

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
October 7, 2002
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, October 7, 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, City Clerk Debbie Havens and Deputy City Clerk Jacki Pierson were present.

HCC representative was Jerry Hutch.

Youth Advisory Committee representative were Brittany Allen and Libby Snedeker.

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 September 23, 2002 were approved as submitted.

Mayor Smith noted he would be moving public hearings 13A & 13B to the beginning of the agenda.

Proclamations

PROCLAMATIONS:

- A. Fire Prevention Week - Craig Trapp
- B. White Cane Safety Day - Myrle Tompkins

Mayor Smith read the Fire Prevention Week proclamation and presented it to Fire Marshal Craig Trapp.

Mr. Trapp thanked Mayor Smith and the commissioners for the proclamation. Mr. Trapp then spoke regarding the importance of fire prevention in this community. The Fire House Open House is 5 to 8 pm on October 9, 2002. The coalition members will be on hand to provide safety information. Mayor Smith gave his thanks and asked for a round of applause for our fire department and those around the country.

Mayor Smith read the White Cane Safety Day proclamation and presented it to Myrle Tompkins.

Ms. Tompkins thanked Mayor Smith and the commissioners for the proclamation. Ms. Tompkins then spoke about how Helena is very courteous when it comes to the vision impaired.

Appointments

APPOINTMENTS:

- A. Board of Adjustment
- B. Tax Increment Financing Board

Mayor Smith recommended the following appointments:

Board of Adjustment

Jeff Martin, second term, expires October 1, 2005

Tax Increment Financing Board

Business Improvement District Board of Directors
Helena School District, Kim Harris
Commissioner Murray, Lewis & Clark County
Jane Ogal, Helena Citizens Council

Motion

Commissioner Pouliot moved approval of the appointments as outlined above. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims

City Manager Tim Burton recommended approval of the claims.

Motion

Commissioner Netshert moved approval of consent agenda items
A. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS

A. CONSIDER A RESOLUTION FOR AN APPLICATION TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM TO RENOVATE THE PENKAY EAGLES MANOR FACILITY, 715 FEE STREET; AUTHORIZE SUBMISSION OF THE GRANT APPLICATION, AND AUTHORIZE THE CITY MANAGER TO ACT ON BEHALF OF THE CITY.

Staff Report

Planner Belinda Waters reported on a resolution authorizing the City to apply for a Montana Department of Commerce Community Development Block Grant and a Montana Department of Commerce HOME Investment Partnership Program Grant to assist Penkay Eagles Manor with major renovation activities in the amount of \$500,000 from each application, totaling \$1,000,000.

Eagles Manor of Helena is not a rest home, but a facility with 120 living units that provides communal living for senior citizens, especially those with low and moderate incomes. The facility is comprised of two buildings, one building built in 1968 and the other one in 1978. The older building is known as the Penkay Eagles Manor and is owned by the Fraternal Order of Eagles. The name and owner of the newer building is Eagles Manor No. 2, Inc. A volunteer Board of Directors operates the facility with an onsite manager and full-time staff to oversee the day-to-day activities and a property manager to manage the finances.

Because of the low income of the tenants, rent constraints imposed by HUD prevent the facility from accumulating the reserves needed to perform significant repairs to the Penkay building. The low rental income also means a

conservative operating budget making the increasing energy prices a grave concern for the management of Eagles Manor.

To help improve the energy efficiency of the facility, the Board of Directors commissioned an energy study that was completed in 1995. Several recommendations were made and from those recommendations came the project concept proposed in this application. Phase one of the proposed project is for energy conservation work for the Penkay Eagles Manor building. Those recommendations include replacement of some individual heating units, changing the lights, and repair of the roof.

Ms. Waters recommended approval of two separate resolutions authorizing the City of Helena to apply for a Montana Department of Commerce Community Development Block Grant and a Montana Department of Commerce HOME Investment Partnership Program Grant to assist Penkay Eagles Manor in the amount of \$500,000 from each application, totaling \$1,000,000 and authorize Tim Burton, City Manager, to act on behalf of the City and to provide information as may be required.

Public Testimony

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

Gene Leuwer, 1601 Jerome, Executive Director of Rocky Mountain Development Council, thanked the commission on behalf of their organization for the work that has already been done on the project. Discussions that began a year ago between RMDC, Penkay Manor and the City Commission resulted in the proposal before the commission tonight. The Penkay Manor would be using \$500,000 of CBDG grants, \$500,000 of HOME grants and about 2.3 million dollars from the sell of tax credits. Karhu & Cullen Architects have prepared a proposal of this project. Roof replacement, fire installation, heating and ventilation upgrades, window replacement and insulation were included in the proposal. The board has not been able to generate enough monies under the government rules to keep up with these big-ticket items.

Ron Cullen, with Karhu & Cullen Architects explained the roof is well over thirty years old, the heating system needs to be replaced, the fire alarm system needs to be updated with a fire sprinkler system, and an ADA ramp. These are just a few items that need to be replaced. He recommends approving the grant.

Bob Bushnall, 1530 Hollins, is the only original board member for Penkay Manor. This building has served its purpose and it's now time to make it new again.

Helen Foundrick, 407 E. King Street, president of the Penkay Manor board, worked for Smith Law Office whom helped with getting the Eagles Manor started. She explained that when the building was first built there was a brochure put out that stated the Eagles Manor is the pride of Helena and would like to restore it to just that. She appreciates the city working with them on this project and recommends approving the grants.

Slim Miller, 1213 9th Ave, stated he passed out invitations to the neighborhood to attend a meeting regarding the proposal and was pleased with the positive response. There were no negative responses. Although there have been problems, for example the heating system, he stresses that the building has been wonderful and an overhaul is in order.

Rose Charpenter, 715 N. Fee, has lived at the Manor for three years now. She explained that the heating system is not good and needs to be fixed. She would also like to have the windows insulated so that the residents could be more comfortable.

Janet Cramer, 715 N. Fee, has lived at the Manor for four years now. She is president of their resident council and would appreciate all that the commission can do for them.

Steve Enman, 1503 Redwing Circle, Billings, Mt 59105, has been the management company for the board of directors for fourteen years now. Back when this property was developed the average age of the elderly was 70 years old however the life expectancy has increased to above 80. With our elderly living healthier, longer lives they need a place that is suitable to care for their needs. Mr. Enman explained that the other issues that they have been battling are the insurance cost. The rates have increased 50% this year mainly because of the age and condition of the building.

Joan Crumb, 665 Faw Rd., has found that the Manor has helped the residents live not just exist.

Tom Johnson, 39 Jefferson Drive, attorney for the board of directors. Believes that what has been requested is both needed and desirable and if accepted Eagles will manage it well and invest it wisely.

Brittany Allen, 5726 Shannon Ct., representing the Youth Advisory Committee, asked why these problems haven't been taken care of before?

Mayor Smith stated that that was a very good question and maybe Gene Leuwer could sit down to discuss with the CYAC the funding and where it comes from.

Julie Tici, 5766 Shannon Ct., stated her grandmother resides at the Manor. All the residences are prepared for this change and are ready for the improvements.

Beral Miller, 715 N. Fee, has lived at the Manor for 8 years with no intentions of moving. She agrees that building needs repairs and also recommends the kitchens be updated.

Francis Procsill, 715 N. Fee, has lived at the Manor for 10 years. Likes the Manor and will probably not move.

Jon Wilson, 715 N. Fee, has lived at the Manor for a couple years. Likes living there and feels safe. Feels that the building needs to keep going for people like him.

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

Discussion

Mayor Smith asked Mr. Cullen in his opinion if this investment of 2.5 million dollars is a good investment to ensure the Eagles Penkay Manor will be there in another 30 years? Mr. Cullen concurred and relayed that the structure of the building is in good condition and the improvements have to do with the systems and upgrading of them.

Commissioner Pouliot explained that he has lived in Helena since the Penkay Manor was built and has only heard good things regarding the Manor. He states he will do everything the he can to assist them in making the remodeling changes. He also wanted to respond to the question from the CYAC representative Brittany Allen, and stated that this is the first time anyone has come to the commission and asked them for help.

Motion

Commissioner Netshert moved approval of the resolution for an application to the Community Development Block Grant Program to renovate the Penkay Eagles Manor facility, 715 Fee Street; authorize submission of the grant application, and authorize the city manager to act on behalf of the city. Commissioner Pouliot seconded the motion. All voted aye. Motion carried. **Resolution No. 11825**

B. CONSIDER A RESOLUTION FOR AN APPLICATION TO THE HOME INVESTMENT PARTNERSHIP PROGRAM TO RENOVATE THE PENKAY EAGLES MANOR FACILITY, 715 FEE STREET; AUTHORIZE SUBMISSION OF THE GRANT APPLICATION, AND AUTHORIZE THE CITY MANAGER TO ACT ON BEHALF OF THE CITY.

Staff Report

Planner Belinda Waters explained that the HOME Investment Partnership Program is also a program under the Department of Commerce. They have asked for the maximum from both grants, which do not exceed \$500,000 each. That would give Eagles Penkay Manor a pool of \$1,000,000 to help with the funding sources.

Discussion

Commissioner Oitzinger asked if there are other grants funds available? Ms. Water concurred.

Commissioner Parriman asked if Ms. Waters could explain why there are two processes in order to apply for the two grants? Ms. Waters explained that the funds are set up under two different departments. Both handle the grant money under different guidelines and regulations.

Public Testimony

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

Gene Leuwer, 1601 Jerome, is speaking in support of the grant application and would like to answer the question brought up by the member of the CYCA. Mr. Leuwer explained that Congress changed the way they funded affordable housing programs in 1986. The 236 projects when they were built had a forty-year interest subsidy on them and got lost in the transition. Given the resent law and regulation changes in Congress it is possible to change the ownership to keep the interest credit subsidy that is economically vital and to utilize the types of funds to rehabilitate the Eagles Penkay Manor.

City Attorney David Nielsen stated to the Mayor and the commission that they could declare acceptance of all the testimony given in the prior public hearing to this one.

Helen Foundrick, 407 E. King Street, president of the Penkay Manor board, stated that the second grant is equally important to take care of the other items on the list; like the kitchen and bathrooms.

Slim Miller, 1213 9th Ave, wanted to thank City Attorney David Nielsen for his comment on the two separate public hearings.

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

Discussion Mayor Smith asked City Attorney David Nielsen for specific language to include the prior testimony into the second public hearing regarding the Penkay Manor. Mr. Nielsen stated that by saying you want to incorporate the prior testimony and consider it in this one would be fine.

Motion Commissioner Netskert moved to incorporate the prior testimony regarding the Penkay Eagles Manor Facility into the present public hearing. Commissioner Pouliot seconded the motion. All voted aye, motion carried

Mayor Smith asked Gene Leuwer if he would down with the CYAC and or commissioners to discuss the hold up of funds to the Penkay Manor. Mr. Leuwer concurred. Mayor Smith then asked City Clerk Debbie Havens to follow up on that.

Motion Commissioner Netskert moved approval of resolution for an application to the Home Investment Partnership Program to renovate the Penkay Eagles Manor Facility, 715 Fee Street; In the amount of \$500,000 and authorizes submission of the grant application, and authorize the city manager to act on behalf of the city. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution No. 11826**

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Oitzinger wanted to greet and thank former Commissioner Jim Nybo for being part of the HCTV crew.

Commissioner Pouliot commented regarding the injunction on the smoking ordinance. He stated that in that lawsuit the Judge refused to grant the injunction and there was some discussion on whether or not an Attorney General's opinion should be sought. David Nielsen explained that in the past you had to identify the specific issue you wanted to bring forth to the Attorney General. A probable subject to receive opinion on would be whether certain amendments could be allowed concerning the smoking ordinance. At this juncture, Mr. Nielsen stated the opinion probably wouldn't reach the commission in time to make a difference, if the commission desires to seek out an Attorney General's opinion, he will do it. Commissioner Pouliot stated that the Attorney General's opinion would not interfere with the court proceeding. The benefit would be to advise the commission on what they can do or what they cannot do with the ordinance. Commissioner Pouliot stated he would like to know in general whether or not the commission can amend an ordinance and how much it can be amended. Mr. Nielsen stated there are certain things that can be changed, for example; if there was an error or some language needed to be changed. However, to void or appeal an ordinance would be out of the question. Mr. Nielsen recommends specifying the type of amendment that is desired and at that point the Attorney General could answer whether that amendment is permissible under law.

Commissioner Pouliot suggested the commissioners discuss this at the next administrative meeting.

Commissioner Oitzinger expressed her resistance to the idea. Commissioner Oitzinger stated the commission should not get out ahead of the 61% of the voters who told them to do this. Commissioner Oitzinger stressed this ordinance is a public health necessity and to worry about paying damages should not be the issue.

Commissioner Parriman concurred with Commissioner Pouliot. Commissioner Parriman stated that the Tavern Owners Association and their representatives have approached him with an opinion from their attorney Chris Gallas that says the commission could amend the ordinance to exempt bars and casinos. Commissioner Parriman states that they're not trying to amend the ordinance but are curious about getting a solid answer regarding amendments for future reference. Commissioner Parriman asked if a motion could be made to get the process started.

Mayor Smith asked to see a specific question.

Commissioner Netshert concurred with Mayor Smith; he would also like to see a crafted question that is presentable to an Attorney General. Commissioner Netshert stated he would like to know the answers to the questions that have been raised on both sides of the issue before they become problematic. Commissioner Netshert asked City Manager Tim Burton where would potential money come from if the city loses the lawsuit? Mr. Burton stated that if there were a judgment against the city, a levy would be done for that judgment. Commissioner Netshert stated he would be willing to ask an Attorney General's opinion for some clarification on what the options are available.

City Manager Tim Burton expressed that we follow the letter of the law and this is our position.

Commissioner Pouliot would like to have this discussion when they are more prepared.

Commissioner Parriman concurred. Commissioner Parriman asked City Manager Tim Burton if a request by the commission to the Attorney General for clarification on the smoking ordinance would show nonsupport of the ordinance? Mr. Burton stated that is how they would want to craft a consideration from the Attorney General. Mr. Burton expressed that to be in litigation in court and pursue clarification from an Attorney General's opinion at the same time is unusual. However if the commission chooses to pursue an amendment, the City Attorney would be available to help craft the language.

***Report of the City
Attorney***

REPORT OF THE CITY ATTORNEY

David Nielsen reported that there have been complaints regarding the campaign signs and to referred any calls to Community Development, Director Michael Barros or the City Attorney's office.

***Report of the City
Manager***

REPORT OF THE CITY MANAGER

- A. Update - surplus Water Division property
- B. Old Glory landmark proposal

City Manger Burton gave an update on the surplus Water Division property. The last action the governing body took set aside a thirty-day time frame for special consideration of offers that would dedicate this property to open space. Mr. Burton explained the three memos handed out to the commission. The first is from Andy Baur, second is an email from Bob Kiesling, and the third from Ron Waterman. These letters represent an effort to engage the open space organizations including the Prickly Pear Land Trust. The theme throughout these memos is a request for the commission to extend the time until the end of the year.

Mayor Smith asked Mr. Burton if a motion would be required if the time frames was extended? Mr. Burton concurred.

Commissioner Netshert asked when was the first time this issue first discussed? Mr. Burton stated it has been 6 or 7 months.

It was a consensus of the commission to allow an extension to December 16, 2002.

Ron Waterman, 33 S. Last Chance Gulch, stated to date the work has been successful and they continue to move forward.

Mark Dietz, 123 South Hills Dr., stated that this is a process and that in 30 days they have made progress. He thanked the commission.

Motion

Commissioner Pouliot moved approval that the City Commission will extend the time to allow these persons to develop a plan to purchase this property for open space only, the deadline will be extended until December 16, 2002 at which time the City Commission will address it for final vote.

Motion dies for lack of a second.

Commissioner Parriman would like to add additions to Commissioner Pouliot's motion. Commissioner Parriman asked that December 15, 2002 be the deadline and if the project is not completed by that time City Manager Tim Burton has the direction to put it out to public bid.

Mayor Smith asked if that would be a second to Commissioner Pouliot's motion? Commissioner Parriman said no. Mayor Smith stated that he shares Commissioner Netshert's feeling that this process ought not to be open-ended. However, there are contingencies to these situations. Mayor Smith recommended being reasonable by extending the time period and at that juncture see what is presented.

Commissioner Oitzinger stated if the motion is amended there is no other choice then to put it out for public bid, if that happens it's more likely to become a full blown development, which the neighborhood does not want.

Motion

Commissioner Netshert moved approval to extend the time to find an amicable solution for the expressed purpose of providing that area as open space. To a date certain of December 16th at 12:00 pm and if no offers are made the property will be auctioned off as surplus property.

Commissioner Parriman seconded the motion.

Commissioner Oitzinger asked for clarification if the motion included that the land would be put out for public bid after December 16th? Commissioner Netshert concurred. Commissioner Oitzinger asked the City Manager Tim Burton if there's latitude in how such a bid can be crafted? Mr. Burton stated that some latitude is available based upon the certain ownership the City holds on this land. Mr. Burton stated there is flexibility.

Mayor Smith asked what the amount of flexibility available to the City Commission is if this motion is adopted? Mr. Burton stated if this motion passes he would report back to the commission on December 16, 2002. If there is not a set deal, which states this property perpetuity as open space, he would proceed to bid it out to the highest bidder.

Motion

Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

City Manger Tim Burton commented on the Old Glory Landmark proposal and asked the commission to approve this proposal.

Commissioner Parriman stated that he was concerned regarding the power and maintenance costs and the proposal shows that both of these have been taken care of and he is in full support of this project.

Mayor Smith stated that in reading Mr. Henkel proposal that the Helena Chapter of the Montana Association of Realtors have assumed the obligation for the electrical and maintenance costs? Mr. Burton concurred.

Commissioner Pouliot asked if there is a walking path that runs through the stone circle? City Manager concurred. Commissioner Pouliot asked if this would take out the current soccer fields? City Manager stated that this project has been placed around the soccer fields and will not affect them.

Mr. Bob Henkel stated that the National Guard will be the keeper of the flag and everybody who has been involved with this project are overjoyed.

Motion

Commissioner Netschert moved the preliminary approval of the site for the Old Glory Landmark Flag in Centennial Park as noted in the Old Glory Landmark committee letter dated October 7, 2002 including the outlined accompaniments stated in the letter. Commissioner Pouliot seconded the motion. All voted aye, motion carries.

City Manager Burton commented that baseball may be coming back to Helena. At the staff level a draft lease has been put together with the ownership from Medicine Hat staff has also looked at what it would cost the City in the last five years in the accumulated deferred maintenance on the stadium. Mr. Burton stated that the Chamber of Commerce has taken on the effort to gather community support. The owner has requested from the community a show of support of 10 corporate sponsors and 400 season passes. Mr. Burton stated he would appreciate support from the Chamber of Commerce. They will speak more on this at the administrative meeting.

Mayor Smith asked if there is a deadline on the season passes? City Manager Burton stated there is not a time limit. However, the sooner the response the more positive indication that there is community support.

Commissioner Netschert stated if we are going to fix up the stadium why not build a permanent structure? Commissioner Netschert would be willing to discuss this issue in the future.

City Manger Burton will be involved in the Montana League of Cities this week and Randy Lilje will be Acting City Manger.

Mayor Smith asked Mr. Burton if he had some information regarding the accident that happened on the walking mall? Mr. Burton stated that he has met with several people, including the Business Improvement District; reviewed the process by which access to the mall other then pedestrian access is permitted. Mr. Burton will bring this up in the near future after they have come up with further recommendations.

Water and Wastewater Refunding Bonds CONSIDER THE ISSUANCE OF WATER AND WASTEWATER REFUNDING BONDS (REQUIRES TWO SEPARATE RESOLUTIONS)
A. CONSIDER A SUPPLEMENTAL RESOLUTION RELATING TO \$2,450,000 WATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2002; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF.
B. CONSIDER A SUPPLEMENTAL RESOLUTION RELATING TO \$1,850,000 WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2002; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF.

Staff Report

Controller Glenn Jorgenson reported that preliminary approval to issue refunding bonds was given on August 12, 2002 by the City Commission. The City contracted with D.A. Davidson & Co. to be the underwriter. The bonds were sold on September 26, 2002 at an average interest rate of 3.34% for the Water bonds and 2.55% for the Wastewater bonds. The present value savings between the two funds was \$816,810.00.

The commission now needs to give final approval to issue the refunding bonds. Approval of the resolutions also gives approval to the attached escrow agreement with U.S. Bank, N.A. The escrow agreement will be signed as part of the closing documents at a later date.

Mr. Jorgenson recommended approval of resolutions in order to take advantage of the current low interest rates to save money by refunding the Water and Wastewater Bonds. The city achieved a decrease in interest rates of 3.31% on the Water bonds and approximately 4.62% on the Wastewater bonds combined.

Discussion

Commissioner Pouliot asked how is it that the City is saving 800,000? Mr. Jorgenson stated that the interest rates are outstanding.

Motion

Commissioner Pouliot moved approval of the supplemental resolution relating to \$2,450,000 Water System Revenue Refunding Bonds, Series 2002; authorizing the issuance and fixing the terms and conditions thereof. Commissioner Oitzinger seconded the motion. All voted aye. Motion carried. **Resolution No. 11822**

Motion

Commissioner Pouliot moved approval of the supplemental resolution relating to \$1,850,000 Wastewater System Revenue Refunding Bonds, Series 2002; authorizing the issuance and fixing the terms and conditions thereof. Commissioner Oitzinger seconded the motion. All voted aye. Motion Carried. **Resolution No. 11823**

Sidewalk Deferral

CONSIDER A SIDEWALK DEFERRAL REQUEST - INDEPENDENT RECORD 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 new IR Publication Printing Facility are requesting a deferral from installing sidewalk, curb and gutter along Washington Street for the various reasons as discussed in the attached letters. This issue was brought before the commission on September 9 for action and was tabled until more information on the proposed trail was presented.

The issue of curb and gutter installation was raised. The reasons curb

and gutter was not initially required for this building are as follows:

- The property is an existing parcel.
- The property is on two major roadways that are either currently under construction (Cedar Street) or may be scheduled for improvements for a proposed Home Depot (Washington Street).
- A piecemeal installation of curb and gutter can cause drainage problems.
- The commission can always order the installation of curb and gutter in the same manner as a sidewalk.

Mr. Hanson recommended approving a deferral for sidewalk, curb and gutter for this development contingent upon the proposed trail being installed. The property owner would waive protest for future road improvements Special Improvement District

Motion

Commissioner Netshert moved approval of the sidewalk and curb and gutter deferral request - Independent Record Publication Printing Center contingent upon the installation of the proposed trail and an agreement of an SID waiver - located at the intersection of Cedar and Washington Streets. Commissioner Parriman seconded the motion. All voted aye. Motion carried.

Tax Increment

CONSIDER A RESOLUTION AMENDING RESOLUTION NO. 10376 TO ESTABLISH PROJECT REVIEW GUIDELINES FOR THE TAX INCREMENT FINANCING ADVISORY BOARD PRIOR TO SUNSETTING OF THE TAX INCREMENT FINANCING PLAN.

Staff Report

Administrative Services Director Tim Magee reported on July 1, 2005 the City of Helena Tax Increment District will terminate with the last scheduled bond payment, and tax increment financing will no longer be available for projects. In recent years all authorized TIF projects have been completed. We now have 2.75 years to identify, review, authorize, design and complete any additional TIF projects.

Estimated tax increments financing which will be available for projects are:

\$	830,000	currently available
	850,000	added in FY 2003
	850,000	added in FY 2004
	860,000	added in FY 2005
	510,000	released from debt services reserves in late FY 2005
\$	3,900,000	Subtotal
	1,140,000	June 30th 2005 receivables applicable to project commitments
\$	5,040,000	Total Potential for Projects

Mr. Magee recommended approval of the resolution outlining the Tax Increment Financing Sunsetting Process, including the TIF Advisory Board's role.

Motion

Commissioner Oitzinger moved approval for a resolution amending resolution no. 10376 to establish project review guidelines for the Tax Increment Financing Advisory Board prior to Sunsetting of the tax Increment Financing Plan. Commissioner Pouliot seconded the motion. All voted aye. Motion carried. **Resolution No. 11824**

**Prospect Heights
Subdivision**

C. TWO SIMULTANEOUS PROPOSALS FOR A 1.68-ARCE PARCEL; LEGALLY DESCRIBED AS LOT 6, BLOCK 3, PROSPECT HEIGHTS SUBDIVISION, HELENA, MONTANA; WITH A PROPERTY ADDRESS OF 1916 GOLD RUSH, TO ALLOW CONSTRUCTION OF ONE ADDITIONAL SIGNLE-FAMILY RESIDENCE.

1. CONSIDER FIRST PASSAGE OF AN ORIDANCE FOR A ZONE CHANGE FROM PROSPECT HEIGHTS PUD (PLANNED UNIT DEVELOPMENT) TO THE R-1 (SINGLE-FAMILY RESIDENTIAL - LARGE LOT) DISTRICT.

Staff Report

Planner Belinda Waters reported the proposed adoption of an ordinance for a zone change from Prospect Heights PUD (planned unit development) to R-1 (Single-Family Residential - Large Lot) District for approximately 1.68-arces.

Approval of the requested zone change would allow the property to be developed for residential uses. The applicant seeks the zone change to allow for the construction of one additional single-family residence. All uses in the R-1 District would be allowed if the proposed zone change is approved.

The majority of the property in the area proposed for the zone change is already developed. Access to the property will be from a recorded private easement, 18 feet wide, off Gold Rush Avenue. All new structures are required to conform to the Uniform Building Code and Uniform Fire Code.

Ms. Waters also reported on the preliminary plat approval for a minor subdivision creating two lots, ranging in size from 24,863 feet to 48,531 square feet.

The subject tract currently houses one single-family residence. Access to the lot is from a private 18-foot wide recorded easement that connects to Gold Rush Avenue. According to subdivision regulations and City Code, this easement can no longer be classified as a driveway since the length of the driveway is in excess of 150 feet long and will access three homes. The applicants are requesting a variance to allow a shared driveway in excess of 150 feet in length subject to the conditions outlined in the Findings of Fact. The lot is currently located in a PUD with no underlying City zoning.

Ms. Waters recommended approval of an ordinance for a zone change from Prospect Heights PUD (planned unit development) to R-1 (Single Family Residential-Large Lot) District for approximately 1.68-arces (73.394 square feet) and approval for a minor subdivision review to create two lots. Lot 6A would contain 48,531 square feet and Lot 6B would contain 24,863 square feet; and a variance request to allow a shared driveway in excess of 150 feet in length that will access three homes.

Discussion

Commissioner Oitzinger asked if the house on lot 5 is not part of the subdivision? Ms. Waters states it's not part of this proposed subdivision. Lot 5 is part of the original PUD. Commissioner Oitzinger stated there are concerns regarding drainage? Ms. Waters stated a plan has been submitted to put in a retaining wall and some fill. Commissioner Oitzinger asked for Ms. Waters to reiterate what the result of putting the underling zoning in place as against just leaving it as a PUD? Ms. Waters explained covenants are the type of zoning that are on the PUD. Private covenants talk about the zoning of the property. The Home Owners Association has to enforce the covenants, it's easier for the city to implement the zoning, and then the city enforces the zoning. Commissioner Oitzinger asks what the underlying zoning does in terms of density of the area? Ms. Waters stated that the setbacks are more restrictive then the R-1 zoning,

however, the applicant has agreed to meet both setback requirements.

Public Testimony

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

Tim Chamberlin, 1916 Gold Rush Ave., thanked the Commission and stated that they have been working with staff on the subdivision project since January. He stated it was the city's suggestion to add the zone change to the subdivision request. The one issue that did come up from the first meeting, the President of the current Home Owners Association expressed concern that the setbacks are different in the PUD and the City zoning change. Nevertheless, because of the terrain being what it is they had a specific house site set-up to make the process work and that site more then meets the city's and PUD requirements.

Dennis Crawford, 716 Pyrite Court, stated he is concerned about going from PUD to R-1. Mr. Crawford asked if all of the lots within Prospect Heights, with the exception of this new proposal for R-1 zone change, would still be at a PUD designation?

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

Discussion

Commissioner Parriman asked Ms. Waters if we switched to an R-1, would there be some covenants that go along with the PUD, that wouldn't be enforced going to an R-1 designation? Ms. Waters stated in regards to discussions with the City Attorney, the covenants would stay with property.

City Attorney David Nielsen stated if approved the property would be zoned R-1. However, it's the private covenants that run with the land.

Mayor Smith asked City Attorney David Nielsen if the R-1 is being applied to the entire subdivision or to just the property? Mr. Nielsen explained this zone change is only to the 1.68 acres.

Motion

Commissioner Parriman moved approval for first passage of an ordinance for a zone change from Prospect heights PUD (planned unit development) to the R-1 (single-family residential - large lot) District. legally described as a 1.68-arce parcel; legally described as Lot 6, Block 3, Prospect Heights Subdivision, Helena, Montana; with a property address of 1916 Gold Rush. Commissioner Netschert seconded the motion. All voted aye. Motion carried. **Ordinance No. 2946**

2.CONSIDER MINOR SUBDIVISION/PRELIMINARY PLAT TO SUBDIVIDE THE PARCEL INTO TWO LOTS.

Mayor Smith stated Belinda Waters presented a thorough explanation and asked Ms. Waters if there was anything to add to her presentation? Ms. Waters explained to Mr. Crawford that the City sent certified letters to all residents within a hundred feet of the property. Then extended another hundred feet and sent regular letters.

Public Testimony

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

Tim Chamberlin, 1916 Gold Rush Ave explained that because of the issues that the city raised in the initial meeting, one issue being the length and width of road and it being paved, in regard to that they met with the Assistant Fire Chief Craig Trapp. He visited the site and agreed on a plan to extend the width of the roadway and also changed the proposed access road to widen the mouth and create a t-type turnaround. Mr. Chamberlin explained the storm water drainage issue. The engineering firm performed a hundred year flood assessment and proposal a minor burm that would retain runoff.

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

Motion

Commissioner Parriman moved approval of minor subdivision/preliminary plat to subdivide the parcel into two lots. Legally described as a 1.68-arce parcel; legally described as Lot 6, Block 3, Prospect Heights subdivision, Helena, Montana; with a property address of 1916 Gold Rush, subject to the conditions outlined in the findings of fact. Commissioner Pouliot seconded the motion. All voted aye. Motion carried. Findings of fact are attached to these minutes and made a part of.

Special Lighting District

CONSIDERS A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING DISTRICT (SID) NO. 206 FOR THE CRESTVIEW ESTATES SUBDIVISION.

Staff Report

Controller Glenn Jorgenson reported the commission on September 9, 2002 passed a resolution of intention to create SID No. 206. There are ten properties that would be included in the light district.

The proposed facilities will consist of eleven (11) unities 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, said amount to be paid by the property owners. That amount includes and additional assessment to be charged by the city to establish a cash reserve and recover any cost of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Mr. Jorgenson recommended approval of resolution creating Special Improvement Lighting District No. 206 in the City of Helena, Montana.

Discussion

Mayor Smith asked if the resolution is passed what the next step would be? Mr. Jorgenson stated that the power poles and lights would be installed. NorthWestern Energy will forward the bills to the city, then the city will post the cost on the tax payers tax bills for this year.

Public Testimony

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

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

Motion

Commissioner Parriamn moved approval of a resolution creating Special Improvement Lighting District No. 206 for the Crestview Estates Subdivision. Commissioner Netschert seconded the motion. All voting aye. Motion carried. **Resolution No. 11827**

***Public
Communications***

PUBLIC COMMUNICATIONS

Commissioner Parriman commented on the proposal to remodel the commission chambers and asked that ADA requirements be addressed.

City Manager Burton explained the remodel has been discussed and it is on the list. Mr. Burton stated in regards to the lighting district, he does have a meeting set up with some citizens whom have questions on the content of that agreement.

Commissioner Netshert recommended reviewing the lighting ordinance and looking at the language that pertains to replacements of lights. Mr. Burton explained they are prepared to engage the commission to show them what it means relevance to the ordinance.

***Meetings of
Interest***

MEETINGS OF INTEREST

The next city commission meeting is scheduled for October 21, 2002.

Town Meeting on Vandalism - October 29, 2002 - Civic Center

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:50 p.m.

MAYOR

ATTEST:

CLERK OF THE COMMISSION

