

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**October 21, 2002**  
**6:00 P.M.**

**Time & Place** A regular City Commission meeting was held on Monday, October 21, 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 Deputy City Clerk Jacki Pierson were present. HCC representative was George Hoff.

**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 October 7, 2002 were approved as submitted.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Contract for Professional Services for the Non-Motorized Transportation Plan  
C. Second passage of Ordinance 2946 - Prospect Heights Subdivision  
  
City Manager Tim Burton recommended approval of the claims.

**Motion** **Commissioner Netschert moved approval the consent agenda items A thru C.** Commissioner Parriman seconded the motion. All voted aye. Motion carried.

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
  
Commissioner Oitzinger mentioned a new textbook called Governing Montana at the Grass Roots by Dr. Kenneth L. Weaver.  
Mayor Smith stated the City Commission office should have one on hand.

**Report of the City Attorney** REPORT OF THE CITY ATTORNEY  
City Attorney David Nielsen had nothing to report.

**Report of the City Manager** REPORT OF THE CITY MANAGER  
  
City Manager Tim Burton noted on October 25 and October 30 the city will be advertising for project submittals regarding the tax increment finance district. The deadline will be November 15, 2002 to submit proposals.

**Presentations**

PRESENTATIONS:

- A. Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year ended June 30, 2001.

City Manger Burton presented the Certificate of Achievement to Robert Ricker. Mr. Ricker thanked the commission and recognized Glenn Jorgenson, Liz Hirst, and Brandi Pierson for their work on this audit. Mr. Ricker commented that the city has a high quality accounting division.

**Waukesha & Harrison  
Partial Closure**

CONSIDER A RESOLUTION OF INTENTION TO CLOSE A PORTION OF THE 500 BLOCK OF WAUKESHA AVENUE AND A PROTION OF THE 1700 BLOCK OF HARRISON AVENUE.

Staff Report

City Engineer Chuck Hanson reported the residents requested closure in 2000, but have only recently decided the extent of closure of these two streets that would be desirable to them and acceptable by the City. Staff is also working with the residents to construct and pave the remaining road sections and provide positive drainage control for the storm water from Harrison Avenue. Both Waukesha and Harrison avenues are currently unpaved and require frequent maintenance.

Mr. Hanson recommended approval of the resolution of intention to close portions of Waukesha Avenue and Harrison Avenue to vehicular travel and to set a public hearing date for November 4, 2002.

Discussion

Commissioner Pouliot asked Mr. Hanson if there is 100% approval from the neighborhood? Mr. Hanson concurred.

Mayor Smith asked Mr. Hanson if the city is closing and vacating the avenues? Mr. Hanson stated the city is closing the street to travel and retaining the right of way for the city's use.

Motion

**Commissioner Pouliot moved to close Waukesha Avenue west of the northerly extension of the lot line between Lots 5 and 6, of Block 32 of the Broadwater addition; to close Harrison Avenue north of the north line of the alley between block 32 and 43 of the Broadwater addition.**

Discussion

Commissioner Parriman asked if the commission is moving to close or moving to pass a resolution of intention to close and then setting a public hearing date? City Attorney David Nielsen stated the commission needs to pass a resolution of intention which would set the public hearing date, at that time the commission could decide to close or not.

Commissioner Pouliot withdrew his motion.

Motion

**Commissioner Oitzinger moved approval of the resolution of intention to close Waukesha Avenue west of the northerly extension of the lot line between Lots 5 and 6 of Block 32 of the Broadwater Addition and to close Harrison Avenue north of the north line of the alley between Blocks 32 and 43 of the Broadwater Addition and set a public hearing date for November 4, 2002.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #11828**

**Stop Sign  
Installation**

CONSIDER THE INSTALLATION OF STOP SIGNS AT BENTON AND  
PEOSTA, BENTON AND LESLIE, BENTON AND WAUKESHA.

Staff Report

City Engineer Charles Hanson reported last year when the city was investigating traffic control changes at Madison and Hollins, staff noted that the Hollins approach to Benton Avenue had only a yield sign instead of a stop sign. At that time the commission approved replacing the yield with a stop sign.

The stop sign warrants call for stop signs on minor, local roads intersection a major road; Benton is considered a minor arterial in design and traffic volumes.

Three other minor approach roads onto Benton also have only yield sign control. The yield signs at Waukesha, Leslie and Peosta should also be changed to stop signs in accordance the Manual of Uniform Traffic Devices.

Mr. Hanson recommended replacing the yield signs at the Waukesha, Peosta and Leslie approaches to Benton Avenue with stop signs.

Motion

**Commissioner Netschert moved approval to replace the yield signs at the Waukesha, Peosta and Leslie approaches to Benton Avenue with stop signs.** Commissioner Parriman seconded the motion. All voted aye. Motion carried.

**Carroll College**

CONSIDER A RESOLUTION AUTHORIZING A PROJECT UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED, AND THE ISSUANCE AND SALE OF \$15,000,000 VARIABLE RATE DEMAND HIGHER EDUCATION REVENUE BONDS (CARROLL COLLEGE ISSUE), SERIES 2002, ISSUED TO FINANCE THE CONSTRUCTION OF A NEW STUDENT RESIDENCE HALL AND TO REFUND THE CITY'S \$3,700,000 HIGHER EDUCATION REVENUE NOTE, SERIES 1997; APPROVING THE FORM OF DOCUMENTATION IN CONNECTION THEREWITH; AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE BONDS AND DOCUMENTATION.

Staff Report

City Controller Glenn Jorgenson reported Carroll College is proceeding with their new dormitory project. The financing package for that project is primarily IDR Bonds. They have worked with their financial advisors and the city's bond counsel to fully develop the financing package.

Mr. Jorgenson recommended approval of the resolution authorizing IDR Bonds for Carroll College.

Motion

**Commissioner Oitzinger moved approval of the resolution authorizing a project under Montana Code Annotated, Title 90, Chapter 5, Part 1, as amended, and the issuance and sale of \$15,000,000 variable rate demand higher education revenue bonds (Carroll College issue), Series 2002, issued to finance the construction of a new student residence hall and to refund the City's \$3,700,000 higher education revenue note, series 1997; approving the form of documentation in connection therewith; and authorizing the execution and delivery of the bonds and documentation.** Commissioner Pouliot seconded the motion. All voted aye. Motion carried.  
**Resolution #11829**

**Annexation**

CONSIDER A RESOLUTION OF INTENTION ESTABLISHING THE  
CONDITIONS FOR ANNEXATION FOR 21.64 ACRES, FOR PROPERTY

LEGALLY DESCRIBED AS TRACT A, COS #3018904, ON FILE IN THE  
OFFICE OF THE CLERK AND RECORDER OF LEWIS AND CLARK COUNTY,  
MONTANA; GENERALLY LOCATED SOUTH OF HIGHWAY 12 AND WEST OF  
GRANITE STREET (OVERLOOK SUBDIVISION).

**Staff Report**

Project Manager Hal Fossum reported when a proposed subdivision is proposed to be annexed to a municipality, state subdivision laws (MCA § 36-3-601,605) direct the city government to coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible, including joint hearing on preliminary plat and annexation. It is the common practice of the city to initiate the process of annexation by means of the conditions, which are taxes and assessments and the completion of conditions, that must be met before annexation can be completed, and to coordinate the completion of annexation with the subdivision so as to minimize the duplication of requirements.

Annexation is proposed to be completed under the petition method, which is detailed in state law under MCA § 7-2-4601 et seq. In this case, all affected property owners have requested annexation; the city commission may approve or disapprove the petition upon its merits. When the governing body approves the petition, staff will prepare a resolution providing for the annexation for the commission's consideration.

The key practical significance of annexation is to provide for provisions of city services to the developing area. Annexation is linked to the subdivision process under City Codes (6-5-4), which require that properties be annexed before they can receive city utility services. The city received a completed application for annexation and pre-zoning of the subject property from the applicants, Overlook Estates (Joseph Schrader). The property is proposed for residential and office land use.

MCA § 7-2-4601 specifies that city services may be provided (a) according to a plan for extension of services, or (b) when otherwise mutually agreed upon by the municipality and the real property owners of the area to be annexed. Any plan for extension of services must also comply with MCA § 7-2-4736, which concerns the extension of city garbage services to newly annexed areas.

The annexation of related road rights-of-way are expected to include Euclid Avenue, across the property frontage. The street annexation would be coordinated with the resolution of annexation, to be completed at a later date. All procedural and due process requirements have been completed.

Mr. Fossum recommended approval of a resolution of intention to annex Tract A as shown on COS #3018904 located in Lewis & Clark County, Montana, into the City of Helena, Montana, and establish conditions for annexation (proposed Overlook Subdivision) subject to the following conditions which are 1. Taxes and Assessments: Taxes and assessments must be paid and current at the time of filing Resolution of Annexation. 2. Completion of Conditions: The applicant must notify City Planning in writing upon completion of the conditions for approval of annexation, which must be on or before the date of completion of conditions for subdivision of this property. If the conditions are not completed within that timeframe, the City is under no obligation to annex the property and may discontinue any City services, including water and sewer.

Discussion Commissioner Parriman asked Mr. Fossum why the city doesn't annex the Granite street, which is east of the property and at what point will Euclid be annexed into the city? Mr. Fossum stated the portion of Granite Street is already in the city limits. At the time annexation is completed for the property and final plat is approved, the process regarding annexing a portion of Euclid Avenue will begin.

Mayor Smith asked Mr. Fossum about the decision that was made regarding sidewalks when Kessler School was annexed and if the variance included Granite Street? Mr. Fossum was not familiar with the history on that project.

**Motion** Commissioner Parriman moved approval of a resolution of intention to annex property Legally described as Tract A, shown on COS 3018904, Lewis and Clark County, Montana, subject to the conditions outlined above. Commissioner Pouliot seconded the motion. All voted aye. Motion carried. **Resolution #11830**

**Public Hearing** PUBLIC HEARING

**Traffic Control** A. CONSIDER OPTIONS FOR TRAFFIC CONTROL ON THE WEST SIDE, SPECIFICALLY JOSLYN STREET.

Staff Report City Engineer Charles Hanson reported the city has received a request by a resident in the area to look at stop control at the Joslyn Street intersections south of Euclid. This portion of Joslyn Street is signalized on the north end at Euclid and has a stop sign at Hauser Boulevard. In this area of town the main collectors are Hauser Boulevard going east-west and Henderson going north-south. For the areas in the county Granite Street is the only north-south through street. In the past few years the adjoining neighborhood has built-out and the traffic demands in the area have increased. Joslyn Street from Euclid to Hauser is now used as a minor collector route.

Mr. Hanson recommended approval to install stop signs on the side streets between Euclid and Hauser. As a minor collector, Joslyn Street meets the criteria for two warrants a specified in the MUTCD. The streets affected include Knight Street, Choteau Street and Cannon Street.

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 persons wishing to address the commission, the public portion of the hearing was closed.

**Motion** Commissioner Netschert moved approval to install stop signs on the East-West streets intersecting Joslyn Street from Hauser Boulevard to Euclid. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Discussion Commissioner Oitzinger asked Mr. Hanson if Brady Street has a stop sign? Mr. Hanson stated that Brady Street and Joslyn Street down on the north end combine into each other. Commissioner Oitzinger asked if putting stop signs

on the other streets would increase traffic on Brady? Mr. Hanson stated because these intersections are south of Euclid Avenue that there should be no effect on Brady.

**Ordinance Pre-zoning B1.** CONSIDER FIRST PASSAGE OF AN ORDINANCE PREZONING TO R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT, R-3 (MEDIUM DENSITY RESIDENTIAL), AND R-O (RESIDENTIAL OFFICE) DISTRICT, PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA.

**B2.** CONSIDER A MAJOR SUBDIVISION/PRELIMINARY PLAT CREATING 58 RESIDENTIAL LOTS AND ONE OFFICE/RESIDENTIAL LOT.

**Staff Report**

City Planner Lucy Gengler reported the applicant is requesting two simultaneous actions. The first being an ordinance for pre-zoning to R-2, R-3, and R-O for the property, the second for a Major Subdivision/Preliminary plat to annex the city 21.64 acres and subsequently subdivide the property into 58 residential lots and one residential/office lot. The property is currently undeveloped.

Montana law states in Section 72-2-305 MCA, two-thirds of the present and voting members of the city commission is required to pass a zone change if a protest against the change is signed by the owners of 25% or more of those lots 150 feet from a lot include in proposed change. There are 12 lots within 150 feet of the proposed pre-zoning. If 3 of those lot owners (25%) submit written protests to the proposed pre-zoning, a vote of 2/3 of the city commission would be required to approve the proposed pre-zoning districts. As of this time only one of those property owners have submitted written opposition to the proposed R-3 zoning. When Kessler School was annexed in they signed a waiver of SID for improvements to Granite Street. With the annexation of this property the city would require the SID to improve Granite Street to be constructed to city standards with boulevard sidewalks, although the design may vary where the drop off area is.

Ms. Gengler recommended approval of first passage for an ordinance for pre-zoning to R-3 (Medium Density Residential) and R-O (Residential Office) District and the approval for a Major Subdivision/Preliminary plat to annex the city 21.64 acres and subsequently subdivide the property into 58 residential lots and one residential/office lot.

**Discussion**

Commissioner Parriman asked if the two public hearing are separate or can questions be asked regarding the second public hearing? Ms. Gengler stated the commission could have the public hearing for both items. Commissioner Parriman asked Ms. Gengler if there would be an underpass connecting the north side of Euclid Avenue to the south side? Ms. Gengler stated it would be a pedestrian underpass. However the location has not been decided. Commissioner Parriman asked if Granite Street would be brought up to city standards, with sidewalk and gutter systems? Ms. Gengler stated the applicant is proposing boulevard sidewalks on both sides of the street. This question would initially go through the school board and through the city engineers for a final decision. Commissioner Parriman asked in relation to Granite Street, would it be a permanent main street to be paved with curbs, gutters, sidewalks and if the city would have to implement the infrastructure in accordance with the West Side Master Plan. Ms. Gengler stated that Granite

Street would continue to be a collector. If property to the south were annexed in, improvements would be made according to that annexation. The section associated with this proposal is the responsibility of the developer and the school district.

Mayor Smith asked for an explanation on city and county standards for streets as they might be applied to Hauser Blvd? Ms. Gengler stated if Hauser were annexed into the city it would be a local street, in which it would dead end in the subdivision or perhaps a collector. The developer plans to improve the section of Hauser Blvd. to county standards that is included in the subdivision. For county standards in this area, traffic volumes over 400 would require the street to be paved, however, the traffic volumes at this point wouldn't require Hauser Blvd. to be paved. The improvements would be to widen it and add a drainage system. Mayor Smith asked if any of the trails go through the subdivision and continue through to Mount Helena or remain in the subdivision? Ms. Gengler stated that the trail system has not been developed at this time.

#### Public Testimony

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

**Tina Dawson, 990 Park Dr.,** stated that the property is occupied by wildlife. She stated there are a lot of arteries that connect with Euclid. Hauser Blvd. is a ruff dirt road and a hard rain can wash out the road. She is concerned about the dust, who is going to pay to pave the road, tax increase, and the noise pollution. She opposes the subdivision.

**Tera Hanek 2409 Hauser Blvd.,** stated the traffic has increased with just a few added houses and she is concerned what 58 other houses would do and if a turn signal will be installed. She is concerned who is going to pay for sidewalks and the impact of the annexation on Kessler School. She is opposed to the subdivision.

**Patty Stout, 2680 Hauser Blvd.,** stated she has lived in the area for over 25 years and is opposed to this subdivision. She is concerned regarding the dust, and traffic confusion, the condition of the road with increased traffic, the use of heavy equipment to build the subdivision, pets crossing Hauser and winter travel.

**John Moran, 2415 Hauser,** asked if the proposal was for 57 or for 58 lots? Ms. Gengler explained the there are 57, however, with the C2 the count would be 58. Mr. Moran mentioned he had a conversation with the Assistant Pre-Construction Engineer regarding the avoidance of an additional roadway exit out to Euclid Avenue. It was discussed verbally that there would be no reason why it could not be done. He is concerned having two new streets brought out on Granite, the annexation into the city, and if there is anything in the plan that can accommodate increased traffic on Hauser Blvd.

**Todd Mitchell, 900 Technology Blvd., Suite C, Bozeman, MT,** from Clear Creek Hydrology, representing Overlook Estates and the developer, stated the subdivision on the preliminary plat is typical and consistent with city property. There is no standing water or trees on the property and it is not considered prime wildlife habitat. The area surrounding the project is already a residential area. The travel impacts were studied and the traffic is relevantly low and the subdivision won't increase the traffic above the recommended numbers. The Kessler School drop off area is going to be paved and designed to help with congestion. They will add curb and gutter to Granite Street. Kessler School population is low and would not be effected.

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

Discussion

Commissioner Pouliot asked Mr. Moran who he spoke with out at the Department of Transportation? He replied he spoke with Paul Farry.

Commissioner Pouliot asked how much traffic he projects would use Hauser Street from the subdivision? Mr. Mitchell replied less then 200 a day. Commissioner Pouliot asked regarding the recommendation by the zoning commission that part of this subdivision be zoned R-2 and if the developer is agreeable to that. Mr. Mitchell concurred and stated the original intent with R-3 was to provide options for housing. With the R-2 zoning it will provide just single-family in that area, and the rest will create a buffer between the R-2 southern county lots and up to R-3.

Commissioner Parriman asked if an additional access point were added, would Hauser be extended to Euclid? Mr. Mitchell replied there are many ways to do this. Commissioner Parriman stated if Hauser Blvd were extended on to Highway 12 it might increase traffic on Hauser blvd. Mr. Mitchell replied that it would provide access to those coming into town from the west.

Commissioner Oitzinger stated she was reviewing the comments of Gail Joslin and she indicated that city planning should consider allowing the draining corridor that comes off Mount Helena and extends to Ten Mile Creek to continue to allow wildlife movement by minimizing development. Commissioner Oitzinger asked in regards to Ms. Joslin's comments if this project allows that to happen? Ms. Gengler stated the wildlife path is further west of the development.

Mayor Smith expressed concern when the time came to pave Hauser Street who would be responsible for that or would financing mechanisms be available? Ms. Gengler stated it would depend on whether it's annexed into the city or not. At that time the city would look at bringing it up to city standards. If the pavement were to occur while it's still in the county it would have to meet county standards. If the traffic volumes did not increase beyond the standards the county currently has for paved streets, then the developer wouldn't be a part of that financing mechanism. There are RID's available to the county and if it's annexed in, SID's would be available.

City Manager Tim Burton gave some clarification regarding financing. Montana law is set up relative to the financing of roads, the county levies for road maintenance in improvements outside the city. Inside the city, the city commission levies for road maintenance and construction.

Commissioner Pouliot asked Ms. Gengler if the subdivision would improve Hauser from the subdivision up Park Street? Ms. Gengler concurred. Commissioner Pouliot stated from Park Street to the city limits there are approximately four and a half blocks. Commissioner Pouliot asked if these four and a half blocks were included in this proposal. Ms. Gengler stated no. Commissioner Pouliot expressed concern for problems related to increased traffic. Ms. Gengler stated that state law requires that cities only require developers to mitigate the impacts caused by their subdivisions. To make improvements to roads beyond what the developer is required to do, the developer would be required to pay a percentage of those improvements. Commissioner Pouliot asked if the county has been engaged in this discussion? Ms. Gengler stated they are concerned about traffic, improvements, and maintenance in the area. Although the developer and the traffic increase are a percentage of this it's an area wide problem.

City Manager Tim Burton stated that the West Side Study concurred

there are problems with the roads. Lack of a storm drainage system will continue to ruin the roads. City and county are still talking about this problem.

**Motion** Commissioner Netschert moved approval for first passage of an ordinance for pre-zoning to R-3 (Medium Density Residential) for Lots 1 thru 9; 43 thru 57; and Lots C-2, the lots fronting on proposed Overlook Blvd; and R-O (Residential Office) District for Lot C-1. Commissioner Parriman seconded the motion. Motion carries 4-1, with Commissioner Oitzinger voting no. Ordinance #2947

**Motion** Commissioner Netschert moved approval for adoption of an ordinance for pre-zoning to R-2 (Single-Family Residential District) for Lots 10 thru 42 fronting on proposed Knight Street. Commissioner Parriman seconded the motion. Motion carried 4-1. Mayor Smith voting no. Ordinance #2947

**Motion** Commissioner Parriman moved to conditionally approve the Major Subdivision/Preliminary Plat for the Overlook Estates, creating 58 residential lots and 1 office residential lot from a 21.64-acre tract of land and to adopt the findings of fact and the conditions contained therein for the property Legally described as Tract A, COS 3018904, generally located south of Highway 12 and west of Granite Street. Commissioner Pouliot seconded the motion. Motion carried 3-2. Mayor Smith and Commissioner Oitzinger voting no. Findings of fact are attached to these minutes and made a part of.

**Public  
Communications**

PUBLIC COMMUNICATIONS

**Meetings of  
Interest**

MEETING OF INTEREST

Commissioner Pouliot mentioned the town meeting on Tuesday October 29<sup>th</sup>, 7p.m. to 9p.m. in the Civic Center Auditorium.

City Manager Tim Burton received a letter today from the Helena Regional Airport inviting the commission out to a reception to welcome Northwest Airlines back to Helena, Montana on October 29, 2002, 7p.m. in the main terminal. The information will be made available in the City Clerk office.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:50 p.m.

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MAYOR

ATTEST:

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CLERK OF THE COMMISSION

