

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
September 9, 2002
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, September 9, 2002, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Jim Smith indicated for the record that Commissioners Netschert, Oitzinger, Parriman and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and City Clerk Debbie Havens were present.

There was not a HCC representative present. Youth Advisory Council member Jason Swant was present.

Community Development Director Michael Barros introduced Sheldon Bartel, Executive Director of Gateway Economic Development Council.

Pledge of Allegiance

Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance.

Minutes

The minutes of the regular city commission meeting of August 26, 2002 were approved as submitted.

Appointments

APPOINTMENTS

- a. Board of Adjustment
- b. Youth Advisory Council
- c. Zoning Commission

Mayor Smith recommended the following appointments:

Board of Adjustment

Gary Pemble First full term – Expires October 1, 2005

Helena Zoning Commission

Mike Noble 2nd Term – Expires September 30, 2005

William (Bill) Leary 2nd Term - Expires September 30, 2005

Patricia Spencer 2nd Term – Expires September 30, 2005

Motion

Commissioner Pouliot moved approval of the re-appointments outlined above and recommended by Mayor Smith. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Commissioner Oitzinger stated she would like the opportunity to follow-up on several questions regarding the appointments to the Community Youth Advisory Council. She recommended these appointments be tabled until the next commission meeting.

Motion

Commissioner Oitzinger moved to table the appointments to the Youth Advisory Council until the September 23, 2002 city commission meeting. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA

- a. Claims
- b. Acceptance of a \$20,000 CDBG planning grant from the Department of Commerce; budget amendment to expend the grant funds; enter into a contract with the Department of Commerce; and authorize the City Manager to sign the contract
- c. Acceptance of a \$5,000 CDBG-MBDC technical assistance grant on behalf of Gateway Economic Development Corporation from the Department of Commerce, budget amendment to expend the grant funds; enter into a contract with the Department of Commerce; and authorize the City Manager to sign the contract

City Manager Tim Burton recommended approval of the claims.

Motion

Commissioner Netschert moved approval of consent agenda items

A-C. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Oitzinger welcomed Mr. Bartel to Helena. Commissioner Oitzinger then introduced Independent Record Reporter Jason Mohr and welcomed him to the meeting.

Commissioner Parriman stated the commission received a petition from some of the property owners in the Skelton Subdivision. He asked City Manager Burton to comment on it.

City Manager Burton stated he has not seen the petition, however, he will review it and report back to the commission.

Commissioner Pouliot asked that this be discussed at the next administrative meeting agenda.

Mayor Smith stated he has been in several conversations with people regarding the amount of vandalism throughout our community. Examples given were the bears, bathrooms in the parks, and the shed door being kicked in at the YMCA. Mayor Smith asked if the commission would entertain a community discussion on this topic. He noted he believes some of the instances are not youth related.

Commissioner Oitzinger stated vandalism is a recurring theme with the Business Improvement District. The BID Board has brought in representatives from the Police Department and Dick Meeker to discuss vandalism. She too noted she does not believe the youth are totally at fault for the vandalism. Commissioner Oitzinger stated it is important to set expectations and it would be very valuable if an article in the paper could be done.

Commissioner Parriman stated he had a conversation with Bill Eicher regarding vandalism in the downtown area. There are some examples of what other cities are doing to address the vandalism. Commissioner Parriman offered to speak with Mr. Eicher regarding what other cities may be doing.

Commissioner Pouliot stated there is ongoing vandalism to the Memorial in Memorial Park. He too thought an article in the paper may help, and, in addition the citizens could be asked to become more aware of any vandalism that is occurring and report it to the police.

Commissioner Netschert echoed the comments from the other commissioners. He would like to see the community come together to address this issue.

City Manager Burton stated he is well aware of the vandalism issue. There is a real concern from people across the city with the increase in incidents. The issue of vandalism cannot be solved through the Police Department alone. The Parks and Recreation Department employees also have expressed great concern with the vandalism.

City Manager Burton stated one approach would be to sponsor a town hall meeting on vandalism. This meeting would not be held during a regular commission meeting, but separate and apart. City Manager Burton outlined a process that could be used to at least bring the community into a citywide dialogue. Mr. Burton stated if the commission is willing to sponsor a town meeting, it could be held at the Civic Center.

Mayor Smith noted the Helena Citizens Council should also be involved in the meeting.

It was the consensus of the commission to have Mayor Smith continue this discussion at the Hometown Helena meeting on Thursday, September 12. This could also be put on the September 18 Administrative meeting.

City Manager Burton stated he believes it is time to invite the citizens to a meeting and ask them to partner with the city in terms of addressing the growing vandalism problems. He then gave an overview of how the meeting could be facilitated to include participation from all who attend.

Mayor Smith announced there are a number of events planned for the remembrance of September 11, 2002; the first one being at the Main Fire Station; the second at the State Capitol; and the third at Alive @ Five.

Commissioner Oitzinger stated she would be out of town on September 11, 2002 and unable to attend any of the events.

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 Burton had not items to report on.

Sidewalk Variance

SIDEWALK VARIANCE – IR PUBLICATION CENTER AT THE INTERSECTION OF CEDAR AND WASHINGTON STREETS

Staff Report

City Engineer Chuck Hanson reported the Helena Regional Airport and their new tenant, the IR publication printing facility are requesting a variance from installing a sidewalk along Washington, noting the following reasons:

1. There are currently no sidewalks in the area and little-to-no pedestrian traffic. Sidewalks at this site would not link up with any other walks, so would not be utilized. Current intersections are not designed to accommodate pedestrian traffic.

2. Washington Street is likely to undergo substantial improvements in the future that may cause any new walks to be removed and/or relocated to accommodate those changes. If improvements are completed in the future, including curb and gutter, that would be the ideal time to decide if a sidewalk is necessary and to have the walk constructed.

3. Future pedestrian traffic and bike traffic could be accommodated by the "Skyway Trails System" being proposed by the city parks department. This trail would connect bikeways on the new Cedar overpass to the airport and sports fields north of the airport. The trail will run either directly east or west of the proposed IR building and carry bike and pedestrian traffic.

Mr. Hanson recommended approval of a sidewalk variance for the new Independent Record publication printing building contingent upon the installation of the proposed trail.

Discussion

Commissioner Pouliot asked if the sidewalk would connect to the newly installed Cedar Street walkway? Mr. Hanson stated the walkway would be installed the length of the Cedar Street project; it goes from Oak Street to Washington Street.

Commissioner Netschert asked if it would be prudent to ask for financial guarantee for the future development of the sidewalks. City Engineer Chuck Hanson noted the letter from Ron Mercer has indicated if the walkway is not developed, they are willing to participate in the construction of sidewalks.

City Manager Burton recommended any approval for the variance be contingent upon the construction of the bike/pedestrian trail system.

Commissioner Parriman asked if the walkway would run on the Westside of Washington Street. City Manager Burton noted the plan is to have the walkway on the Westside of Washington and then at some point cross over for access to the soccer fields. City Engineer Chuck Hanson stated the crossing is slated for the intersection of Washington and Skyway Drive. With any future improvements to the property west of Washington, there will be a request for a signal at that location.

City Nielsen reminded the commission they can always order in sidewalks. Mr. Nielsen stated the request should not be called a sidewalk variance but a sidewalk deferral.

Mayor Smith asked if there would be any new streets and gutters constructed with the new building. City Engineer Hanson stated at this time there are no plans to build any new streets and gutters. Mayor Smith asked if there are any portions of the walkway that would actually be a sidewalk. City Engineer Hanson stated he does not have the plans for the walkway. However, generally when a walkway is built, it is a combined bike/pedestrian path, a minimum of 8-foot wide and usually 10-feet.

City Manager Burton stated the walkway is being financed through OSBAC funds and other grants. The standards to this walkway will be the same as those built in Nature Park.

Commissioner Pouliot asked if staff could develop a map of the proposal. City Engineer Chuck Hanson stated there was a site plan available when the building was approved. Mayor Smith suggested if additional information were needed before a decision is made, the appropriate motion for tonight would be to table the sidewalk deferral.

Motion

Commissioner Pouliot moved to table a sidewalk deferral for the new Independent Record Publication Printing Building.

Commissioner Parriman asked for clarification on when curbs, gutters and sidewalks are required for new buildings. City Engineer Chuck Hanson explained generally sidewalks are always an intricate portion of new construction. Due to the amount of time since the original approval, City Engineer Hanson could not explain why the curbs and gutters were not required.

Commissioner Netschert stated the transmittal memo from staff indicates the advantage of the sidewalk deferral would allow time for the development of a

community solution to pedestrian and bicycle access in and around the airport. City Manager Burton stated there is a design for the proposed walkway.

City Manager Burton noted he would place this item on the September 18 administrative meeting agenda.

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

**Crest View
Subdivision** CONSIDER THE FINAL PLAT FOR CREST VIEW ESTATES SUBDIVISION, PHASE I, CREATING 14 RESIDENTIAL LOTS IN THE R-1 DISTRICT. THIS PROPERTY IS A 6.51-ACRE TRACT OF LAND DESCRIBED AS A PORTION OF BLOCKS 6, 7, AND 12 OF THE COURT HOUSE ADDITION, SECTION 31, T10N, R3W, HELENA, LEWIS AND CLARK COUNTY, MONTANA; LEGALLY DESCRIBED ON THE FINAL PLAT AND GENERALLY LOCATED SOUTH OF RHODE ISLAND STREET, EAST OF RALEIGH STREET AND WEST OF THE MALBEN RESERVOIR AND MUELLER.

Staff Report Planner Lucy Morell-Gengler reported on October 15, 2001, the city commission gave preliminary plat approval for the first phase of the Crest View Estates Subdivision located in a R-1 District. The proposed subdivision is a 6.51-acre tract of land.

The preliminary plat approval was subject to 10 conditions, which have been completed, financially guaranteed, or is not longer applicable.

The application for final plat review was submitted August 7, 2002; additional information was submitted on August 27, 2002. Section 12-2-11C. of the Helena subdivision regulations indicate the city commission must make a decision within 30 days (by September 26, 2002).

The applicant is requesting final plat approval for the Crest View Subdivision Phase I. Although some of the improvements are currently being installed, the water, sewer, stormwater drainage, streets (including curb, gutter, boulevard sidewalk and street trees), erosion control measures, and revegetation have been financially guaranteed. Easements for the stormwater detention areas and connection for the trail system have been submitted.

The preliminary plat for the Crest View Estates Subdivision was submitted prior to adoption of recent changes to the subdivision regulations, and therefore must be reviewed under the previous regulations. Section 12-4-2, I of the previous regulations required stake sod for slopes between 2:1 and 4:1. The revised regulations permit stake sod or quick germinating seed for slopes between 3:1 and 4:1. To be consistent with current regulations, the applicant is requesting city commission approval to deviate from the requirements of Section 12-4-2I of the previous subdivision regulations and to amend condition II. Erosion Control B. to allow quick germinating seed to be planted on slopes between 4:1 and 3:1, instead of staked sod, to provided protective slope measures in areas of excavation.

The letter of credit providing the financial guarantee for the improvements will expire November 1, 2002. It is not anticipated that the improvements will have been completed and accepted at that time. If a new letter of credit is not submitted to financially guarantee the outstanding improvements, the city will draw down adequate funds to assure compliance with the subdivision conditions to city standards.

Proposed changes from the preliminary plat contained in the final plat include:

1. Hoback Street has been relocated to the west and now lines up with Hoback Court, eliminating the need for Condition IV.F. which required mitigating possible hazards to Lot 6 that may have resulted from the intersection design.
2. The cul-de-sac designs were modified to incorporate turnarounds that would reduce the impact on the terrain. This modification at the west end of Crest View Drive incorporates a turn around that is more permanent if phase II is not realized. This redesign eliminates the need for condition IV.H. which required a 10-year financial guarantee for construction of a permanent cul-de-sac at the end of Crest View Drive if Phase II was not developed by that time.
3. The parkland dedication has been included by providing land for a trail connection between the city park area east of the subject property and the city easement west of the subject subdivision.
4. Lot sizes have been adjusted to accommodate the parkland dedication and the reconfiguration of Hoback Street. All lot areas are within the R-1 zoning requirements.
5. Fill slopes have been changed from 3:1 to a steeper 2:1 slope.
6. If approved by the commission, quick germinating seed will be planted to provide protective slope measures on slopes between 4:1 and 3:1, or less steep, instead of staked sod and no additional measures would be incorporated where there is stable rock.

Ms. Gengler recommended approval for a waiver from the protective slope requirements of Section 12-4-2I and to amend condition II. Erosion Control B. to allow quick germinating seed to be planted on slopes between 4:1 and 3:1.

Ms. Gengler also recommended approval for the final plat of the Crest View Estates Subdivision Phase I creating 14 lots located in a R-1 District described as a 6.51 acre tract of land being a portion of Blocks 6, 7, and 12 of the Court House Addition, Section 31, T10N, R3W, Helena, Lewis and Clark County, Montana, as legally described on the attached final plat; and generally located south of Rhode Island Street, east of Raleigh Street and west of the Malben Reservoir and Mueller Court.

Discussion

Mayor Smith stated he has been up to the development and the 20-foot berm is very noticeable and asked why it was constructed. Ms. Gengler explained there was a change in the street grade when Hoback Street was relocated, therefore, creating the need for the large amount of fill. Ms. Gengler noted the commission approved the realignment of Hoback Street.

Mayor Smith stated the preliminary plat included a trail on either side of the subdivision. Ms. Gengler noted the part of the trail on the western side of the subdivision would be reviewed with Phase II. There is an easement to connect the park property that was donated for a trail network. When the applicant submits the proposal for Phase II, staff will look at the trail network in the area. There are also some easement agreements that the city obtained with the purchase of the open space property to the south of the subdivision. Those easements will also be reviewed, separate from the subdivision process.

Commissioner Oitzinger stated she remembers when the preliminary plat was approved, there were many questions regarding easements and asked if they have been addressed. Ms. Gengler noted the easements related to Phase I have been addressed. Any easements dealing with Phase II will be addressed at that time.

Commissioner Parriman asked if staff knows of any timeframe of when Phase II may be proposed. Ms. Gengler stated Mr. Mark Brooke is present representing the applicant and may be able to answer that questions. Mark Brooke, Engineer with Morrison and Maierle, representing Timberline Heights, LLC, stated the applicants hope to have the Phase II plan ready for consideration within the next thirty days.

Mayor Smith asked if Phase II includes a trail system on the west side of the development. Mr. Brooke noted there has been a pre-application meeting with staff. At that time a preliminary sketch/diagram of Phase II was submitted. Mr. Brooke was reluctant to discuss Phase II in detail until the preliminary plat has been designed and submitted for consideration. Mr. Brooke noted one of the things included in Phase II is a provision of parkland dedication along the west side of Phase II that would allow a connection from Raleigh Street to the Beattie Park area.

City Attorney David Nielsen stated when the commission considered the preliminary plat there were two trail easements being looked at. One was on the east, which does cut through Phase I, which is shown as part of the lineal park along the eastside. The other easement will be accommodated in Phase II.

Commissioner Oitzinger asked if the easements in Phase II are owned by the city? City Attorney Nielsen stated the city does own the easements being referred to. The subdivision process does not erase easements; they continue to exist no matter what happens to the division of the land.

Motion

Commissioner Netschert moved approval of a waiver from the protective slope requirements of Section 12-4-2I and to amend condition II. Erosion Control B. to allow quick germinating seed to be planted on slopes between 4:1 and 3:1. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Motion

Commissioner Netschert moved approval for the final plat of the Crest View Estates Subdivision Phase I creating 14 lots located in a R-1 District described as a 6.51 acre tract of land being a portion of Blocks 6, 7, and 12 of the Court House Addition, Section 31, T10N, R3W, Helena, Lewis and Clark County, Montana, as legally described on the attached final plat; and generally located south of Rhode Island Street, east of Raleigh Street and west of the Malben Reservoir and Mueller Court. Commissioner Parriman seconded the motion. Motion carried 4-1 with Commission Oitzinger voting no.

Street Lighting District

CONSIDER A RESOLUTION OF INTENTION CREATING SPECIAL LIGHTING DISTRICT 206 FOR THE CREST VIEW ESTATES SUBDIVISION

Staff Report

City Controller Glenn Jorgenson reported the property owners petitioned to have a light district created. There are ten properties that would be included in the light district. A petition was circulated among the affected property owners and all property owners have signed the petition.

The proposed facilities will consist of (11) units with underground wiring, round poles for 16-foot mounting heights, and Lexington Colonial luminaries with 100-watt high-pressure sodium vapor lamps. The estimated cost of maintenance, electrical energy, and administration for the first year is \$3,813 with the estimated cost being \$.01705 per square foot of property owned.

Mr. Jorgenson recommended approval of the resolution of intention

creating Special Lighting District 206 for the Crest View Estates Subdivision and set a public hearing date for October 7, 2002.

Discussion

Mayor Smith asked if the original owners of the property continue to own all the lots. Mr. Burton explained until the final plat was approved, the property could not be sold.

Commissioner Parriman asked for a general description on how a street lighting district is created. City Manager Burton explained when a request is received to create a lighting district; there cannot be more than 51% of the property owners opposed to the proposal.

Mayor Smith stated he has reviewed some emails between a citizen and Mr. Rundquist regarding a light that would not go off. However, in addition to the one specific light there has been questions raised regarding the contractual relationship between the city and Northwest Energy and asked how this may affect this proposed lighting district.

Public Works Director John Rundquist stated the problem with the light near Mr. Oschenski's residence has been taken care of by Northwest Energy. Mayor Smith asked for further clarification on the contractual relationship between Northwest Energy and the City of Helena. Mr. Rundquist explained the current lighting districts and the arrangements with Northwest Energy is set by resolution for each separate lighting district. The specific terms, relative to maintenance, are still unclear and further research needs to happen.

Mayor Smith asked what is the responsibility of the city versus the power company regarding newly created lighting districts. City Manager Burton explained there are many lighting districts in the city, some of the lights are owned by the city and Northwest Power owns a lot of the lights. The resolution content varies from district to district, but for the most part there is a lot of uniformity. He then spoke of the lighting ordinance that was passed by the commission. Those standards have been applied to a smaller lighting district and the findings indicate a complete review of the ordinance needs to happen at an administrative meeting.

Commissioner Oitzinger stated she would appreciate the maintenance of the fixtures and light poles also be addressed.

Motion

Commissioner Pouliot moved approval of a resolution of intention to create Special Lighting District No. 206 for the Crest View Estates Subdivision and set a public hearing date for October 7, 2002.
Commissioner Parriman seconded the motion. All voted aye, motion carried.
Resolution 11815

***Water/Wastewater
Boundary Extension***

CONSIDER WATER AND WASTEWATER BOUNDARY EXTENSIONS FOR THE CREST VIEW ESTATES SUBDIVISION; BLOCKS 6, 7 & 12 OF THE COURTHOUSE ADDITION

Staff Report

City Engineer Chuck Hanson reported the final plat for the Crest View Estates Subdivision has been approved. One condition of final approval was the application for extension of the water and wastewater service area boundaries for the new subdivision.

In accordance with Section 6-5-7 the city commission can approve this extension of the water and wastewater service area without a public hearing or further public comment, for areas currently within the city limits.

Mr. Hanson recommended approval of the water and wastewater service

area boundary extensions for the Crest View Estates Subdivision.

Motion Commissioner Netschert moved approval of the water and wastewater service area boundary extensions for the Crest View Estates Subdivision. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Golf Course Wells CONSIDER A CONTRACT AMENDMENT WITH TETRA TECH FOR THE GOLF COURSE WELLS

Staff Report Public Works Director John Rundquist reported early this year the commission approved a professional services agreement to study, test and determine the value of two old existing irrigation wells on property proposed for the new Crystal Springs Development. The wells have established water rights of about 450 gallons per minute each and were reported by the former owner to produce in the range of 350 g/p/m each.

Tetra Tech EM, Inc., performed extended pump testing of the wells and viewed the interior condition with a video camera. The results of this testing was detailed in a report to the City received on August 1, 2002. To summarize the report, although the aquifer conditions are good, the wells would likely require substantial rehabilitation to be a reliable source of supply. The current well capacities are in the range of 210 – 250 g/p/m and the well casings are old with screen perforations becoming clogged with mineral deposits. Staff estimates that the cost of drilling new wells would likely be less than rehabilitating the old wells.

Several potential well site locations have been identified. Two would not require any investment in land. One of these sites could be on future city park property associated with the new Crystal Springs Subdivision. Another would be on the County Shop property east of Benton Avenue. County staff has represented an interest in allowing a well on this property if it could also be used for filling watering trucks when needed.

Staff asked the consultant to stop work on evaluation of the existing wells and to submit a proposal for constructing a new well and applying for irrigation water rights. Staff will continue to negotiate with the owners of the old wells to obtain the existing water rights if possible and practical.

Mr. Rundquist recommended approval of the contract amendment with Tetra Tech EM, Inc. for the Bill Roberts Golf Course and Centennial Park water supply irrigation project.

Discussion Commissioner Parriman asked if the proposal was to drill a test well? Mr. Rundquist stated a test well would be drilled, however, it would eventually be put into production.

Commissioner Netschert asked how difficult would it be in the future, if necessary, to tap into the well if one of the other water treatment plants were inoperable? Would it be possible to use it as treatable water in case of an emergency? Mr. Rundquist stated the well water could not be used in an emergency because the aquifer in the area is very shallow. There are strict EPA guidelines regarding the aquifer.

Motion Commissioner Oitzinger moved approval of the contract amendment #1 with Tetra Tech EM, Inc. for the Bill Roberts Golf Course

and Centennial Park water supply irrigation project. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

HDR Contract

CONSIDER A CONTRACT AMENDMENT WITH HDR FOR FINANCIAL CONSULTANT

Staff Report

Assistant Public Works Director Phil Hauck reported the FY03 approved budget included \$40,000 to hire a financial consultant to assist the city of Helena in securing federal funding for the Missouri River Treatment Plant (MRTP). The proposed scope includes funding coordination on the Water Resource Development Act (WRDA), a funding screening effort to review all agency and legislative funding programs that could possibly be used for a project or project component, and compilation of a legislative funding request package targeted at U.S. EPA's State Tribal Assistance Grant (STAG) budget account.

The financial services detailed in the project scope will place the city of Helena in a positive position to receive grant funds to rehabilitate the MRTP. Coordination between the engineer and the financial consultant is another advantage to subcontract the financial assistance under our existing engineering contract.

The current contract with HDR requires a 5% markup to administer extra services requested by the city of Helena. The total contract amendment would be \$42,000 (\$2,000 additional cost). However, the current agreement with HDR had a financial component of \$6,600 that could be reduced by \$2,000 if desired.

Mr. Hauck recommended approval of contract amendment #2 with HDR for the City of Helena's Water System Improvements and authorize the City Manager to sign the amendment.

Discussion

Commissioner Parriman asked for clarification on the financial component of \$6,600, which could be reduced by \$2,000. Mr. Hauck explained in the original contract with HDR there was a funding component to assist staff with the WRDA funding, in the amount of \$6,600.

Commissioner Oitzinger asked for further clarification on the \$6,600. Mr. Hauck stated the original contract with HDR was signed in the amount of \$6,600. The \$42,000 is the new contract for the additional work. The funding package ties in the engineer consultant and the financial consultant. Additional discussion was held on the entire funding package for the MRTP.

Mayor Smith stated the city has asked HDR to assume some of the administrative responsibility for the work of the financial consultant in Washington D.C., and in return for the administrative service, HDR is requesting the increase of the \$2,000. Mr. Hauck concurred with Mayor Smith's comments.

Commissioner Netschert asked why this work couldn't be done in house. City Manager Burton stated staff tried to put together a package last year; however, they do not have the expertise or the time to put together a total package. The consultant is more results orientated.

Commissioner Parriman stated he is always concerned when the cost for a consultant increases. However, because of the importance of the work, he will support adding the \$2,000 to the contract.

Motion

Commissioner Pouliot moved approval of a contract amendment #2 with HDR for the City of Helena's Water System Improvements and authorize the City Manager to sign the amendment. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

a. CONSIDER A RESOLUTION RELATING TO A PROJECT ON BEHALF OF CARROLL COLLEGE AND THE ISSUANCE OF REVENUE BONDS TO FINANCE THE COSTS OF A CAMPUS HOUSING PROJECT UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; APPROVING THE PROJECT AND PRELIMINARILY AUTHORIZING THE ISSUANCE OF BONDS THEREFOR.

Staff Report

City Controller Glenn Jorgenson reported the city commission passed a resolution of intention on August 12, 2002 relating to a project on behalf of Carroll College and the issuance of revenue bonds to finance the costs of a campus housing project under Montana Code Annotated, Title 90, Chapter 5, Part 1 (the Act), as amended; granting preliminary approval thereto and calling for a public hearing thereon.

After the public hearing, the city commission needs to determine whether to accept the project as eligible to be financed under the Act and preliminarily authorize the issuance of the IDR bonds, or deny the project and bond issuance.

Mr. Jorgenson recommended approval of the resolution relating to a project on behalf of Carroll College and the issuance of revenue bonds to finance the costs of a campus housing project under Montana Code Annotated, Title 90, Chapter 5, Part 1, as amended; approving the financing of the project and preliminarily authorizing the issuance of bonds therefor.

Public Testimony

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

Dr. Thomas Trebon, President of Carroll College, thanked the commission for their consideration of the resolution and asked that they approve it. Dr. Trebon showed the architect drawing of the campus housing. He also spoke of how the new housing would help encourage the upper class students to live on campus. There are no tax dollars at risk with this proposal.

Dr. Trebon spoke on the importance of the private/public partnership.

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

Motion

Commissioner Parriman moved approval of a resolution relating to a project on behalf of Carroll College and the issuance of revenue bonds to finance the costs of a campus housing project under Montana Code Annotated, Title 90, Chapter 5, Part 1, as amended; approving the financing of the project and preliminarily authorizing the issuance of bonds therefor. Commissioner Pouliot seconded the motion. All voted aye, motion carried.
Resolution 11816

b. CONSIDER A MAJOR SUBDIVISION/PRELIMINARY PLAT CREATING 12 LOTS RANGING IN SIZE FROM 9,591 SQUARE FEET TO 18,615 SQUARE FEET AND CONTAINING A TOTAL 3.82-ACRES LOCATED IN AN R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT. PROPERTY IS LEGALLY DESCRIBED AS TRACTS A-1, B-1, C-1, D-1, E-1, G-1 AND F-1A-A OF COS #560829/B AND TRACT I-1 OF COS #541364/B, SECTION 19, T10N, R3W, HELENA MONTANA; GENERALLY LOCATED NORTH OF COLE

AVENUE AND WEST OF MCHUGH LANE

- c. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) FOR A PLANNED UNIT DEVELOPMENT (PUD) TO ALLOW FOURTEEN TOWNHOUSES TO BE LOCATED ON SEVEN LOTS AND FIVE SINGLE-FAMILY UNITS ON THE REMAINING FIVE LOTS IN AN R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT. PROPERTY IS LEGALLY DESCRIBED AS TRACTS A-1, B-1, C-1, D-1, E-1, G-1 AND F-1A-A OF COS #560829/B AND TRACT I-1 OF COS #541364/B, SECTION 19, T10N, R3W, HELENA MONTANA; GENERALLY LOCATED NORTH OF COLE AVENUE AND WEST OF MCHUGH LANE.

Staff Report

Planner Kathy Macefield gave a power point presentation on the proposed major subdivision/preliminary plan for Primrose Lane Subdivision and for a conditional use permit for a planned unit development. The applicant Mark Thompson and Engineer Jeff Larson were both present at the meeting.

Ms. Macefield showed maps of the site plan, preliminary plat and the surrounding area of the proposal.

The property currently contains a single-family residence and several accessory buildings; the rest of the property is vacant and undeveloped. The access to the development will be from the cul-de-sac on Primrose Lane and will connect to Cole Avenue, which will connect to McHugh Lane.

On August 20, 2002, the Consolidated Planning Board unanimously recommended approval for a major subdivision creating 12 lots ranging in size from 9,591 square feet to 18,615 square feet and containing a total of 166,215 square feet, located in an R-2 (Single Family Residential) District, subject to the following conditions:

1. Water and Sewer

A. Water and sewer must be installed or financially guaranteed in compliance with all applicable regulations and standards and be approved by the City Engineer.

B. The fire protection system, including the placement and installation of fire hydrants meeting fire flow requirements, must be submitted for review and approval by the Fire Marshal.

2. Weeds

A weed control plan, revegetative and maintenance plan must be submitted to the City for approval.

3. Stormwater Drainage

A. A stormwater drainage plan, complete with drainage calculations provided by an engineer, not allowing drainage in excess of the historical run-off, shall be submitted to the City Engineer for review and approval.

B. Permission must be obtained from the City prior to using golf course property for stormwater detention.

C. If permission is not obtained to use the golf course property, the stormwater detention facilities must be provided onsite and the location of the onsite detention area must be shown on the final plat. The installation of any stormwater detention basins and drainages must meet all City of Helena standards and the detention basins must be blended into the landscaping.

4. Survey Requirements

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

5. Water Rights

The applicant must submit to the City documentation as to the disposition of the water rights for the property.

6. Final Plat

A. The subdivision and final plat must comply with Chapter 4 (Design Standards, Improvements) of the Helena Subdivision Regulations and roadway pavement sections must be submitted for approval by the City Engineer.

B. The final plat must show alleys if they are provided to accommodate utilities.

C. No building permits may be issued prior to filing the final plat with the Clerk and Recorder.

7. Access

A. The width, purpose and maintenance responsibility of the access easement to Lot 10 must be clearly identified in the covenants and on the final plat.

B. Sidewalks must be installed in accordance with Section 12-4-11 (B) and maintenance responsibility for the sidewalks must be clearly identified in the covenants.

C. Cole Avenue must be paved to City standards from the PUD's western boundary to the McHugh Land intersection and a "yield" sign must be installed on Cole Avenue. No parking will be permitted on Cole Avenue.

D. Streets that dead-end and are over 150 feet long must incorporate a turn around that meet Fire Department design standards.

E. Alleys must be provided unless other provisions are made for service access, off-street loading, solid waste collection, and utility installation.

8. Utilities

If utilities are installed in the boulevards, they must be installed so they allow street trees room to grow.

9. Parkland

Cash in lieu of parkland will be paid in accordance with 76-3-621 MCA.

10. Financial Guarantee

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

A. Water and sewer mains; manholes, fire hydrants, and other

- appurtenances;
- B. Stormwater drainage improvements;
- C. Streets, curbs, and gutters;
- D. Sidewalks; and
- E. Streetlights

11. Easements

The width and purpose of the following easements, including maintenance, must be clearly shown on the final plat:

- A. Access easement to Lot 10; and
- B. Sidewalk easements

12. Covenants

The covenants must be revised to state building heights are limited to 24 feet as defined by the Helena Zoning Ordinance.

13. Final Plat Filing

The applicant must file the final plat for this subdivision with the County Clerk and Recorder within three years in accordance with 76-3-610 MCA.

Ms. Macefield reported on August 13, 2002, the Helena Zoning Commission recommended approval (3:1 vote) for a resolution for a conditional use permit for a planned unit development (PUD) to allow fourteen duplex-style townhouses to be located on seven lots, and five single-family units on the remaining five lots in an R-2 (Single Family Residential) District. This approval included allowing 40% of the lot to be covered with single-family structures, and up to 50% of the lot for the duplex-style townhouses instead of the 30% limitation of the R-2 District, subject to the following conditions:

1. Building Permits

A. A building permit must be obtained within three years, which coincides with the allotted time to file the subdivision plat with the Clerk and Recorder.

B. No building permits may be issued until the final plat is filed with the Clerk and Recorder.

The applicant's original request to allow 15-foot wide front yards instead of 20 feet was inadvertently omitted from the staff recommendation and Zoning Commission motion. The applicant had proposed to install the sidewalks in easements instead of the right-of-way; the City Attorney has determined sidewalks should be located in the right-of-way to control consistency of requirements for installation and maintenance. Therefore, a 10-foot wide setback instead of the 15-foot wide setback requested would still accomplish the same visual effect for the applicant way. Reference to the 10-foot wide front yard setback should be included in the commission motion.

Ms. Macefield recommended preliminary plat approved for Primrose Lane major subdivision creating 12 lots ranging in size from 9,591 square feet to 18,615 square feet and containing a total of 166,215 square feet (3.82-acres), located in an R-2 (Single Family Residential) District, and to adopt the Findings of Fact and the conditions contained therein. Said property is legally described as Tracts A-1, B-1, C-1, D-1, E-1, G-1 and F-1A-1 of COS #560329/B and Tract I-1 of COS #541364/B, Section 19, T10N, R3W, Helena, Montana; generally located north of Cole Avenue and west of McHugh Lane.

Ms. Macefield also recommended approval of a resolution for a

conditional use permit (CUP) to allow a planned unit development (PUD) to be located in an R-2 (Single Family Residential) District, with a maximum density of fourteen duplex-style townhouses and five single-family units, and with a 50% maximum lot coverage for the duplex-style townhouses and 40% maximum lot coverage for the single-family residences, 10-foot wide front yards, and a maximum building height as provided in an R-3 (Medium Density Residential) District. Said property is legally described as Tracts A-1, B-1, C-1, D-1, E-1, G-1 and F-1A-1 of COS #560329/B and Tract I-1 of COS #541364/B, Section 19, T10N, R3W, Helena, Montana; generally located north of Cole Avenue and west of McHugh Lane, subject to the conditions outlined above.

Discussion

Commissioner Parriman asked if the 10-foot front yard set back is addressed in the recommendation? Ms. Macefield stated it is outlined in the CUP memo.

Commissioner Pouliot asked if the plan is to have the duplexes as two story units. Ms. Macefield explained the zoning allows for buildings up to 24-feet; what the applicant is proposing is that in order to have the 50% lot coverage, he has included in the covenants that the duplex style townhouses would be limited to one-story. Commissioner Pouliot asked again if there would be no two-story buildings in this subdivision. Ms. Macefield stated the single-family houses could be two-story, however, they could not exceed the 24-foot height limitations.

Mayor Smith asked if there could be a 24-foot one-story townhouse? Ms. Macefield could not answer Mayor Smith's questions and deferred it to the applicant.

Public Testimony

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

Mark Thompson, applicant, offered to answer any questions from the commission. He noted that they have worked with city staff to resolve the problems that have been brought forward.

Bob Rask, 2570 McHugh Lane, President of the Summer Crest Home Owners Association, read into the record a portion of the letter he previously submitted. Mr. Rask noted the residents are not opposed to the development. They agree with the 50% lot coverage, but are adamantly opposed to two-story townhouses. Mr. Rask also discussed the issue of stormwater drainage.

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

Discussion

Commissioner Netschert asked staff to address the drainage concerns from Mr. Rask. Ms. Macefield stated one of the conditions for approval is that a stormwater drainage plan must be submitted for approval. The condition does address if the applicant cannot accommodate the drainage in the detention area, north of the subdivision, they will need to redesign the plan.

Engineer Jeff Larson, Stahly Engineering, stated there is the one pond that is directly north of proposal. It is way oversized for what the standard detention calculations would require for that type of facility. The applicant will prepare a stormwater drainage plan for approval by city staff.

Commissioner Pouliot asked if the plan would make sure Mr. Rask's property is not flooded. Mr. Larson stated they would develop a plan that will avoid flooding in the area.

Commissioner Netschert asked Mr. Rask if he is comfortable with the explanation given. Mr. Rask stated he is comfortable with the proposed plan.

Commissioner Oitzinger referred to the letter from Dr. Dennis Palmer and the three outlined concerns of his. Mr. Jeff Larson addressed the traffic on Cole Avenue; the proposal is for a 24-foot wide street and with no parking on either side, the street is adequate for the proposed traffic loads.

Mr. Larson stated the applicant, Mr. Thompson, will be improving the water system and will meet fire flows. There will be more than adequate water for any potential development from adjacent property owners.

Commissioner Parriman asked what portion of Cole Avenue would be improved? Mr. Larson stated the street would be improved with curbs, gutters and sidewalks installed on the north side of Cole Avenue, along subdivision's property. There is a section of property where this subdivision ends and McHugh Lane that will not have sidewalk. There has been discussion between the property owners to achieve this.

City Attorney David Nielsen explained the continuance of the sidewalk along Cole Avenue would not involve this subdivision. Staff needs to further research this issue.

Mayor Smith stated he continues to be concerned with the 24-foot one story; 24-foot two story questions that came up earlier. He then asked Mr. Thompson and/or Mr. Larson if the proposal is to have one-story townhouses. Mr. Thompson explained his understanding of the 24-foot height limitation for a two-story building. Mr. Thompson stated the proposal is to build single-story townhouses.

Motion

Commissioner Parriman moved approval of the Primrose Lane major subdivision creating 12 lots ranging in size from 9,591 square feet to 18,615 square feet and containing a total of 166,215 square feet (3.82 acres), located in an R-2 (Single Family Residential) District, and to adopt the Findings of Fact and the conditions therein and outlined above. Said property is legally described as Tracts A-1, B-1, C-1, D-1, E-1, G-1 and F-1A-1 of COS #560829/B and Tract I-1 of COS #541364/B, Section 19, T10N, R3W, Helena, Montana; generally located north of Cole Avenue and west of McHugh Lane. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Motion

Commissioner Netschert moved approval of a resolution for a conditional use permit (CUP) to allow a planned unit development (PUD) to be located in an R-2 (Single Family Residential) District, with a maximum density of fourteen duplex-style townhouses and five single-family units, and with a 50% maximum lot coverage for the duplex-style townhouses and 40% maximum lot coverage for the single-family residences, 10-foot wide front yards, and a maximum building height as provided in an R-3 (Medium Density Residential) District. Said property is legally described as Tracts A-1, B-1, C-1, D-1, E-1, G-1 and F-1A-1 of COS #560829/B and Tract I-1 of COS #541364/B, Section 19, T10N, R3W, Helena, Montana; generally located north of Cole Avenue and west of McHugh Lane, subject to the conditions outlined above. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution 11817**

d. CONSIDER AMENDMENTS TO THE 2001 HELENA GROWTH POLICY

Staff Report

Planner Kathy Macefield reported the Consolidated Planning Board unanimously recommended approval of the following amendments to the 2001 Helena Growth Policy:

“Areas which are or may be used predominantly for low-density housing (less than six dwelling units per gross acre). Non-residential uses are limited to ~~occasional~~ uses that are compatible with and supportive of the residential neighborhood, and not injurious to adjacent property owners or degrade the neighborhood through the cumulative effects of increased traffic, noise, glare, odor or vibration. Residential zoning districts within this classification should reflect existing neighborhood densities, topographic and access constraints and the availability of essential community services (adequate potable water, fire protection services, etc.)”

2. Approval for amending page 3-4 for the Medium Density Residential map designation as follows:

“Areas which are or may be used predominantly for housing of a density that may exceed six dwellings per gross acre. In the same manner as stated in the preceding paragraph, zoning district density patterns should be reflective of existing neighborhoods and developmental constraints. ~~Non-residential uses should be compatible with and supportive of the residential neighborhood.~~ Non-residential uses are limited to uses that are compatible with and supportive of the residential neighborhood, that are not injurious to adjacent property owners or degrade the neighborhood through the cumulative effects of increased traffic, noise, glare, odor or vibration.”

The Planning board could not reach a consensus on the following amendment to the 2001 Growth Policy and therefore no recommendation was submitted. Staff recommends approval of the amendment.

Approval for amending page 2-24, deleting the following Land Use and Infrastructure objective #6: “Divide the cost of providing infrastructure and protecting the environment between the public and those developing land in proportion to the benefit received.”

Discussion

Commissioner Netschert asked if there are any plans to reword the Land Use infrastructure objective #6 to make it less ambiguous or is the recommendation to delete it altogether? Ms. Macefield stated the recommendation is to do away with it altogether. Commissioner Netschert stated he would support deleting it altogether but if language is drafted that is less ambiguous and is clearer, he would be willing to look at it.

Commissioner Pouliot stated he would prefer that the commission not address objective #6 tonight. He would like to see this proposal be brought to an administrative meeting for further discussion.

Mayor Smith recommended the commission consider each of the three recommendations separately.

Commissioner Parriman stated some of the new wording in recommendations 1 & 2 concern him, specifically with the reference to additional traffic and noise.

Commissioner Oitzinger stated the accumulative effect of the language doesn't have to be injurious. If over a period of time the traffic and noise becomes injurious, that is when you would address those issues.

Ms. Macefield noted there were several people who spoke at the Planning Board public hearing regarding their concerns with the proposed language changes for the land use map.

Mayor Smith noted staff brought this issue to the commission several months ago and asked if the commission wanted to craft the most precise and exact language. At that time, the commission deferred and asked the Planning Board to review it and make a recommendation. Ms. Macefield concurred with Mayor Smith's summary and added a work session with the Planning Board was held in February to discuss these issues.

Mayor Smith stated the commission could amend the recommendation from the Planning Board.

Public Testimony

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

Tony Smith, 2230 Broadway, stated when he and his wife purchased their home on Broadway, everything east of California Street had been zoned residential. Over the years the entire area has been rezoned and they have encroached back into the residential neighborhood with conditional use permits.

Mr. Smith stated the proposed language continues to have the word "occasional" in the text. He then explained the many mixed uses that are currently in the residential neighborhood. At the present time an applicant for a CUP has the burden of proof, but with the proposed amendment, it looks like the burden would be shifted to the neighborhood.

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

Discussion

Commissioner Netschert stated due to the comments from Mr. Smith and Commissioners Parriman and Pouliot, he would support tabling the amendments until all the questions can be answered.

Motion

Commissioner Pouliot moved to table the amendments to the 2001 Helena Growth Policy. Commissioner Parriman seconded the motion. Motion carried 4-1 with Mayor Smith voting no.

Public Communications

PUBLIC COMMUNICATIONS

Community Development Director Michael Barros announced that he has just become a new grandfather to Corrina Joyce Hartman. Mayor Smith and the commissioners congratulated Mr. Barros.

Meetings of Interest

MEETINGS OF INTEREST

Commissioner Oitzinger noted she will not be at the administrative meeting on September 18th and asked if the subdivision regulations could be put on the October 2nd agenda.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:45 p.m.

MAYOR

ATTEST:

CLERK OF THE COMMISSION