

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
March 10, 2003
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, March 10, 2003, at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Smith indicated for the record that Commissioners Oitzinger, Netschert, Parriman were present. Commissioner Pouliot was excused. City Manager Tim Burton, City Attorney David Nielsen and City Clerk Debbie Havens were present. Bill Roberts was the HCC representative and Youth Advisory Council members included Jake Blade and Jason Swant.

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, February 24, 2003 were approved as submitted.

Appointment

APPOINTMENT:

A. Civic Center Board

Mayor Smith recommended the following appointments:

Civic Center Board

Mike DaSilva

First Term will expire March 1, 2006

Reappointment of Civic Center Members

Joann Christnacht

Margaret Crennen

Frank Montibeller

William Hunter

Motion

Commissioner Netschert moved approval of the appointments outlined above. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

A. Claims

B. Second passage of Ordinance #2951, amending Chapter 2 of Title 3 of the Helena City Code

C. Second passage of Ordinance #2952, amending Chapter 3 of Title 3 (Electrical Code) of the Helena City Code

City Manager Tim Burton recommended approval of the claims.

City Manager Tim Burton recommended approval of the claims.

Motion

Commissioner Netschert moved approval of items A through C on the consent agenda. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Parriman stated he had received a phone call regarding snow removal with the last snowstorm. Most of the citizens understand that there are just so many employees to take care of the snow from such a significant storm.

Commissioner Parriman noted that staff is recommending to table public hearing C and that a meeting has been scheduled to discuss the proposal. He expressed great concern with the recommendation being forwarded from the Planning Board. City Manager Burton noted that Ms. Morell-Gengler would report on this agenda item and on the proposed process.

Commissioner Oitzinger stated she too had received calls regarding snow plowing. She referenced the emails she has received regarding the snowplows putting the snow back onto the driveways.

Commissioner Oitzinger stated she had received a call regarding the match on the trolley for the downtown area. She asked if the city would be providing matching funds. City Manager Burton stated this topic came up at the last BID meeting; the proposed MOU between the city and the Parking Commission has been drafted and the misunderstanding has been worked out.

Commissioner Netschert stated he had not received any phone calls regarding snow removal. He asked if there is a way to involve community service to help people who cannot shovel their property.

Mayor Smith noted he has received a request from the Helena Housing Authority for a letter of support that would be submitted with a grant application. There was consensus of the commission to have Mayor Smith sign the letter.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen explained the process for using community service workers to help people who cannot shovel their own sidewalks. In most circumstances the property owners receive notification from the City Attorney's office notifying them that they need to clean their sidewalks; at that time the property owner can request assistance. It isn't possible for staff to keep track of what residents would need assistance.

Report of the City Manager

REPORT OF THE CITY MANAGER

Police Chief McGee

City Manager Burton invited Police Chief McGee to address the commission regarding the officer's shooting over the weekend. Police Chief McGee reported the Helena Police Department Color Guard would be in the St. Patrick's Day Parade.

Police Chief McGee updated the commission on the condition of Sergeant Steve Hagen and Sheriff Deputy Layng who were shot while on duty. He then spoke on the danger of being a law enforcement officer. Sergeant Hagen will hopefully return to duty as early as tonight (March 10).

Mayor Smith asked what type of after-care the officers are receiving. Chief McGee stated he could not go into a lot of detail but there is a lot of follow-up going on. Mayor Smith asked City Clerk Debbie Havens to get a card for each of the officers.

**Street Superintendent
Bill Michalson**

Mr. Burton invited Bill Michalson forward to report on the snow removal. Mr. Michalson gave an overview on how the street department employees handled the recent storm. The employees stuck to the snow routes and by Saturday afternoon, they started moving out into the neighborhoods. The snow is being removed and hauled off on Main Street and Fuller Avenue. It was a very hectic weekend for all of the employees. The area plowing is now being concentrated where potential flooding may occur. Several of the snowplows have been stuck and the employees will continue to work on the residential areas.

Commissioner Parriman thanked Mr. Michalson for the work that has been done. A citizen had called and stated the streets in Reeders Village had been plowed more than once and other residential areas had not even been plowed. He asked Mr. Michalson to explain the policy of plowing. Mr. Michalson stated the emergency snow routes are the first priority and then into the steeper areas which are identified as the secondary/primary streets.

Commissioner Oitzinger asked for clarification on if the snow had been removed from the downtown area. Mr. Michalson concurred. Commissioner Oitzinger thanked the street department employees for the work they did over the weekend.

Mayor Smith stated he observed the snow removal that happened on Sunday afternoon and was impressed on how fast it was completed on Fuller Avenue.

TIF

City Manager Burton stated after the last TIF meeting, one decision was made that the commission was going to allocate up to 4.1 million for the parking improvements in the downtown area. The commission asked Mr. Burton to report back on the appointment of a committee to work on one solid project, using the consensus building process. Mr. Burton noted if the committee does not reach a consensus, he would report back to the commission. If the commission agrees to this approach, there needs to be an exit approach in order for the commission to make the final decision.

Mayor Smith stated the commission had agreed that two-months would be a reasonable timeframe for the appointed committee to reach a consensus. Commissioner Parriman stated he is comfortable with the recommendation from Mr. Burton to appoint a committee to reach a consensus on the parking improvements for the downtown area. He believes two months is reasonable and is not comfortable with extending it.

Mayor Smith stated City Manager Burton has submitted several names and he is prepared to appoint the committee. Commissioner Netschert stated he has not seen the names of the people who are interested in serving on this committee. Mayor Smith recommended the following persons be appointed to the committee: Alan Nicholson, Leo Berry; Debbie Schlesinger; Mike Casey; Joan Connole; Toni Broadbent; and Kevin DeTienne.

Commissioner Netschert stated those who have expressed an interest in this committee know they would be on the fast track to develop a project.

Commissioner Parriman stated he is comfortable with the list proposed by Mayor Smith. Commissioner Netschert stated he is not comfortable with the appointment of Ms. Broadbent or Ms. Schlesinger. He would like people who actually own businesses in the downtown area to be on the committee.

Commissioner Oitzinger stated she too is comfortable with the recommended committee members.

needs to make a recommendation on either the no-build or on one of the build alternatives.

**Acquisition of
Economical Power**

**CONSIDER AGENCY AGREEMENT FOR THE ACQUISITION OF
ECONOMICAL POWER**

Staff Report

Community Facilities Director Gery Carpenter reported the City of Helena has been under a contract that became effective on July 1, 2000 and expired June 30, 2002, through the Montana League of Cities and Towns with Energy West Resources to provide electrical energy for City facilities. The delivered contract price was \$26.20 per megawatt hour. Over twenty facilities are covered by the contract. Some of the facilities that are serviced by this contract include; the Public Works Department Pumping Stations, the Tenmile and Missouri River Water Treatment Plants, the Waste Water Treatment Plant, the Neighborhood Center, the Civic Center and Bill Roberts Golf Course.

The Montana League of Cities and Towns has negotiated a new contract with Energy West Resources for the supply of electrical power to begin on July 1, 2002 and expire on June 30, 2007. The new commodity contract price will be \$33.11 per megawatt. The transmission and distribution cost are currently \$3.12 per megawatt with a demand charge of \$5.39 per kilowatt. The facilities served will be the same as under the former contract. The City of Helena will need to sign the contract in order to participate in the energy pricing as negotiated by The Montana League of Cities and Towns.

Mr. Carpenter recommended approval of The Montana League of Cities and Towns contract for energy and request the City Manager be authorized to sign the contract.

Discussion

Commissioner Oitzinger asked if the contract also protects the city where we wouldn't have to pay this set price if the energy prices come down. Mr. Carpenter stated there is some RISK protection included in the contract.

Motion

Commissioner Netschert moved approval of The Montana League of Cities and Towns contract for energy and request the City Manager be authorized to sign the contract. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Mount Helena
14.10 acre purchase**

**CONSIDER THE PURCHASE OF 14.10 ACRES LOCATED ON THE EAST
SLOPE OF MOUNT HELENA**

Staff Report

City Manager Burton recommended tabling this until further clarification. City Attorney Nielsen stated there are two title cliche's and it will take 90-days to clean it up.

Motion

Commissioner Netschert moved to table consideration to purchase 14.10 acres located on the east slope of Mount Helena to the call of the City Manger. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Home Depot

**CONSIDER THE EXTENSION OF WATER AND WASTEWATER SERVICE
AREAS - HOME DEPOT**

Staff Report

Public Works Director John Rundquist reported the city has received requests from Home Depot to include their property at the corner of Custer Avenue and Washington Street within our water and wastewater service area. The property owner will be installing water and sewer mains to serve the development. The property that has been requested to be included within the service areas is already within the city limits; therefore a public hearing on this action is not required.

Mr. Rundquist recommended approval to include the Home Depot property at the southwest corner of Custer and Washington streets within the water and wastewater service areas of the city.

Motion

Commissioner Oitzinger moved approval of the inclusion of the Home Depot property within the Helena water and wastewater service area boundaries. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Ordinance amending
Section 6-3-4

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 6-3-4 OF THE HELENA CITY CODE TO ESTABLISH REBATES FOR WASTEWATER LIFT STATIONS

Staff Report

Public Works Director John Rundquist reported rebate agreements for extension of sewer mains are currently allowed by ordinance. The rebates allow a developer to recoup costs for extension of city utilities when others hook up to the new mains. Presently there is no allowance for rebate agreements when a developer or the city constructs a wastewater lift station with extra capacity to serve others.

Mr. Rundquist recommended approval of the revisions to the HCC 6-3-4 to allow for rebates on wastewater lift stations. In addition, some changes in titles of responsibility are proposed to make the ordinance consistent with current practice.

Motion

Commissioner Oitzinger moved approval for first passage of an ordinance amending section 6-3-4 of the Helena City Code to establish rebates for wastewater lift stations and schedule a public hearing for March 24, 2003. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ordinance 2953**

Resolution of
Intention

CONSIDER A RESOLUTION OF INTENTION OT ANNEX A FIVE ACRE PARCEL OF LAND BEING THE NOTHERN PORTION OF TRACT 4 SHOWN ON COS#423276-O IN THE NW ¼ OF SECTION 4, T9N, R3W, P.M.M., LOCATED IN LEWIS & CLARK, MONTANA, PROPOSED TO BE DESCRIBED AS LOT 6A IN BLOCK 3 OF THE BULL RUN ACRES ADDITION NUMBER THREE, PHASE II-A, INTO THE CITY OF HELENA, MONTANA

Staff Report

Project Manager Hal Fossum reported the owners of this property, David W. and Maura Kerry (Sullivan) Lechner, have applied for annexation to the City of Helena. The property is located south of Gold Rush Avenue between Lode Street and Crystal Drive. The proposed annexation is contiguous with existing City limits and would not create any additional wholly surrounded areas.

The owners seek to annex the property to the City. This is a five-acre tract adjacent to their existing home site, which is already in the City. Through

plat amendment, the applicants propose to combine the parcel that is their existing home site with the property.

It is the usual practice of the City to establish conditions to annexation as an intermediate step toward annexation. Establishing conditions enables City staff to work with the applicants to complete a variety of City requirements.

Mr. Fossum recommended approval of the resolution on intention to annex a five acre parcel of land being the northern portion of Tract 4 as shown on COS#423276-O located in the NW 1/4 of Section 4, Township 9 North, Range 3 West, P.M Lewis and Clark County, Montana, proposed to be described as lot 6A in Block 3 of Bull run Acres Addition Number Three, Phase II-A, into the city of Helena, Montana, subject to the following conditions:

1. Plat amendment: The applicants must prepare an amended plat to establish the Property, combine it with Lot 6, Block 3, Phase II-A of Bull Run Acres Number Three, and show the utility easement between these lands. The owners must submit the amended plat to the city for filing, along with filing fees as required by the Clerk and Recorder.
2. Review of new construction: For all construction commenced subsequent to the adoption of this resolution, the property owners shall submit plans for review by the City of Helena to ensure compliance with building, infrastructure, zoning, and Uniform Fire Code requirements of the City, and shall agree to pay all fees for such reviews in the same manner and basis as do owners of properties already in the City.
3. Taxes and Assessments: Taxes and assessments shall be paid and current at the time of filing the Resolution of Annexation.
4. Completion of Conditions: The applicants shall notify City Planning in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within one year of the date of approval of this Resolution of Intention, the City is under no obligation to annex the property.

Discussion

Mayor Smith asked if the applicants, at a latter date, could subdivide the property and sell the lots. Mr. Fossum stated if the Sullivan's propose a subdivision, they would be subject to the subdivision regulations.

Commissioner Parriman noted the property might be very difficult to subdivide.

Mr. Lechner, applicant, spoke in support of the resolution of intention. He noted there is a legal easement onto the property; however, there are no plans to develop the property at this time.

Motion

Commissioner Netschert moved approval of the resolution on intention to annex a five acre parcel of land being the northern portion of Tract 4 as shown on COS#423276-O located in the NW 1/4 of Section 4, Township 9 North, Range 3 West, P.M Lewis and Clark County, Montana, proposed to be described as lot 6A in Block 3 of Bull Run Acres Addition Number Three, Phase II-A, into the city of Helena, Montana, subject to the conditions outlined above. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 11847**

Public Hearings

A. CONSIDER A RESOLUTION TO AMEND CITY OF HELENA RESOLUTION 11075 TO REDUCE PLAN REVIEW FEES FOR RESIDNETIAL

STRUCTURES THAT ARE IDENTICAL TO PLANS PREVIOUSLY REVIEWED
AND APPROVED

Staff Report

Chief Building Official Brandt Salo reported under the current ordinance, all structures are assessed plan check fees at the same rate. The proposed amendment to Resolution #11075 would establish a mechanism by which developers who intend to replicate the same residential design could qualify for a reduced plan review fee. The proposal better reflects the reduced time it takes Building Division staff to review identical plans.

Mr. Salo recommended approval of the resolution amending City of Helena Resolution #11075 to reduce plan review fees for residential structures that are identical to plans previously reviewed and approved by the Building Division.

Commissioner Netschert thanked staff for reviewing the plan review fees and making a pro-active recommendation.

Public Testimony

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

Bridget Holland, 21 N. Last Chance Gulch, spoke in support of the proposed resolution.

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

Motion

Commissioner Netschert moved approval of a resolution amending City of Helena Resolution # 11075 to reduce plan review fees for residential structures that are identical to plans previously reviewed and approved by the Building Division. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution 11848**

B. CONSIDER A RESOLUTION TO CLOSE 2ND STREET BETWEEN LOTS 14 THROUGH 20 IN BLOCK 566 AND LOTS 1 THROUGH 7 IN BLOCK 567 OF THE EASTERLY ADDITION, HELENA, MONTANA

Staff Report

Public Works Director John Rundquist reported the City Parks Department submitted this closure request for consideration. The closure will allow the Parks Department to limit vehicular access to adjacent open space parcels and allow for a trail system. The closure is requested for that portion of 2nd Street between Lots 14 through 20 in Block 566 and Lots 1 through 7 of Block 567 of the Easterly Addition. The closure is not expected to impact access to private property in the area.

Mr. Rundquist agreed that this proposed closure is the City's advantage and that it is necessary for protection of open space and the Helena trail system. Mr. Rundquist recommends approval of this resolution.

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 hearing was closed.

Motion

Commissioner Oitzinger moved approval of the resolution to close 2nd Street between Lots 14 through 20 in Block 566 and Lots 1 through 7 in

Block 567 of the Easterly Addition to the City of Helena. Commissioner Parriman seconded the motion. All voted aye, motion carried.
Resolution 11849

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE HELENA SUBDIVISION REGULATIONS (TITLE 12) FOR ALLEYS, TRUNAROUNDS, STREET GRADES, SIDEWALKS, PARKLAND AND AMENDED PLATS

Staff Report

City Planner Lucy Morell-Gengler reported following the Planning Board public hearing, ACEC-Montana contacted staff and indicated they would like to comment on the proposed changes to the Helena Subdivision Regulations. Staff would like the opportunity to address any concerns that ACEC-Montana or any other members of the community may have regarding the proposed changes prior to the City Commission public hearing.

Ms. Morell-Gengler requested the public hearing for the proposed changes to the Subdivision Regulation for alleys, turnarounds, street grades, sidewalks, parkland and amended plats be tabled to the call of the City Manager.

Discussion

Commissioner Parriman stated he is comfortable with tabling this to the call of the City Manager. Commissioner Parriman noted that he has not seen the recommendation of the Planning Board, except when a private engineer provided it. He then asked if the commission would see the Planning Board's recommendation prior to the public hearing. Ms. Gengler stated the City Manager might want to put this on an administrative meeting prior to the next public hearing.

Commissioner Parriman asked how the public received the Planning Board's recommendation prior to the commission review. City Manager Burton noted he is not sure how the distribution worked; however, the commission will receive copies of the Planning Board's recommendations.

Ms. Morel-Gengler noted the private engineer requested a copy of the recommendation.

Motion

Commissioner Parriman moved to table the proposed changes to the Helena Subdivision Regulations to the call of the City Manager. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

D. CONSIDER FIRST PASSAGE OF AN ORDINANCE PREZONING A 5-ACRE PARCEL OF LAND TO BE KNOWN AS LOT 6A, AND LOCATED IN THE NW ¼ OF SECTION 4, T10N, R3W, P.M.M., PRIOR TO ANNEXATION INTO THE CIY OF HELENA, MONTANA

Staff Report

City Planning Kathy Macefield reported applicants David W. and Maura Kerry (Sullivan) Lechner have also proposed an amended plat that would amend the subdivision boundary for the Bull Run Addition by adding the 5 acres "to provide for a large lot and more open space." This property is currently shown on COS #423276-O as the northern portion of Tract 4 and will be known as Lot 6-A when the plat is amended. In order to not have part of the lot located in the city and part of the lot located in the county; the applicant has requested annexation of the 5 acres. The OSR zoning designation was specifically created for property located outside the city but under the City's zoning jurisdiction in the OSR (Open Space Residential) District. The prezoning designation is a step that

needs to be taken prior to the annexation; the R-2 zoning will become effective upon annexation.

Ms. Macefield recommended approval of the adoption of an ordinance for a rezoning designation of R-2 (Single-Family Residential) District prior to annexation to the City of Helena for approximately 5 acres. This proposal would change the zoning from the OSR (Open Space Residential) District.

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 hearing was closed.

Motion

Commissioner Oitzinger moved approval for first passage of an ordinance for a rezoning designation of R-2 (Single-Family Residential) District prior to annexation to the City of Helena for approximately 5 acres; legally described as Lot 6-A with the amended plat located in the NW ¼ of Section 4, T10N, R3W, Lewis and Clark County, Montana; generally located south of Gold Rush Avenue between Lode Street and Crystal Drive. Commissioner Parriman seconded the motion. All voted aye, motion carried.
Ordinance 2954

E. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE 2359 AND AMENDING THE OFFICIAL ZONING MAP THEREOF IN REFERENCE TO THAT PROPERTY DESCRIBED AS LOTS 1-6 AND 8 AND 9 SHOWN ON COS #506631 (NORTHGATE SHOPPING CENTER), HELENA MONTANA

Staff Report

City Planner Kathy Macefield reported T-Standard #15 requires all development to be consistent with an approved master plan; any changes in the master plan must be reviewed and approved by the Planning Board. The Northgate Shopping Center was initially developed under ownership of a single corporation that was later dissolved by a court order resulting in separate lots that are individually owned, and some of the lots in the Northgate Subdivision were sold to other businesses over time. The proposed zone change only revises the site plan requirements for the property and does not change the uses that are allowed or any of the other zoning requirements.

Ms. Macefield recommended approval of the ordinance for a zone change from B-2-T #15 (General Commercial with restrictions) to B-2 (General Commercial) for the Northgate Shopping Center (approximately 20 acres). This proposal would amend City of Helena Zoning Ordinance No. 2359 and amend the City of Helena zoning map.

Public Testimony

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

Michael Barros gave the background history on "T" zones. Mr. Barros spoke in support of the proposed zone change.

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

Motion

Commissioner Netschert moved approval for first passage of an ordinance for a zone change from B-2-T #15 to B-2 (General Commercial) District and amending the Official Zoning Map thereof in reference to that

property. Legally described as Lots 1-6, 8 and 9 on COS#506631 (Northgate Shopping Center) (approximately 20 acres) located in the NW ¼ in the NW ¼ of Section 20, T10N, R3W, Helena, Montana; generally located east of Montana Avenue and south of Custer Avenue with property addresses of 3087 North Montana Avenue (Power Townsend), 1225 Custer Avenue (Fat Boy and Charlie's and the River Grille), 3085 North Montana Avenue (Hastings), 3095 North Montana Avenue (Oak Cetera), 3075 North Montana Avenue (Lewis and Clark County Office of Public Assistance), 3065 North Montana Avenue (Snyder's Western Drug Store/Good Samaritan Thrift Store). Commissioner Parriman seconded the motion. All voted aye, motion carried. Ordinance 2955

**Public
Communications**

PUBLIC COMMUNICATIONS

Jim Campbell, 18 S. Harrison, thanked city staff for doing an excellent job on snow removal. Mr. Campbell recommended the commission amend the snow removal policy to include the following language:

“All dead-end streets that need to be plowed will be plowed before a dead-end street is plowed a second time.”

Mr. Campbell stated that his area was not plowed and he is concerned with the residential areas not being plowed when certain areas are being plowed several times. Mayor Smith thanked Mr. Campbell for his suggestions.

Kevin DeTienne, 22 N. Last Chance Gulch, thanked the commission for appointing him to the parking improvements steering committee. Mr. DeTienne proposed to engage some professional architects to draw a proposal for trickle traffic on Last Chance Gulch. He asked for clarification on the consensus vote.

Mayor Smith explained that City Manager would contact the seven members and set the first meeting. It would then be up to the committee to decide on what type of professional guidelines they deem necessary. Mayor Smith then spoke on the consensus building process; if one person on the committee does not agree, they could veto the project, however, all members need to vote on what is best for the community and not their private agendas. Mayor Smith again reiterated that City Manager Burton would chair the committee and assist in setting the guidelines.

**Meetings of
Interest**

MEETINGS OF INTEREST

The next administrative meeting is March 19, 2003 and the next city commission meeting is March 24, 2003.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:10 p.m.

Mayor Smith

ATTEST:

Clerk of the Commission