuances that have taken place over the years have been for the construction of buildings for mental health. Carroll College dorms are the most recent. In Lewis & Clark County, there might be one a year, maybe two and the county can issue them whether they are in the city or outside. It is important to have similar fees for that reason.

Motion

Commissioner Oitzinger moved approval of a resolution establishing fees for the issuance of Industrial Development Revenue Bonds. Commissioner Parriman seconded the motion. Motion carries 3 -1
Commissioner Netschert voted no. **Resolution 11765**

Motion

Commissioner Oitzinger moved to exempt Carroll College for the Industrial Development Bond fees on a one-time basis. Commissioner Parriman seconded the motion. All voted aye, motion carries.

Two-year Extension

CONSIDER A RESOLUTION FOR A TWO-YEAR EXTENSION FOR A LAND USE VARIANCE TO ALLOW FOR THE CONSTRUCTION OF A FOUR-PLEX LOCATED IN A R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT; GENERALLY LOCATED ON THE SOUTHEAST CORNER OF HENDERSON STREET AND WILDER AVENUE.

Staff Report

Planner Belinda Waters reported the property is currently vacant and undeveloped. On August 7, 1978, the City Commission originally granted that property a Land Use Variance (Resolution #8852) for construction of a four-plex. On April 7, 1997, the City Commission granted an amendment to the LUV in Resolution #11110 (amending Resolution #8852) and outlined six conditions. On May 18, 1998, (Resolution #11258) and May 22, 2000 (Resolution #11507), the City Commission granted two-year extensions for the property owner to apply for a building permit.

The property owner is again requesting a two-year extension to build the proposed four-plex. No changes are proposed to the previously approved site plan. The conditions stated in Resolution #11110 and #11258 would still be applicable.

Once the four-plex is constructed, it would provide additional rental housing units.

Discussion

Commissioner Oitzinger asked if the LUV goes with the property in the case of a sale? Ms. Waters stated yes, it does go with the property.

Mayor Smith asked if the recommended motion is not accepted and this two-year extension is not approved, in what situation is the property owner? Ms. Waters stated the Land Use Variance would no longer be applicable and they would not be allowed to build a 4-plex.

City Attorney David Nielsen stated the Land Use Variance would terminate and the property would be subject to the customary R-2 zoning. If they were going to construct anything not permitted by right, they would have to go through a Conditional Use Permit. Land Use Variances were historically what the city used a long time ago instead of the Conditional Use Permit. They allow a different type of use within a zoning district. Mayor Smith asked if this was

coming before the commission for the first time, it would be called a CUP instead of a LUV? City Attorney David Nielsen stated yes, 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.

Mike O'Neil, 621 Hillsdale, stated he is familiar with this lot. This is one of the few lots available in a centrally located area and is ideally located because it is on a busy, corner street. It will not impact the neighborhood in any significant way and is on a major bike/pedestrian pathway. It is also connected to the sidewalk system allowing access to the shopping along Euclid. Mr. O'Neil encourages the commission to grant this two-year extension.

Doug Patzer, Montana City, is the owner of property. The ground is for sale, but one of two things will occur in the next two years. He will either sell the ground with the LUV or he will build a four-plex.

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

Discussion

Commissioner Parriman asked if this were denied, a four-plex could not be built? City Attorney David Nielsen stated that is correct. What the Land Use Variance does is grants an exception to that underlying zoning. It would be considered R-2 zone property.

Mayor Smith asked if R-2 is Single Family Residential. City Attorney Nielsen stated that is correct.

Commissioner Parriman asked if this were denied, a four-plex could not be constructed, but a single-family residence could? City Attorney Nielsen stated that is correct except it is possible they could apply for a conditional use permit if they wanted to go with a multi-family. Ms. Waters stated that is not correct, but townhouses are accepted. Commissioner Parriman asked if they would have to apply for a conditional use permit if this were denied or could they go before the Board of Adjustment? City Attorney Nielsen stated the Board of Adjustment would not have the authority. Commissioner Parriman stated, in his opinion, if the commission were to deny the resolution and the applicant could not build a four-plex, the value of the land would decrease greatly.

Commissioner Oitzinger asked for options. The property could have some very community beneficial uses. She would not like to do anything that would proscribe that. If the present landowner sells the property and the LUV follows the land, than there is no guarantee that what Mr. O'Neil is envisioning would happen and something entirely different would occur. If the LUV is extended, and the property is sold, is there a way to get the new owner to get the commission's approval on whatever action he takes? City Attorney Nielsen stated no. It becomes part of the zoning for that property. Ownership would not matter. If the property is sold, either a single-family residence, complying with the R-2 could be constructed.

Motion

Commissioner Oitzinger moved approval of a resolution for an extension of a Land Use Variance for two years to allow for the construction of a four-plex on lots located in an R-2 (Single-Family Residential) District, and said extension will be the last one granted by the City Commission. The proposal is legally described as Lots 1, 2, 3, 4 and the west 6 feet of Lot 5, Block 105, Ming Addition, Helena, Montana;

generally located on the southeast corner of Henderson Street and Wilder Avenue. Said approval is based on the conditions stated in resolutions 11110 and 11258. Commissioner Netschert seconded the motion. All voted aye, motion carried. **Resolution 11764**

**Amending
Title 3**

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING TITLE 3 OF THE HELENA CITY CODE BY ADOPTING MISCELLANEOUS REVISIONS TO THE UNIFORM BUILDING CODE, MODEL ENERGY CODE, UNIFORM PLUMBING CODE AND THE NATIONAL ELECTRICAL CODE.

Staff Report

Chief Building Official Brandt Salo reported updates to the "package" are periodically required as the state revises the building codes and the manner in which they are to be applied. The state Building Codes Division has the legislative authority to adopt codes and to establish administrative rules to implement them on an as needed basis. The executive reorganization of state government has resulted in the offices of the state Building Codes Division being reorganized from Commerce to Labor and Industry. The applicable segments of the administrative rules that amend or modify the various codes have been renumbered to reflect their location under that administration. The city is obligated to adopt and enforce the codes identically as the state has done. Minimal flexibility is offered to cities when the state adopts a code provision solely for optional local use.

To adopt by ordinance a number of changes and new provisions to the codes based upon their directive within the ARM's: "The following modifications to the Uniform Building Code are applicable to both the department's building code enforcement program and local government building code enforcement programs." A number of the provisions are administrative housekeeping issues.

In the building code, several pertain to the code's recognition of the new class of occupancy that comprises the various forms of assisted living and personal care facilities. Still others clarify what uses of buildings may be classified as a particular type of occupancy according to the code. Finally, the design standards for automatic fire extinguishing and standpipe systems are incorporated by reference into Chapter 9 of the UBC. Appendix 23 of the code governing the provisions of light-frame construction in high wind areas will be adopted since Helena's position on the east slope of the Continental Divide places us in an area subject to potential winds in the 70 to 80 m.p.h. range and the community has some history with wind-related damage.

For the Model Energy Code, the amendments deal with the placement of the requirements for an "energy labeling sticker" required by the Montana Code Annotated into the code, whereby contractors must make a permanent record of the insulation and energy efficiency values of the building shell, windows, furnace and water heater for the homes that they build. Minimum acceptable energy coefficients have been tabulated and added.

The state has for years, adopted an alternative and more lenient plumbing fixture schedule than that in the Uniform Plumbing Code, by which the assessment for the numbers of toilets, basins, etc., are determined for specific types of building uses or occupancies. The numerical section designation in the ARM's that is applicable to the existing table has changed because of the transfer of the state's building codes program from the Department of Commerce to Labor and Industry.

The modifications proposed by the state for adoption into the 1999 National Electrical Code deal primarily with the recognition of manufactured and

mobile homes as single family housing types, and incorporate revisions to the wiring methods used for the building services, in section 550 for Mobile Homes, Manufactured Homes and Mobile Home Parks.

The adoption of the accumulated amendments and modifications to the codes assures the continued compliance of the City of Helena's code enforcement program with the mandated standards set by the State of Montana, Department of Labor and Industry while providing the city with the most current and state of the art construction criteria.

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 amending Title 3 of the Helena City Code by adopting miscellaneous revisions to the Uniform Building Code, Model Energy Code, Uniform Code and the National Electrical Code. Commissioner Netschert seconded the motion. All voted aye, motion carried. **Ordinance 2939**

Collection of Residential Garbage

CONSIDER A RESOLUTION ESTABLISHING CHARGES FOR COLLECTION AND DISPOSAL OF RESIDENTIAL GARBAGE AND REFUSE IN THE CITY OF HELENA, MONTANA, FOR FY03.

Staff Report

Assistant Public Works Director Phil Hauck reported the City Commission passes a resolution annually establishing charges for residential sanitation. The proposed resolution includes all charges utilized by residential sanitation and includes them on one resolution. The Public Works Department is not recommending any increase in FY2003 charges for residential sanitation.

Passage of this resolution will allow the department to establish charges for collection and disposal of residential garbage and refuse for FY03.

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 a resolution to establish charges for collection and disposal of residential garbage and refuse in the City of Helena, Montana for Fiscal Year 2003. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution 11763**

Rate Matrix

CONSIDER A RESOLUTION ESTABLISHING A RATE MATRIX FOR SERVICE CHARGES FOR COMMERCIAL COLLECTION AND DISPOSAL OF GARBAGE AND REFUSE IN THE CITY OF HELENA, MONTANA FOR FY03.

Staff Report

Assistant Public Works Director Phil Hauck reported the City Commission passes a resolution annually establishing charges for Commercial Sanitation. The resolution includes all charges that are currently being utilized by Commercial Sanitation and includes them on one resolution. The Public Works

Department is not recommending any increase in FY2003 charges for Commercial Sanitation.

Passage of this resolution will allow the department to establish all rates used by the Commercial Solid Waste enterprise for FY03.

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 a resolution to establish a rate matrix for service charges for commercial collection and disposal of garbage and refuse in the City of Helena, Montana for Fiscal Year 2003. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution 11761**

Transfer Station

CONSIDER A RESOLUTION SETTING FEES CHARGED FOR THE DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION FOR FY03.

Staff Report

Assistant Public Works Director Phil Hauck reported the City Commission passes a resolution annually establishing charges for the Transfer Station. The resolution includes all charges that are currently being utilized by the Transfer Station and includes them on one resolution. The Public Works Department is recommending adjusting the tipping fee to \$52.10 to insure positive cash flow and to meet bond coverage requirements. No other fee increases are proposed for Fiscal Year 2003.

Passage of this resolution will allow the department to establish all fees used by the Transfer Station enterprise for FY2003.

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.

Discussion

Commissioner Netschert asked if the tipping fee is only for people who reside outside the city limits? Mr. Hauck stated all customers to the Transfer Station pay the tipping fee. The customers to the Transfer Station in this case are the Residential Solid Waste Division, the Commercial Solid Waste Division and the Lewis & Clark County Scratch Gravel Landfill District.

Commissioner Netschert stated this has nothing to do with the tonnage as you drive across the scale? Mr. Hauck stated the tipping fee would apply to people that go over the two-ton limit. We give two-tons that are not assessed and anything over that would be at this new rate instead of the old rate. Commissioner Netschert asked what was the old fee? Mr. Hauck reported it was \$47.85 and that includes the City of Helena tipping fee and the Lewis & Clark County and Landfill tipping fee.

City Manager Tim Burton stated people pay for that service and it covers the cost of collection and also covers the cost of disposal. There is a separate business which is the Transfer Station which charges to all the customers that bring refuse through there which include residential, commercial as well as the Lewis & Clark County Scratchgravel District. Each of those fund balances go up

and down in an opposite way. If there is a big hailstorm, then the residential will pay more to dispose of refuse because the volume is up. If their volume is down, than their costs are down as well. The opposite works at the Transfer Station and at the Lewis & Clark County Landfill.

Mayor Smith asked what we do for amounts that are between 200 and 2000 pounds? Is there something less than \$52.10 in that 1800 pound spread? Mr. Hauck stated there are just the two rates. Residential customers do not have to pay until they exceed two tons. After you reach that minimum of \$5, every ton is \$52.10.

Commissioner Parriman asked if \$52.10 is the fee commercial customers pay if they bring refuse into the Transfer Station. Mr. Hauck stated yes, if they self-haul into the Transfer Station, than it is \$52.10. If you bring it down to the Transfer Station yourself as a business, you will pay \$52.10 a ton. If you're a business that has us collect the garbage for you, you will not see a change in your fee.

Mayor Smith asked if he is a commercial hauler and he brings in 500 pounds, does he pay \$52.10 or some portion thereof? Mr. Hauck stated if you are a business that self-haul, you are paying \$52.10 a ton.

Commissioner Parriman stated he has a business and if he hauls a 1/2 ton, he is charged \$26.05. It is based on tonnage. They weigh you in and whatever amount of weight you bring in, you are charged at that rate, at \$52.10 a ton. Mr. Hauck stated that is correct.

Commissioner Oitzinger asked what the commercial haulers were paying in the past? Mr. Hauck stated the rate last year was \$47.85. The proposal is \$52.10.

Motion

Commissioner Parriman moved approval of a resolution to supersede Resolution No. 11648 and set fees charged for disposal of garbage and refuse at the City of Helena Transfer Station for Fiscal Year 2003. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 11762**

Public Communications

PUBLIC COMMUNICATIONS

There were no public comments.

Meetings of Interest

The next budget work session will be June 20; the next City Commission meeting will be July 8 and the next administrative meeting will be July 17, 2002.

Commissioner Parriman noted he is scheduled to welcome the Montana Elks delegation to Helena on July 19, 2002.

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Adjournment

There being no further business to come before the commission, the meeting was adjourned at 8:30 p.m. this 17th day of June, 2002.

MAYOR

ATTEST:

CLERK OF THE COMMISSION