

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
July 7, 2003
6:00 P.M.**

Time & Place A regular City Commission meeting was held on Monday, July 7, 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, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Jacki Pierson were present.

Others present were: HCC representative Jerry Hutch; Community Youth Advisory Council Representative Anne Pichette and IR Report Jason Mohr.

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 June 23, 2003 were approved as submitted.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Helena Railroad District Nomination to the National Register of Historic Places
C. Historic Preservation Grant-in-Aid contract for FY2004
D. FY2004 Violence Against Women Grant Funding Award from the Montana Board of Crime Control in the amount of \$58,000

City Manager Tim Burton recommended approval of the claims.

Public Comment Mayor Smith asked for public comment, non-was received.

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

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Parriman mentioned he attended the Old Glory Flag dedication and stated there was a good turn out.

Commissioner Pouliot congratulated all the people involved in the Old Glory Flag project and stated it was well done.

Commissioner Oitzinger thanked the Independent Record for their supplement of the landmark and all the people and city staff involved in the project.

Commissioner Netschert stated it was a wonderful ceremony and thanked the city staff and businesses involved with it's creation.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
A. Bid award for construction of utility building
City Attorney David Nielsen reported on June 23, 2003, the city commission awarded a bid for the construction of the utility maintenance building to Dick Anderson Construction; however; Dick Anderson Construction was actually the second low bidder, but was awarded the bid because of the 3%

preference granted for being a "resident of Lewis & Clark County." Subsequent to the award, the low bidder, Wadsworth Builders, questioned the propriety and legality of allowing a 3% bidder preference based upon county residency. Wadsworth has provided information that tends to support a conclusion that under 1-4-11(C)(4), Helena City Code, it may also qualify for the bidder preference for residents. Under this provision, residency is "Any type of business with a city business license showing a business address within the limits of Lewis and Clark County." Wadsworth purchased business licenses from the City in 2002 and 2003 and has a business address at a trailer at Fort Harrison. Wadsworth also contends that City Code provisions for resident bidder preference violate state law. Mr. Nielsen stated his research shows that a legal challenge against the bidder preference provision may have merit. Any legal challenge could delay the construction for a significant time.

The bids on this project exceeded the architect's estimate and the amount budgeted for the project. As a result, the commission only awarded the base bid and none of the alternates.

In light of the high amount of the bids, the uncertainty as to whether Wadsworth is a resident, and the legality of the resident bidder preference, Mr. Nielsen recommended that the award be rescinded and the project be re-bid. In the interim, he recommended repealing the resident bidder preference section of the City Code. It discriminates against non-resident bidders, which discourages them from bidding on City projects, and it is incompatible with the plain reading of state statute and an interpreting Attorney General's opinion.

Discussion

Commissioner Parriman asked if the city would wait to rebid the project in the fall? Mr. Nielsen stated in talking with city staff, if there is enough time to amend the city code on the bid preference and rebid the project this fall, his understanding is the city would still be in a reasonable construction period. Commissioner Parriman asked if the bid could still be awarded to Dick Anderson Construction while still amending the bidding preference? Mr. Nielsen stated by awarding the bid to Dick Anderson Construction the city would be in poor legal standing. Commissioner Parriman stated he's comfortable changing the bidding preference, noting it would provide more competitive bidding on city projects.

Commissioner Netschert asked how often the bidders preference has been an issue? City Manager Tim Burton stated it doesn't happen often; however, each time it does happen it puts the city into an uncomfortable position. Commissioner Netschert stated he doesn't have any problem taking the necessary action tonight.

Mayor Smith asked if Wadsworth have raised any concern with regard to states statutes. Mr. Nielsen concurred.

Motion

Commissioner Pouliot moved to rescind the bid award to Dick Anderson Construction on June 23, 2003, for construction of the utility maintenance building. Commissioner Parriman seconded the motion.

Public Comment

Mayor Smith asked for any public comment, non-was received.

Vote

All voted aye, motion carried.

Motion

Commissioner Netschert moved to reject all bids for construction of a utility maintenance building and its alternates and request new bids for this project. Commissioner Parriman seconded the motion.

Public Comment Mayor Smith asked for public comment, non-was received.

Vote All voted aye, motion carried.

**Report of the City
Manager**

REPORT OF THE CITY MANAGER

A. City Primary Elections

City Manager Tim Burton stated there are four candidates for the city commission and three candidates for city judge and it's not a large enough number to require a primary election. Mr. Burton stated if it's the desire of the commission he would ask for a motion to forgo the primary election and go straight to the general election.

Public Comment Mayor Smith asked for public comment, non-was received.

Motion Commissioner Pouliot moved the city forgo the primary election for city commission and for city judge at this time. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

B. Brady Street SID

City Manager Tim Burton explained this project is managed by Montana Department of Transportation and has been a long process pulling it together. He stated the prices came in over the cost estimates and MDT reduced their cost around \$56,000 which would require the city to fund the project with gas tax money and allocate an additional \$69,719 for this project. Mr. Burton stated if the commission was comfortable with this approach a motion would be helpful.

Discussion Commissioner Netschert stated the Brady Street residents have been dealing with this project long enough and he is certainly willing to make those funds available to get this project completed.

Public Comment Mayor Smith asked for public comment; non-was received.

Motion Commissioner Netschert moved approval for the expenditure of city gas tax funds in amount of \$69,719 to offset the additional costs for the Brady Street project. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Summer Recreation/
Feeding Programs**

City Manager Tim Burton invited Ellen Livers up to give the commission an overview on the summer recreation and feeding programs that they are working on this summer.

Ellen Livers, 525 S. California Street, explained the problems related to hunger among the children in Helena and stated she was delighted to find that the Rocky Mountain Development Council and Helena Food Share has a summer program that provides free and reduced lunches to kids in city parks. That lead to a conversation with City Manager Tim Burton and Director of Park and Recreation Randy Liljie about what they could do to partner with the summer recreation program. With their assistance they were able to reestablish a summer recreation program at Sherron Park.

**Helena Housing
Authority Update**

City Manager Tim Burton invited Helena Housing Authority Executive Director Colleen McCarthy to give an update on the HHA.

Colleen McCarthy stated the HHA approached Director of Parks and Recreation Randy Lilje to discuss reestablishing the recreation summer program at Sherron Park. Ms. McCarthy explained with the funds left over, HHA wanted to create partnerships with the summer recreation program, the Kay McKenna Foundation, and the Feeding Program. The HHA has committed some money to Rocky Mountain Development Program for the feeding program and has committed \$4,000 to the city of Helena to help reestablish the summer recreation program.

Ms. McCarty reported on the new HHA newsletter, a new software database spanning the next 20 years, allowing the HHA to see all the repairs and maintenance that have occurred on a specific property and the annual HUD score on how the HHA is running the housing authority. She mentioned the HHA was identified as one of the top three housing authorities in the nation and reviewed the progress on the Wilder Street project.

Discussion

Commissioner Parriman stated the HHA have bent over backwards on getting their architectural firm to accommodate the parking problems and he was encouraged by all the steps taken by the HHA to involve the community regarding the Wilder Street project.

Intention to Annex

CONSIDER A RESOLUTION OF INTENTION TO ANNEX THE 13.846-ACRE TRACT B AS SHOWN ON COS#594623/B, LEWIS AND CLARK COUNTY, MONTANA, AND ADJACENT STREETS, AND TO ESTABLISH A PUBLIC HEARING DATE OF AUGUST 4, 2003. THE PROPERTY IS LOCATED AT 2705 BROADWATER AVENUE BETWEEN HIGHWAY 12 WEST AND BROADWATER AVENUE AND ESTABLISH A PUBLIC HEARING DATE OF AUGUST 4, 2003

Staff Report

Project Manager Hal Fossum reported on August 23, 1999, property owners Derek Brown and Barry Simmons entered into a development agreement with the City of Helena waiving rights to protest annexation, providing water and sewer utilities, and agreeing to share certain costs relating to future water system improvements. The property has since been developed and served by City water and sewer utilities; City funds have been set aside for the water improvements; and all other City obligations under the agreement have been met. Staff proposes to annex the property.

The property consists of a single 13.85-acre parcel situated northwest of Kessler elementary school on Highway 12 west. The property lies between the Fish Wildlife and Parks property that was recently annexed to the City and the Overlook Subdivision, which is in the process of completing conditions of subdivision and annexation. No wholly surrounded territory would be created by annexation. The adjacent public right of way, Highway 12, is maintained by the state. The access road, Broadwater Avenue, is a private roadway and would continue to be maintained by the property owners.

Mr. Fossum recommended the City Commission adopt a resolution of intention to annex the subject property and set a public hearing date of August 4, 2003.

Discussion

Commissioner Parriman asked if the property is currently on city sewer and water? Mr. Fossum concurred. Commissioner Parriman asked if the city water and sewer was extended and then the property owners had to sign the protest of annexation waiver? Mr. Fossum stated the situation was fairly

particular to this property. Back in 1999, Mr. Brown and Mr. Simons, approached the city, there was a water line running through the property, which they wanted moved. The property owners explained there was a need and that the city should help pay some of that cost since the line ran through their property, without a proper easement. However, at that time the city wasn't ready to put up the money and an agreement was created.

Commissioner Oitzinger asked if the development agreement would stay in force if the area were annexed? Mr. Fossum concurred. Commissioner Oitzinger asked whether the development agreement follows the land, the covenants in it or if the area were to change hands would the development agreement end? Mr. Fossum stated the development agreement is written by the city and signed by the property owners, which means the development agreement is with those property owners.

Mr. Nielsen explained the development agreement did not contain a property description because the city didn't have one at the time. One of the reasons the city's moving forward is because there may be a possibility that it will change hands. Commissioner Oitzinger stated the city is anticipating a change and there are some waivers and covenants on the part of the city and she wanted know if the development will stay in effect if the property were to change hands. Mr. Nielsen explained the city's agreement would furnish the materials for the replacement of the transmission main. Commissioner Oitzinger asked regarding the building codes? Mr. Nielsen stated the buildings have already been built and will not carry forward in the future. Commissioner Oitzinger asked if there were other waivers that were part of the agreement? Mr. Nielsen stated no. Commissioner Oitzinger asked if there would be a grandfather of signage that was associated with this agreement? Mr. Nielsen explained there is nothing in this agreement that enlarges any right to nonconforming uses. Any time the city annexes property into the city it comes in as nonconforming. Commissioner Oitzinger asked if that right would pass through to any new owner? Mr. Nielsen concurred.

Commissioner Netschert asked if the property owners have been notified? Mr. Fossum concurred.

Public Comment

Mayor Smith asked for public comment; non-was received.

Motion

Commissioner Parriman moved approval of a resolution of intention to annex Tract B, a 13.846-acre tract of land located in the SW 1/4 of Section 23, T10N, R4W as shown on COS#594623/B, records of Lewis and Clark County, Montana, generally located at 2705 Broadwater Avenue, and adjacent streets, and establish a public hearing date of August 4, 2003.
Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Res. #12007**

Poplar/Cooke Street

CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH A TYPE B RESIDENTIAL PARKING DISTRICT FOR PORTIONS OF POPLAR STREET AND COOKE STREET ADJACENT TO THE PROJECT FOR ALTERNATIVE LIVING (P.A.L.) SCHOOL, FORMERLY LINCOLN SCHOOL IN THE CITY OF HELENA

Staff Report

Public Works Director John Rundquist reported the P.A.L. Program has taken up residency at the former Lincoln Elementary School located on the 1300 Block of Poplar Street. This has caused a certain amount of parking problems

with residents along Poplar and Cooke Streets adjacent to the school. Often times, mailboxes and driveways are blocked or no parking exists in front of these homes due to events at the school or a constant flow of visitors to the school. There appears to be adequate parking in the school parking lot and/or appropriate adjacent on-street parking to accommodate normal school activities, however, it is not being fully utilized.

Mr. Rundquist recommended approval of the resolution of intention to establish a Type B Residential Parking District for the 1300 Block of Poplar Street (north side) and the 1200 Block of Cooke Street (Westside) and set a public hearing date for July 21, 2003.

Discussion

Commissioner Parriman asked if signs are placed along the street when a Type B Residential Parking District is established? Mr. Rundquist concurred and explained signs are placed on the street and residents who can prove residency may receive a permit from the city showing they can park in that zone. Commissioner Parriman stated the costs are significant and asked if the city pays for the signs? Mr. Rundquist concurred.

Commissioner Pouliot asked regarding guests at a residency? Mr. Rundquist stated the resident would have to obtain a permit for that guest. However, as for enforcement of the district, one of the residents would have to call in a complaint.

Commissioner Netschert asked if a Type A Residential Parking District would be more stringent than a Type B? Mr. Rundquist explained a Type A states it shall be unlawful for any person to stop, stand or park a vehicle for any purpose longer than 2 hours; other than those vehicles displaying a valid Type A Residential Parking District permit.

Mayor Smith commented on the additional demands that these residential parking districts place upon our police force. If this goes forward, the residents would have some expectation of enforcement. Mayor Smith asked if the police force has been involved in this proposal? Mr. Rundquist stated a standard part of the process is to send notification to the police department. Chief Police Troy Magee explained that Public Works does send notices to the police department and stated the residents cannot have any high expectations that the police department is going to patrol and enforce the signage. It's usually based on a call in basis. Mayor Smith asked if there is parking down at the school and asked if there is a determination that that's inadequate or is it simply that the available parking is not being used? Mr. Rundquist stated staff did observe and it appeared to have adequate parking on the school site and this was a particular problem for those neighbors.

Public Comment

Mayor Smith asked for public comment; non-was received.

Motion

Commissioner Netschert moved approval of a resolution of intention to establish a Type B Residential Parking District for the 1300 Block of Poplar Street (north side) and the 1200 Block of Cooke Street (westside) and set a public hearing date for July 21, 2003. Commissioner Pouliot seconded the motion.

Discussion

Mayor Smith stated he would prefer that the people who manage and administer the PAL, impress upon the faculty and students the importance of using the lots that are provided.

Commissioner Parriman stated he is concerned with the extra cost; however; he will support this motion to establish a public hearing date.

Commissioner Pouliot stated he would support this particular motion because there is adequate parking indicated on site and those persons that are using off site parking should appropriately be on site.

Vote

Motion carried 4-1 with Mayor Smith voting no. **Res. #12008**

Briarwood Lane

RESOLUTION OF INTENTION TO ESTABLISH A TYPE B RESIDENTIAL PARKING DISTRICT FOR A PORTION OF BRIARWOOD LANE IN THE CITY OF HELENA

Staff Report

Public Works Director John Rundquist reported residents along the Briarwood Lane cul-de-sac are experiencing problems with vehicles blocking driveways, mailboxes and garbage containers, particularly from Capital High School students when school is in session. The residents are also coping with increased incidences of vandalism and trash scattered throughout the street and neighborhood. Apparently, numerous high school students are parking in this area rather than on the high school grounds.

Mr. Rundquist recommended approval of a resolution of intention to establish a Type B Residential Parking District for a portion of Briarwood Lane and set a public hearing date for July 21, 2003.

Discussion

Commissioner Pouliot asked if staff established for themselves that many Capital High School students were using this area? Mr. Rundquist concurred.

Commissioner Parriman asked when residents in an area apply to have a parking district and the city has extra costs associated could the city actually charge the residents to cover the city's costs? Mr. Nielsen concurred and explained that could be made by a resolution after the public hearing.

Commissioner Oitzinger stated she has antidotal information that there really isn't enough parking at the high school. The students have been parking in an adjacent church parking lot and she believes the administration needs to expand the parking opportunities.

Public Comment

Mayor Smith asked for public comment; non-was received.

Motion

Commissioner Netschert moved approval for a resolution of intention to establish a Type B Residential Parking District for a portion of Briarwood Lane and set a public hearing date for July 21, 2003.

Commissioner Oitzinger seconded the motion.

Discussion

Mayor Smith stated he will remain constant and would like to see steps short of an ordinance taken before moving to the ordinance stage.

Commissioner Parriman stated he is sympathetic to the people that this is happening to; however; these people are requesting and receiving extra service and he feels they should be charged appropriately.

Commissioner Pouliot stated he will support this particular motion but will also support a motion in the future, if the commission receives a request like this, that those requesting parties pay for the cost of signs and the cost of the installation as a fee.

Mayor Smith stated he is interested in the idea of establishing fees for these services.

Vote

Motion carried 4-1 with Mayor Smith voting no. **Res. #12009**

**Public Hearings
Zone Change**

A. CONSIDER AN ORDINANCE FOR A ZONE CHANGE FROM B-2 (GENERAL COMMERCIAL) DISTRICT TO R-4 (HIGH DENSITY RESIDENTIAL) DISTRICT TO ALLOW CONSTRUCTION OF A TWO-STORY, 42-UNIT APARTMENT COMPLEX FOR THE FRAIL ELDERLY ON 1.848 ACRES. LEGALLY DESCRIBED AS LOT 2, BLOCK 6, SLEEPING GIANT AMENDED SUBDIVISION, HELENA, MONTANA; GENERALLY LOCATED EAST OF JANET STREET AND SOUTH OF TRICIA STREET

Staff Report

City Planner Belinda Waters reported the property is currently vacant and undeveloped. Access to the property will from an existing Janet Street. All new structures are required to conform to the Uniform Building Code and Uniform Fire Code.

The applicant is proposing to rezone a 1.848-acre tract in order to construct a multi-family facility designated, by HUD, for the frail elderly from B-2 (General Commercial) District to R-4 (High Density Residential) District.

Ms. Waters recommended approval of the proposed zone change.

Discussion

Mayor Smith asked if the Beehive Assisted Living is assisted living for a specialized population? Ms. Waters explained it is assisted living for the elderly. Mayor Smith stated this proposal is for a similar population located close to the Beehive Assisted Living. Ms. Water concurred and stated this facility provides the residents with their own kitchen; there would be no dining service provided. Mayor Smith asked if the Helena Area Transportation Services would be serving either the Beehive Assisted Living or the new proposed facility? Mr. Burton concurred.

Mayor Smith asked regarding the sidewalks. Ms. Waters explained the sidewalks have already been installed; however; they have been overgrown with grass and are in need of repair.

Public Testimony

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

Bob McWilliams 1043 Breckenridge stated he owns Elk Mountain Motor Sports, the property north of the property. Mr. McWilliams stated he is concerned regarding the sidewalk installation and explained he was required to remove the asphalt sidewalk and install a concrete sidewalk; he would like to see that brought up to code throughout the area. Mr. McWilliams explained the land surrounding his property has been zoned commercial and his business involves unloading merchandise from a semi-truck with a forklift and checking the merchandise, which can be noisy. He is concerned that there is nothing in the plans that show a fence between the two projects to block the noise and to prevent possible injury if a person were to get too close to his business. Mr. McWilliams explained he has no problem with zoning change or the project; he would just like to have more of a boundary between the two properties.

Mr. McWilliams explained he had to install a water retention pond, which is constantly full of water and stated he would like to know where the water is going to go from the adjacent property once it is developed.

Michael Knisely stated he is the architect for this project with Distyle Design located in Minneapolis Minnesota. Mr. Knisely commented on the slit fence issue and stated it is a temporary fence and is designed for controlling run off during construction and will come down when construction is over. Concerning the walk repair; he had not been made aware that the city would be asking them to upgrade the sidewalk and he would appreciate further direction from staff because they are in the construction documents phase for the project. Mr. Knisely explained there is a water detention pond on the site and they are controlling the water as it flows down the hill. He mentioned there are several areas of collection.

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

Discussion

Commissioner Parriman asked if a fence or a barrier is in the plans? Mr. Knisely stated at this time there is no fencing planned and explained the developer is a non-profit company that develops these properties using HUD assistance. Property owners, such as these, listen to their tenants when there are complaints and if noise or safety became a problem for the tenants the owner would address it at that time. Mr. Knisely explained he is looking into the issue.

Commissioner Pouliot asked if the city would be making any requirements in the area of sidewalks, noise abatement or water runoff? Ms. Waters explained part of the building permit process is they have to keep their storm water on site; which the developer will submit along with their building plans. As far as the sidewalk, it will need to be inspected by the building division to determine if it just needs patching or if there's more significant damage done to it. Ms. Waters explained the fence issue could be taken care of by screening with landscaping and trees.

Mr. McWilliams explained his main concern is the fencing issue and it comes down to noise and safety. He stated his plans would be to build a chain link fence down the property line in order to block off the back of his building to residents and on coming traffic. Mr. McWilliams stated he would happy to work with the developer on this matter.

Commissioner Netschert asked if a living fence would be a consideration? Mr. McWilliams explained the new facility is very close to the property line as is his and stated for the security of his property a living fence would not work; however; he will be installing a security fence around his working area.

Mayor Smith asked if in the further development of this project the commission would be seeing things like screening or fencing in the building permit? Ms. Waters stated no, once a zone change is approved, any residential use, allowed in the R-4, will be able to be placed there. The action tonight changes the zoning to allow the facility to be built. They must meet all the conditions; however; there is no conditions associated with zone change. What the city can do is make a strong recommendation that some type of screening or landscaping and fencing be done along that boundary.

Mr. Nielson stated the consideration before the commission is for a zone change. There are no mechanisms in the ordinance that during a zone change conditions are decided upon. Those usually appear during conditional use permits. He's not aware of any code provision that would require the screening requested; however; the city does have screening requirements between parking lots and residential houses. If the screen is needed for the safety of residents it's up to that property owner to provide that and not the adjacent owner.

Commissioner Parriman asked for clarification on the reason for the zone change? Ms. Waters explained this type of facility is allowed in the B-2; only under a conditional use permit application; but this would also be of permitted use under the R-4.

Motion

Commissioner Pouliot moved first passage of an ordinance for a zone change from B-2 (General Commercial) District to R-4 (High Density Residential) District for approximately 1.848 acres. Said property is legally described as Lot 2, Block 6, Sleeping Giant Amended Subdivision, Helena, Montana; generally located east of Janet Street and south of Tricia Street.
Commissioner Parriman seconded the motion. All voted aye, motion carried.
Ord. #2965

Discussion

Mayor Smith stated he is concerned with Mr. McWilliams comments regarding the city requesting different standards to different properties in regards to their sidewalks and it didn't seem relevant to the zone or the assisted living and asked Mr. Nielsen to look into the issue. Mr. Nielsen explained the city does require sidewalks to be installed on the right away on building permits and if there is an existing sidewalk that has fallen in disrepair the Public Works Department can inspect it and order the property owner to make the necessary repairs.

Street Maintenance

B. CONSIDER A RESOLUTION TO LEVY AND ASSESS THE ANNUAL CHARGES FOR STREET MAINTENANCE DISTRICTS #1 AND #2 [TABLED FROM JUNE 23, 2003]

Staff Report

City Manager Tim Burton reported for the last several months the city commission, with city staff, has been reviewing all utilities, all infrastructure, all conditions, the city's capital plan and the associated cash flow financial statements of those utilities. Mr. Burton stated since last weeks Administrative Meeting there have been added options and alternatives.

City Attorney David Nielsen explained in looking at the statute, the city has to do two public publications of the notice, with a six day separation and then under the street maintenance statutes, it requires that the last publication be no earlier than five days from the public hearing. Mr. Nielsen explained a firm decision on setting the assessment has to be done by the second Monday of August. Mr. Nielsen recommended, if the commission decides on a methodology this evening, making a motion to authorize staff to give the appropriate notice to have a public hearing on that methodology and set a public hearing on August 4, 2003.

Discussion

Mayor Smith asked for an explanation of the two new options that are being presented this evening. Mr. Magee explained the new options.

Commissioner Netschert explained after the previous street maintenance discussions, the commission realized some pretty significant areas had been overlooked and readdressing those issues concerning the downtown and residential areas. Commissioner Netschert explained option #2 tries to encompass Commissioner Pouliot previous concerns, while still maintaining true to the flat rate that the commission was trying to achieve throughout the process. Commissioner Netschert stated the new options spread out the impacts evenly and consistently throughout the districts.

Public Testimony

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

Bill Leary, 1330 9th Avenue, stated he is the current president of the Helena Property Owners Association. Mr. Leary explained the HPOA started looking at the street maintenance fees about 5 years ago to see if there was a method of building equity and equality into the streets and one of the ways to do that is by involving the outlying areas in the street maintenance fee process.

Paul Reichert, 827 12th Avenue, stated his comments are from the Business Improvement District. He stated his quick assessment would be that option #1 would be the most reasonable for district #1 in terms of just dollar amount. Mr. Reichert mentioned he appreciated Mr. Leary's comments on people living outside city limits that are not contributing and he thinks it's something that the city and state need to look at. Mr. Reichert explained the downtown area seems to pay its full weight for the maintenance that it receives, while the other districts has it's maintenance needs taken care of by the commercial and the residential property owners.

Michele O'Neil, 621 Hillsdale, encouraged the commission to relook at the flat rate and stated square footage continues to be a better method of assessing that tax.

Ed McHugh, 9 Cloverview Drive, stated he is in support of option #1. Mr. McHugh explained it's absolutely unfair to treat a mobile home park the same as a residential area.

Andy Skinner, P.O. Box 5447, stated he is in support of street maintenance and that something needs to be done quickly. He explained the streets are deteriorating the last two years at a rate about 5 times what they normally did. If the city doesn't deal with it now the city will pay later. Mr. Skinner stated option #1 looks to be the best proposal.

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

Discussion

Commissioner Oitzinger asked under option #1 what would be the rate of increase for a 1000 square foot residential property? Mr. Magee stated it would go from an \$8.00 per year to \$81.00 and that would be an 875% increase or \$72.00 for the year. Commissioner Oitzinger asked what the assessment change would be under that same proposal for a 154,000 square foot property? Mr. Magee stated it would go from a \$360.00 assessment last year to an \$81.00, which would be a decrease of \$279.00 or a rate decrease of 77.6%. Commissioner Oitzinger asked if the changes under option #1 include the 32.5 increase? Mr. Magee concurred.

Commissioner Netschert asked how many properties in the city of Helena would fit into those two examples in order to clarify on Commissioner Oitzinger's questions? Mr. Magee stated 1,112 residential properties that are between 0 and 5,000 square feet. Commissioner Netschert explained the reason the 5,000 square foot example is used was because it is the smallest buildable lot allowed in the city. Mr. Magee concurred.

Commissioner Oitzinger asked if under option #1 if there is a break point as there was with the original proposal? Mr. Magee stated it would be about 7,300 square feet.

Commissioner Pouliot stated he agrees that the street system needs an overhaul and an infusion of money. He will support changes in the methodology, if the commission can agree and if the commission can't agree to a change he

proposes the commission keeps the methodology where it is and just ask for the 32.5% increase across the board.

Commissioner Netschert stated if the city did increase the rate there would be more money throughout the system and decreases the burden on many residential and downtown businesses.

Motion

Commissioner Netschert moved approval of a resolution to levy and assess the proposed annual charges for Street Maintenance Districts #1 and #2 in accordance with the new proposal option #1 as presented by staff and with the provision that authorizes staff to give appropriate notices by August 4, 2003. Motion dies for a lack of second.

Motion

Commissioner Pouliot moved to maintain the current methodology for the FY04 and increase the street maintenance assessment by 32.5%. Commissioner Oitzinger seconded the motion.

Discussion

Mr. Nielson stated he assumes the motion is that is what would be the direction the commission wants staff to go for preparing the ad for the August 4, 2003. Commissioner Pouliot concurred.

Commissioner Parriman stated he agreed with Mr. O'Neil regarding the one rate for commercial districts. However, he believes the system is not where it should be and he would be forced to choose Commissioner Pouliot's motion until a better solution is created.

Mayor Smith stated he would vote for either option #1 or option #2 because he doesn't think that the status quo is very equitable or very fair.

Commissioner Oitzinger stated one continuous theme is that the real equitable way to do it has to do with how many times those wheels roll over the streets and what measures that is a gas tax. Her thought would be she wouldn't want to do anything that would have unintended consequence and the time line for accomplishing something like this really needs to be a long one.

Vote

Motion fails 3-2 with Commissioner Parriman, Commissioner Netschert and Mayor Smith voting no.

Motion

Commissioner Netschert moved approval of a resolution to levy and assess the proposed annual charges for Street Maintenance District #1 and #2 in accordance with option #2 as shown tonight and authorize staff to give appropriate notices by August 4, 2003. Commissioner Parriman seconded the motion.

Discussion

Commissioner Oitzinger asked Mr. Magee to apply the same changes from option #1 to option #2. Mr. Magee stated at 1,000 square feet the residential that pays \$8.00 a year would go up to \$72.00 which is a 772% increase. The break even point is roughly 6,600 square feet, people below that pay more than 32.5% on an increase and people above that pay less than that for an increase. The other number was 154,000 square feet and that is going from \$360.00 a year to \$72.00, a decrease of \$288.00 a year, almost an 80% rate decrease.

Commissioner Pouliot stated he would not be voting for Commissioner Netschert's motion because like the original proposal there were unintended consequences and until he knows what the consequences of this proposal is he will vote against it.

Commissioner Parriman stated he is more comfortable with option #1 and asked for an amended motion to go back to option #1.

Amended Motion Commissioner Netschert amended his original motion to include option #1 as opposed to option #2. Commissioner Parriman seconded the motion.

Discussion Commissioner Pouliot asked if the original rate at which district #1 was paying was .05553? Mr. Magee stated no because that would be with the 32.5% increase, their rate is 0.50155. Commissioner Pouliot asked if the new proposal option #1 would increase the rate for district #1 commercial properties? Mr. Magee stated the rate does go up and the real driving force is the caps and floors.

Vote Motion passes 3-2 with Commissioner Oitzinger Commissioner Pouliot voting no.

Discussion Mr. Magee stated this motion will allow staff to proceed with the notices for the public hearing on August 4, 2003.

Public Communications PUBLIC COMMUNICATIONS
Michael O'Neil, 621 Hillside stated during the last city commission meeting he thanked the commission and the city for their work on the Dial-A-Ride and he neglected to recognize the hard work of Fleet Manager Ed Robinson. On behalf of the Hunger and Homeless Committee that represents about 100 agencies, they wanted to recognize Mr. Robinson's hard work, in addition to all the other staff and the support of the commission.

Meetings of Interest MEETINGS OF INTEREST
Mayor Smith mentioned a meeting on Monday on July 14, 2003 at 12:00 in the Mitchell Building with colleagues from the Department of Administration with the State of Montana.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 9:00 p.m.

Mayor Smith

ATTEST:

CLERK OF THE COMMISSION

