

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
August 4, 2003
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, August 4, 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.
Member representing HCC was George Hoff and Paul Rinehart was present from the Boy Scouts.

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 July 21, 2003 were approved as submitted.

Appointment APPOINTMENTS:
Mayor Smith asked for commission concurrence for the following appointments:

HELENA HOUSING AUTHORITY

Judy Erickson – 2nd Term – Term will expire on August 1, 2005

Sue Miller- 1st Term - Term will expire on August 1, 2008

PUBLIC ART COMMITTEE

Diane V. Delaney – Unexpired Term – will expire December 31, 2004

Tulasi Kilgore – Unexpired Term – will expire December 31, 2003

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

Motion Commissioner Pouliot moved approval of the reappointment of Judy Erickson and Sue Miller to the Helena Housing Authority and the appointments of Diane Delaney and Tulasi Kilgore to the Public Art Committee. Commissioner Oitzinger seconded the motion.

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

Vote All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Utility bill insert - Mikal Kellner Foundation for Animals
C. Utility bill insert - Helena Community Park Project
D. A resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the sale of said property (FY04 surplus vehicles) **Res. # 12017**
E. Second Passage of Ordinance #2966 – amending the Helena City Code by repealing Section 1-4-11 which established a preference procedure for awarding contracts

City Manager Tim Burton recommended approval of the claims.

Motion Commissioner Netschert moved approval of items A through E on the consent agenda. Commissioner Parriman seconded the motion.

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

Vote All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Pouliot mentioned the 6th Ward Reunion was held on Saturday and stated it was a good time. He also asked the citizens of Helena to attend the Senators baseball game, which starts at 7:30 tonight.

Mayor Smith commented on the 6th Ward Reunion and mentioned the Clown Week Proclamation. Mayor Smith mentioned the induction banquet to the Helena Sports Hall of fame was a wonderful event and Assistant Director of Public Works Phil Hauck was one of the honored inductees for his participation in the 1978 Capital High Bruins Football Championship Team. Mayor Smith stated the commission sent a letter to the family of Brandon Patch who was the player fatally injured during a baseball game and he commended the members of the Helena team who attended the funeral in Miles City.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
No report was given.

Report of the City Manager REPORT OF THE CITY MANAGER
City Manager Tim Burton invited Fire Chief Steve Larson forward to comment on the current fire. Chief Larson explained a fire was reported late this afternoon up on Mount Ascension. He believes it was caused by a lighting strike last night. Due to the excellent coordination between the local, state and federal forces the fire is under control.

Mayor Smith asked Chief Larson to review the status of the restriction that are in effect right now? Mr. Larson stated it is still at Level 2 restrictions on federal, state and public lands.

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

Helena Civic Center CONSIDER A RESOLUTION OF INTENTION TO INCREASE THE FEES CHARGED BY THE HELENA CIVIC CENTER

Staff Report Civic Center Manager Diane Stavens reported the current fee schedule was adopted prior to the 2002/2003 seasons. As has been policy in the past, prior to the upcoming season, a survey of the other facilities in the state was conducted which showed that some of the rates charged were below other facilities in the surrounding area. The Civic Center Board's Fee committee in conjunction with Civic Center staff reviewed the policy and recommended changes. The Civic Center Board approved the proposed schedule at their May 7, 2003 meeting. The proposed rates are at or below the rates charged by the other facilities in the state. Other changes in the schedule are to outline charges for additional rental items available on site while making the schedule easier for the client to interpret.

To clarify the facility surcharge fee for rental of the auditorium by moving it from the ticketing fee schedule to the facility fee schedule. A revision of the

fees charged for rental items is proposed. The minimum amount required for the damage deposit would also increase.

1. Adjustments to the equipment fees are proposed. Charges for on site equipment are decreased for the rental of the ballroom sound system and sound snake rental.
2. The auditorium-merchandising fee has been increased from 10% to 15%, which is in line with the rate charged by other venues in the region.
3. The fees for the in-house ticketing system have been changed. The facility surcharge has been removed from the ticketing fees, but has been added into the facility fee schedule and will be charged as part of the facility rental fees. The charge for comp tickets has been clarified, and the charge for returned consigned tickets has been decreased. Other fees remain the same, but may have language changed to make the schedule easier to understand. The costs for use of the Helena auditorium facility will be comparable to other venues in Montana.

Ms. Stavnes recommended approval of the proposed increase for Civic Center fees.

Public Comment

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

Motion

Commissioner Pouliot moved approval of a resolution of intention to increase the fees charged by the Helena Civic Center and set a public hearing date for August 18, 2003. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #12018**

**FY03 Grant
Acceptance**

CONSIDER ACCEPTANCE OF FY03 OFFICE OF DOMESTIC PREPAREDNESS HOMELAND SECURITY GRANTS FROM THE STATE OF MONTANA

Staff Report

Fire Chief Steve Larson reported the State of Montana is to provide the City of Helena with a hazardous materials trailer to transport all of our hazardous materials equipment and funding to standardize the equipment with other responders in the State. Additionally, they have allocated funds to develop, plan and implement exercises with area specialized teams such as EOD or tactical teams and to develop coordinate response with local area responders.

Mr. Larson recommended acceptance of the three Fy03 Office of Domestic Preparedness Homeland Security Grants from the State of Montana.

Discussion

Mayor Smith asked if this team would be available to assist all the surrounding counties. Chief Larson stated the boundaries have not been set; however, they will be working with Great Falls fire department on an exercise that is to look at the central zone of Montana.

Public Comment

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

Motion

Commissioner Oitzinger moved to accept the FY03 Office of Domestic Preparedness (OPD) Homeland Security Grants in the amounts of: \$100,000.00 for the hazmat trailer; \$150,000.00 for the statewide standardized equipment for the hazmat trailer and \$70,000.00 for

development, planning and implementation of the exercises for area responders. In addition she approves the budget amendment and authorize

the City Manager to expend such funds. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

SID #417

CONSIDER A RESOLUTION RELATING TO \$174,500 SPECIAL IMPROVEMENT DISTRICT NO. 417 BONDS; AWARDDING THE SALE THEREOF AND APPROVING CERTAIN MATTERS WITH RESPECT THERETO

Staff Report

Accounting Supervisor Brandi Pierson reported on July 21, 2003, the city commission passed a resolution authorizing the issuance and calling for the public sale of \$174,500 Special Improvement District No. 417-Brady Street bonds.

The Competitive Sale was held on August 4, 2003 at noon and the winning bid was D.A. Davidson. Currently the average coupon rates were 4.5% and then state law mandates that the city put in an additional half of percent on that, which makes the assessment rate 5%.

Ms. Pierson recommended approval of the resolution relating to \$174,500 Special Improvement District No. 417-Brady Street bonds; awarding the sale thereof and approving certain matters with respect thereto.

Public Comment

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

Motion

Commissioner Oitzinger moved approval of a resolution awarding the sale of \$174,500 Special Improvement District No. 417 Bonds and approving D.A. Davidson Co. of Great Falls Montana bid associated there with. Commissioner Pouliot seconded the motion. All voted aye, motion carried.
Res. #12019

Public Hearings:

PUBLIC HEARINGS

A. CONSIDER A RESOLUTION LEVYING AN ASSESSMENT UPON ALL PROPERTY IN STREET MAINTENANCE DISTRICT #1 AND STREET MAINTENANCE DISTRICT #2 TO DEFRAY THE COST OF MAINTAINING SERVICES IN SAID SPECIAL IMPROVEMENT DISTRICTS FOR FY04

Staff Report

Administrative Services Director Tim Magee reported the resolution for Street Maintenance Districts #1 and #2 will:

1. Specify new assessment options, and
2. Provide for a 32.5% rate increase.

Public Testimony

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

Ed McHugh, 9 Cloverview Drive, spoke in favor of the change for mobile home parks to be considered commercial/residential.

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

Discussion

Commissioner Netschert suggested that staff prepare an article for disclosure outlining what services and what improvements to the roads the community can expect for the increase that the commission is considering.

The commission gave concurrence.

City Manager Tim Burton reminded the commission that there would be a delay because of tax collections and if the commission approves the proposal, would receive any additional revenue for the street utilities and particularly Capital Improvements. Mr. Burton stated a draft article would be produced and routed to the commission. Commissioner Netschert asked if the city will be hiring more full time employees to perform the work or if the city will be contracting out for services? Mr. Burton stated the city has been subsidizing the maintenance of the streets with gas tax money, so part of this would allow the city to keep gas tax money for actual construction projects. He explained the city's maintenance crews do mainly maintenance projects and 98% of all construction related projects on the streets are bid out competitively.

Commissioner Oitzinger explained her concern with the proposal has been that it weights us in the direction of being somewhat regressive; however, the commission as whole has decided that it was justified in view of the important street maintenance and repair needs that exist. She was left with only the chance to try to implement this change overtime for lots 5,000 square feet and under. She is prepared to make a motion that would except this option and to make the motion that would accept the change concerning commercial residential with a 750,000 square foot cap.

City Attorney David Nielsen stated there are legal deficiencies because it would end up discriminating against taxpayers on the basis of the size of their lot. While talking with Mr. Magee, he doesn't believe there is the data or evidence to support the proposition that everybody under 5,000 square foot is necessarily low income. Mr. Nielsen stated he does not recommend the amendment.

Commissioner Netschert asked if there is anyway Commissioner Oitzinger's amendment would work? Mr. Nielsen stated a rebate program could be installed in order to help the low-income families.

Mayor Smith asked if there is any data to if lot size shows the inability to pay? Mr. Magee stated he does not have any data to support or refute the proposal.

Commissioner Oitzinger stated every other major city in Montana uses street maintenance fee assessments according to square footage, which means that throughout the state small lots are receiving preferential treatment. Why is just a feature that it a transition create greater discrimination that is already in place? Mr. Nielsen explained the methodology has been carried over from the state statue that dates back to 1897. This methodology is consistent throughout all the SID statues. He recommends following the state statue formula.

Commissioner Netschert asked regarding the legality of the commercial/residential option? Mr. Nielsen stated option #1 identifies a new class of property, which is entitled commercial/residential. He believes it can be done because it is a combination of a flat rate through the cap and an area basis. It is the same methodology that has been suggested for the other commercial and residential properties.

Commissioner Netschert deferred to Commissioner Oitzinger if she would like to make the motion on the inclusion of the small residential phase in and the commercial/residential with a cap. Commissioner Oitzinger stated she does not want to make such a motion and asked Commissioner Netschert if he is going to move the \$750,000 cap, she believes it would be helpful if he would break that into the advertised proposal and then deal with the caps separately. Commissioner Netschert asked for further clarification. Mr. Magee explained what's being asked for is a motion about option #1 as to whether or not you wish

to include it in the resolution and if it is included it would clarify the resolution that would ultimately be made about the assessment as a whole. That would separate the pieces, the as proposed and advertised verses the option that's under consideration.

Commissioner Oitzinger asked if the commission would have the opportunity to vote twice, once on the cap and once on the resolution generally? She explained should the resolution pass she would like it to include the cap; however, at this point since the commission can't do anything to hold the small properties harmless she does not want to support the resolution.

Mayor Smith stated it seems that the commission could pass the resolution as advertised and if that motion is successful the commission could move on to Commissioner Netschert option. Mr. Nielsen explained a motion could be made and then amendments could be made amending the resolution.

Motion **Commissioner Netschert moved approval of the resolution to levy and assess the proposed annual charges for Street Maintenance Districts #1 and #2 as advertised.** Commissioner Pouliot seconded the motion.

Discussion Mayor Smith explained he is hesitant to disagree with the legal advice; however, he would be willing to work with Commission Oitzinger on an alternative proposal to mitigate the impact on the low-income families.

Vote Motion carried 4-1 with Commissioner Oitzinger voting no.

Amended Motion **Commissioner Netschert moved to amend the previous motion to include the option #1 which is to create the commercial/residential district with a 750,000 square foot cap with the language revisions as contained the packet.** Commissioner Pouliot seconded the motion.

Discussion Commissioner Parriman asked what the net effect is? Mr. Magee explained the dollars would not be consequential to the total volume that the commission is talking about.

Vote All voted aye, motion carried. **Res. #12020**

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR PRE-ZONING DESIGNATION OF R2 (SINGLE FAMILY RESIDENTIAL) DISTRICT FOR FIVE PROPERTIES, LEGALLY DESCRIBED AS LOTS 9 & 10, BLOCK 8, LOTS 7 & 8, BLOCK 9, AND LOTS 7 & 8, BLOCK 10 OF THE WEST HELENA TOWNSITE; A 1.1-ACRE PARCEL DESCRIBED IN BOOK 210 DEEDS, PAGE 295; AND A 3.195-ACRE PARCEL SHOWN ON COS #270705, SECTION 23, T10N, R4W, P.M.M., LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED NORTH OF COUNTRY CLUB AVENUE; WITH PROPERTY ADDRESSES OF 2305 COUNTRY CLUB AVENUE, 2306 COUNTRY CLUB AVENUE, 2308 COUNTRY CLUB, 2440 COUNTRY CLUB AVENUE, 2510 COUNTRY CLUB AVENUE

Staff Report City Planner Belinda Waters reported the owners of the property at 2440 Country Club Avenue have requested annexation to the city due to the failure of an individual septic system. In analyzing this request, staff felt a larger pre-zoned area would be appropriate. Each property included in the pre-zoning proposal currently contains a single-family residence.

On Tuesday, July 8, 2003, the Helena Zoning Commission unanimously recommended approval of the adoption of an ordinance for a pre-zoning designation of R-2 (Single-Family Residential) District for these properties.

Ms. Water recommended approval of a pre-zone request for five properties approximately 5.5 acres in size. Access to all five parcels is from an existing city street – County Club Avenue. Four properties are located northeast of Country Club Avenue with one parcel located southwest of Country Club Avenue.

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 Pouliot moved first passage of an ordinance for a pre-zoning designation of R-2 (Single-Family Residential) District prior to annexation to the City of Helena for approximately 5.5 acres for property legally described as Lots 9 & 10, Block 8, Lots 7 & 8, Block 9, Lots 7 & 8, Block 10 of the Townsite of West Helena; a 1.1 acre parcel described in Book 210 Deeds, page 295; and a 3.195-acre parcel shown on COS #270705, Lewis & Clark County, Montana. Four properties generally located northeast of Country Club Avenue and one property located southwest of Country Club Avenue. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ord. #2968**

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR PRE-ZONING DESIGNATION OF PLI (PUBLIC LANDS AND INSTITUTIONS) FOR THREE PROPERTIES, LEGALLY DESCRIBED AS: PARCEL B SHOWN ON THE CONFIRMATION DEED RECORDED IN BOOK M2, PAGE 4602, LOCATED IN THE WEST HELENA TOWNSITE, INCLUDING CLOSED CUTTING AVENUE AND CLOSED GIRARD STREET, KNOWN AS PART OF SPRING MEADOW LAKE STATE PARK, CONTAINING APPROXIMATELY 12.85 ACRES, AND PARCELS A & C SHOWN ON THE CONFIRMATION DEED RECORDED IN BOOK M2, PAGE 4602, CONTAINING APPROXIMATELY 46.1 ACRES AND KNOWN AS PART OF SPRING MEADOW LAKE STATE PARK

Staff Report

City Planner Belinda Waters reported in analyzing a proposal to pre-zone property in this area, staff felt a larger pre-zoned area would be appropriate. Therefore, city staff proposes to pre-zone these three parcels owned by Fish, Wildlife & Parks to PLI (Public Lands & Institutions).

On Tuesday, July 8, 2003, the Helena Zoning Commission unanimously recommended approval of the adoption of an ordinance for a pre-zoning designation of PLI (Public Lands & Institutions) District for these properties.

Ms. Waters recommended approval of a pre-zone request for three properties (approximately 59 acres in size) to be pre-zoned PLI (Public Lands & Institutions) 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 first passage of an ordinance for a pre-zoning designation of PLI (Public Lands & Institutions) for three different parcels, legally described as: 1. Parcel B shown on Confirmation Deed recorded in Book M2, page 4602, located in the Townsite of West Helena; including closed Cutting Avenue and closed Girard Street, known as part of Spring Meadow Lake State Park, containing approximately 12.85 acres; and 2. Parcels A & C shown on Confirmation Deed recorded in Book M2, page 4602, containing approximately 46.1 acres and known as part of Spring Meadow Lake State Park. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ord. #2969**

D. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR PRE-ZONING DESIGNATION OF CLM (COMMERCIAL LIGHT MANUFACTURING) FOR NINE PROPERTIES, GENERALLY LOCATED NORTH OF EUCLID AVENUE ON THE WEST SIDE OF HELENA, ADJACENT TO THE CITY LIMITS, LEGALLY DESCRIBED AS: A 2.1-ACRE TRACT OF LAND AS DESCRIBED IN BOOK M27, PAGE 108, A 1.13-ACRE TRACT OF LAND DESCRIBED IN BOOK M27, PAGE 109, A 2.03-ACRE TRACT OF LAND DESCRIBED IN BOOK M2, PAGE 3594, A 0.429-ACRE TRACT OF LAND BEING THE REMAINDER PORTION OF THE TRACT DESCRIBED IN BOOK 282, PAGE 336, AND SHOWN AS THE CLAUSEN WAREHOUSE ON COS#301231, A 3.493-ACRE TRACT OF LAND SHOWN AS TRACT A ON COS#594623, A 0.96-ACRE TRACT OF LAND DESCRIBED IN BOOK 301, PAGE 236, A 1.72-ACRE TRACT OF LAND SHOWN AS TRACT A ON COS #590351/T, A 3.45-ACRE TRACT OF LAND DESCRIBED IN BOOK M22, PAGE 3002, AND TRACT B, A 13.846-ACRE TRACT OF LAND SHOWN AS TRACT B ON COS#594623/B

Staff Report

City Planner Belinda Waters reported city staff proposed to annex and pre-zone the Brown/Simmons Enterprises property located at 2705 Broadwater Avenue. This property has been developed and is served by city water and sewer utilities. In analyzing the proposed pre-zoning for this property, staff felt a larger pre-zoned area would be appropriate. The majority of the parcels located in the proposed pre-zoning designation are already developed and further development may be limited.

On Tuesday, July 8, 2003, the Helena Zoning Commission unanimously recommended approval of the adoption of an ordinance for a pre-zoning designation of CLM (Commercial Light Manufacturing) District for these properties.

Ms. Waters recommended approval of a pre-zoned request for nine properties (approximately 29 acres in size) to be pre-zoned CLM (Commercial Light Manufacturing) District.

Discussion

Commissioner Netschert asked regarding Broadwater Avenue, if it would be pre-zoned as well? Ms. Waters concurred.

Commissioner Pouliot asked regarding Ms. Wiley's hesitation for pre-zoning. Ms. Waters stated she has some concerns and is not completely comfortable being pre-zoned.

Commissioner Netschert asked when this pre-zone was initiated? Ms. Waters explained the PLI and the CLM initiation started when the annexation began on the Brown/Simmons property in June 2003.

Mayor Smith asked if the extension of the sewer line through the Mikal Kellner Foundation triggered this project? Ms. Waters stated it was the 14' water

line that runs through the Brown/Simmons property that needs to be relocated.

Mr. Burton stated the Mikal Kellner Foundation wanted full city services including sewer and water. They also partnered with Kessler School District at the time to accomplish that at a more cost effective manner. The Brown/Simmons property had waived their right to protest annexation and entered into a development agreement and presently do receive full city sewer and water services, so the city knew it was just a matter of time that it performed, at least on our part of that contract, which makes it contiguous.

Public Testimony

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

George Hoff, 1111 State Street, stated he is representing the Helena Citizens Council and asked if the billboards have been addressed in this pre-zoning?

Berry Simmons, 2707 Broadwater Avenue, gave a brief history regarding the property and explained there was some concern regarding a 14' inch water main line. It was discovered that it was illegal to build over the water main, so they asked the city if they would consider moving the water main and the city concurred; however, in return the city wanted to have an easement for a sewer main that would finalize the hook-up at Kessler Elementary School and Mr. Simmons and Mr. Brown concurred. An agreement was signed with an attachment stating they would not protest an annexation.

James George, 2702, Broadwater, asked how preannexation works, what it consists of and the cost involved?

Dave Hewitt, 2750 Broadwater Avenue, echoed Mr. George's concerns.

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

Discussion

Ms. Waters explained the billboards sit in the county and until it is annexed in, Helena's sign ordinance regulations would not apply. Mr. Nielsen stated if property annexed into the city has uses that are inconsistent with the zoning that is a nonconforming use. Mr. Hoff asked what happens in the future if the zoning is changed? Mr. Nielsen stated they would still be non-conforming.

Ms. Waters explained that the planning department looked at the area where the pre-zoning was to take place to see if there were uses surrounding it that are comparable to the CLM that is proposed. Staff contacted the property owners in that area to discuss the pre-zoning. In pre-zoning there are no regulations, city codes or restrictions put on the property. It strictly pre-zones the property into a zoning district that would comply with any future annexations.

Mayor Smith asked if a pre-zone is done would the property have to be annexed? Ms. Waters stated not necessarily because the outlying properties may not ever need city services.

Mr. George stated there is a resident property in that area and asked if there needs to be concern regarding that? Ms. Waters explained it would come in as nonconforming.

Commissioner Pouliot stated because of Ms. Wiley's request to not prezone he would not support the pre-zoning.

Commissioner Parriman explained it is an appropriate pre-zone and stated he will support the motion.

Commissioner Netschert explained he wanted to see a definitive border along the city edges and stated he would support the pre-zoning.

Commissioner Pouliot asked if all of the other property owners are in support of the pre-zoning? Ms. Waters concurred. Commissioner Pouliot asked if the CLM zoning might not be an appropriate zoning designation for Ms. Wiley's property? Ms. Waters explained everything to the east of Ms. Wiley's property is residential or vacant land and the CLM district would end on her eastern boundary.

Mayor Smith stated this is a proper and prudent step at this time.

Motion

Commissioner Oitzinger moved first passage of an ordinance for pre-zoning designation of CLM (Commercial Light Manufacturing) for nine properties; generally located north of Euclid Avenue on the west side of Helena, legally described as: 1. A 2.1-acre tract of land as described in Book M27, page 108; 2. A 1.13-acre tract of land described in Book M27, page 109; 3. a 2.03-acre tract of land described in Book M2, page 3594; 4. A 0.429-acre tract of land being the remainder portion of the tract described in Book 282, page 336, and shown as Clausen warehouse on COS#594623; 5. A 3.493-acre tract of land shown on Tract A on COS#594323; 6. A 0.96-acre tract of land described in Book 301, page 236; 7. A 1.72-acre tract of land shown on Tract A on COS#590351/T; 8. A 3.45-acre tract of land located described in Book M22, page 3002; and 9. Tract B, a 13.846-acre tract of land shown as Tract B on COS#594623/B. Commissioner Parriman seconded the motion. Motion carried 4-1 with Commissioner Pouliot voting no. **Ord. #2970**

E. CONSIDER A RESOLUTION ANNEXING 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 THE ADJACENT SEGMENT OF HIGHWAY 12 WEST

Staff Report

Project Manager Hal Fossum reported on July 7, 2003, the city commission adopted a resolution of intention to annex contiguous properties to the city of Helena. Two properties- one private, and one a segment of public right of way – are proposed for annexation. Following a public hearing, all due process requirements will be complete, and the commission may move to consider annexation of the properties.

The private property is owned by Brown-Simmons Enterprises, LLC. The property consists of a single 13.85-acre parcel situated northwest of Kessler elementary school on Highway 12. A commercial building occupies the property, owned by Mr. and Ms. Brown and Mr. and Ms. Simmons. The property lies between the Fish Wildlife and Parks property that was recently annexed to the city and 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, a state route, is the public way proposed for annexation by this action. The access road, Broadwater Avenue, is a private roadway and would continue to be maintained by the property owners.

This property is the location of the owners' businesses, a construction firm and a sign firm. In August 1999, the owners 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 is now served by water and sewer utilities, and all city obligations under the agreement have been met.

The segment of public right of way includes the portion of Highway 12 (i.e. Euclid Ave.) running from existing city limits at Granite Street (at Kessler School) west through the property frontage, a distance of about 2000 feet.

All requirements for annexation have been completed under the methods of annexation set out in state law for contiguous properties: a resolution of intention to annex has been duly passed, and that resolution fixed a public hearing and consider annexation has been advertised; and a 20 day comment period (ending August 2) has been held. The state Department of Transportation, which manages the highway segment proposed for annexation has assented to annexation. No qualifying protests to annexation have been received. A proposed pre-zoning designation of CLM is expected to come before the commission on August 4, 2003.

Upon adoption by the city commission of pre-zoning, and upon completion of public hearing on the proposed annexation, all due process requirements will have been met.

Mr. Fossum recommended adoption of the pre-zoning, followed by a public hearing and consideration of a resolution annexing the properties into the city of Helena.

Discussion

Commissioner Parriman stated in the development agreement it states that the city will be sharing the cost to relocate the water line and asked if that means the city will be paying for half of that cost? Mr. Fossum explained the city's contribution would include the pipe and the hardware related to the water system improvement.

Commissioner Netschert asked if the prezoning runs concurrent with this annexation? Mr. Fossum concurred. Commissioner Netschert asked if Broadwater Avenue would be annexed as well? Mr. Fossum concurred and noted that Broadwater Avenue is not a platted roadway and would continue to serve within the city limits as a private drive.

Commissioner Oitzinger asked if the billboards would be out of compliance with city codes if annexation occurred? Mr. Nielsen explained billboards are permitted in a CLM zone.

Commissioner Pouliot asked if the trailer park is in the city limits? Mr. Fossum stated part of that court is within the city and a very large portion is outside the city. Mr. Burton explained that part of that trailer court is outside the city and is currently receiving city water and sewer.

Mayor Smith asked if Kessler School has been hooked up to the city water and sewer? Mr. Burton concurred. Mayor Smith asked if the 14' inch pipe has been replaced? Mr. Burton explained this is a budgeted item and the city is ready to replace the pipe upon the resident's approval.

Public Testimony

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

Berry Simmons, 2707 Broadwater Avenue, explained that the property would never be zoned residential because future plan for that area is to develop an industrial park. Mr. Simmons asked for clarification on lighting, screening, landscaping, wells, billboards, building conformance, parking lot, curbs, and sidewalks? Mr. Simmons asked for confirmation on the funds to relocate the water main.

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

Discussion

Mr. Fossum explained Mr. Simmons wells are dug and used for purposes of irrigation and if that is not the case the city would valve those wells; however, those irrigation wells are permitted in the city. Mr. Fossum explained all the other issues; lighting, screening, landscaping, billboards, building conformance, parking lots, curbs and sidewalks; are brought into the city as is and no other changes apply. Mr. Nielsen stated when the city annexes property the property is brought in as is and the state building codes are what the city enforces.

Mayor Smith asked if the city is ready to relocate on that 14' pipeline. Mr. Burton concurred.

Commissioner Parriman asked if the city has any cash outlay to the property owners regarding the water main with the exception of the pipe and hardware? Mr. Burton concurred.

Commissioner Netschert asked if the wells are used for irrigation purposes. Mr. Simmons concurred. Commissioner Netschert asked if he could recollect when the trees on Euclid Avenue were planted? Mr. Simmons stated last fall and completed in late fall. Commissioner Netschert asked if the city wanted to install the water line and the property owners would have to perform their part of the agreement could the city do so and still not annex the property? Commissioner Netschert explained he is not comfortable with what is currently being proposed. Mr. Burton explained city ordinance is specific in it's guidance that the city operates under that if there is a property that receives city sewer and water service they annex into the city. In this case, city staff presented to the commission a development agreement, which gave each party time to gather the necessary equipment and funds. Commissioner Netschert asked if the city can these services without annexation and if this particular development agreement was entered into prior to adopting the new ordinance with requires annexation. Mr. Nielsen explained the ordinance that requires annexation as a prerequisite to hooking into water and sewer, predates this agreement by many years. When the developer wants to either subdivide or annex, then they would need to move that line, the provision that was entered into the city is, if there is a failure and the city needs to move quicker then subdivision, then the city can trigger it.

Commissioner Oitzinger asked if there is an expectation on the part of the Mikal Kellner Foundation and are they in support of this prezone? Mr. Burton explained the Mikal Kellner Foundation they knew that property would eventually annexed.

Motion

Commissioner Parriman moved approval of a resolution annexing Tract B, a 13.846-acre tract of land located in the SW ¼ 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 the adjacent segment of Highway 12 West.

Discussion

Commissioner Pouliot asked if the city is ready to replace the pipeline and is it going to be changed now? Mr. Burton concurred.

Vote

Motion died for a lack of second.

Discussion

Commissioner Netschert explained the property is five blocks removed from the current city boarder and he feels that puts an unnecessary burden on they city's emergency services.

Mr. Burton stated this item should be placed on the agenda for further discussion regarding how the commission would like the development agreements set up.

F1. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW OFFICES FOR GOLDEN TRIANGLE COMMUNITY MENTAL HEALTH CENTER, WITH ASSOCIATED STORAGE

F2. CONSIDER A VARIANCE FROM THE LOT WIDTH REQUIREMENTS OF THE R-3 DISTRICT FOR NON-RESIDENTIAL USES. LEGALLY DESCRIBED AS LOTS 1 AND 2, BLOCK 37, CENTRAL ADDITION #2, HELENA, MONTANA; GENERALLY LOCATED NORTH OF 16TH STREET AND WEST OF JACKSON STREET WITH PROPERTY ADDRESSES OF 1002 NORTH JACKSON STREET

Staff Report

City Planner Kathy Macefield reported this CUP application covers a 746-square foot building at 1002 North Jackson Street that has been used for storage space and occasional counselor/client meetings by Golden Triangle since 2000.

The property includes a second building containing 1,000-square foot building at 24 East 16th Street, which was originally used as a clinic since 1971 (which was permitted use in the R-3 District at that time); this building has been leased to Golden Triangle and has been used for their adjunct office and clinic space since 1999. Therefore, this former clinic/office building is a legal nonconforming use and does not need to be included in the current CUP application.

On Tuesday, July 8, 2003, the Helena zoning Commission unanimously recommended approval (3:0 vote) for the resolution for a CUP to allow offices for Golden Triangle Community Mental Health Center, with associated storage, subject to two requirements: that a sidewalk be installed within one year, and that no outside storage would be permitted. The Zoning Commission also unanimously recommended approval for a variance from the lot width requirements for non-residential uses of the R-3 (Medium-Density Residential) District.

Ms. Macefield recommended approval for a resolution for a CUP to allow offices for Golden Triangle Community Mental Health Center, with associated storage, and a request for a variance from the lot width requirements for non-residential uses, to be located in the R-3 (Medium-Density Residential) District. This approval is subject to the following conditions:

1. Sidewalk must be installed adjacent to 16th and Jackson Streets, including handicap-accessible ramps at the intersection corner within one year of approval of the CUP.
2. All storage must be contained within the buildings.

Discussion

Mayor Smith asked who owns the property? Ms. Macefield explained Maret Hutchinson and Martha Finley. Mayor Smith asked who is responsible for the sidewalk installation? Ms. Macefield explained it is the property owner's responsibility.

Commissioner Parriman asked if the variance process goes through the Board of Adjustment? Ms. Macefield explained when there is a CUP that

includes variance request there is a provision that allows the city commission to act on those variances rather than make the public go through a double public hearing process.

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.

Discussion Mayor Smith mentioned because of his firms association with Golden Triangle, he would abstain from the vote.

Motion Commissioner Oitzinger moved approval for a resolution for a Conditional Use Permit (CUP) to allow offices for Golden Triangle Community Mental Health Center, with associated storage, to be located in a 746-square foot one-story former residential structure in the R-3 (Medium-Density Residential) District; for property legally described as Lots 1 and 2, Block 37, Central Addition #2, Helena, Montana; generally located north of 16th Street and west of Jackson Street with a property address 1002 North Jackson Street and subject to the conditions listed above. Commissioner Pouliot seconded the motion. Motion carried with Mayor Smith abstaining from the vote. **Res. #**

Motion Commissioner Oitzinger moved approval for a variance from Section 11-6-3, B of the Helena Zoning Ordinance from the minimum lot width requirements for non-residential uses. Commissioner Pouliot seconded the motion. Motion carried with Mayor Smith abstaining from the vote.

G. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR A ZONE CHANGE FROM CLM (COMMERCIAL-LIGHT MANUFACTURING) DISTRICT TO B-2 (GENERAL COMMERCIAL) DISTRICT, LEGALLY DESCRIBED AS LOTS 3-12 AND A PORTION OF THE CLOSED AND VACATED ALLEY, BLOCK 9, HERSHFIELD ADDITION, HELENA, MONTANA; GENERALLY, LOCATED NORTH OF BIRCH STREET AND BETWEEN COOKE AND MONTANA AVENUE WITH A PROPERTY ADDRESSES OF 2611 NORTH MONTANA AVENUE 1225 AND 1235 BIRCH AVENUE

Staff Report City Planner Kathy Macefield reported the properties included in the proposed zone change include offices and used car sales (which are permitted uses in the B-2 District), and a carburetor repair business (a conditional use in the B-2 District; a CUP would be required if this business expanded in the future)

On Tuesday, July 8, 2003, the Helena Zoning Commission unanimously (3:0 vote) recommended approval for a zone change from CLM (Commercial-Light Manufacturing) to B-2 (General Commercial) District for approximately one-half block on Birch Street between Montana Avenue and Cooke Street.

Ms. Macefield recommended approval of an ordinance for a zone change from CLM to B-2 District for approximately one-half block on Birch Street between Montana Avenue and Cooke 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 hearing was closed.

Motion

Commissioner Netschert moved first passage of an ordinance for a zone change from CLM (Commercial-Light Manufacturing) District to B-2 (General Commercial) District for approximately one-half block, Legally described as Lots 3-12 and a portion of the closed and vacated alley, Block 9, Hershfield Addition, Helena, Montana; generally located north of Birch Street and between Cooke and Montana Avenues with property addresses of 2611 North Montana Avenue, 1225 and 1235 Birch Avenue. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Ord. #2971**

H. CONSIDER A MOTION TO APPROVE A MAJOR SUBDIVISION/PRELIMINARY PLAT, TO BE KNOWN AS QUAIL RUN, CREATING 22 TOWNHOUSE LOTS FROM TWO PLATTED LOTS IN THE R-0 (RESIDENTIAL-OFFICE) DISTRICT; LEGALLY DESCRIBED AS LOTS 3 AND 4, BLOCK 3, SKELTON ADDITION, SE ¼ OF SECTION 18, T10N, R3W, HELENA, MONTANA; GENERALLY LOCATED WEST OF ROAD RUNNER DRIVE AND SOUTH OF PTARMIGAN LANE

Staff Report

City Planner Kathy Macefield reported the Skelton Subdivision was originally approved in 1996 with a combination of commercial and residential lots. At that time, parkland was provided to meet the requirements for the entire subdivision.

On July 15, 2003 the Consolidated Planning Board unanimously (8:0 vote) recommended approval for a major subdivision/preliminary plat creating 20 townhouse lots, to be know as Quail Run Subdivision, from two platted lots in the R-0 (Residential-Office) District. This approval was subject to 4 conditions.

After the July 15th Planning Board hearing for the major subdivision to be known as the Quail Run Subdivision, creating 20 residential townhouse lots in the R-0 District, located in the Skelton Addition, applicant Dave Crofts notified staff they would like to request moving consideration from August 4th to the 18th. He stated three of the partners in Quail Run are out of town this week and next. After learning of some concern from some of their neighbors on Hummingbird Court, he wanted to have the time to discuss these concerns with all of the partners.

This hearing was legally advertised prior to receiving the applicant's request for additional time. Therefore, the proposal would still appear on the agenda but no public hearing would be held until August 18th. Letters will be sent to the adjacent property owners to notify them of the date change.

Ms. Macefield recommended the tabling of a major subdivision/preliminary plat creating 20 townhouse lots from two platted lots in the R-0 (Residential-Office) District. The applicants propose to name the new subdivision Quail Run.

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 to tabled the public hearing for major subdivision/preliminary plat, to be known as the Quail Run

Subdivision, creating 20 residential townhouse lots until August 18, 2003. Legally described as Lots 3 and 4, Block 3, Skelton Addition, Helena, Montana; generally located west of Road Runner Drive and south of Ptarmigan Lane. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

11. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE CITY OF HELENA CITY CODE, TITLE 12 SUBDIVISION REGULATIONS FOR ALLEYS, TURNAROUNDS, STREET GRADES, SIDEWALKS, AND AMENDED PLAT

12. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE CITY OF HELENA CITY CODE, TITLE 7, SECTION 7-4-2, FOR SIDEWALKS

Staff Report

City Planner Lucy Morrell-Gengler reported the city commission had asked the Community Development Department to evaluate the existing subdivision regulations regarding street design, particularly street grades. Additional changes to the Subdivision Regulations are also proposed to address concerns identified by other city department.

On Tuesday, July 15, 2003, the Consolidated Planning Board held a public hearing for the proposed amendments to Title 12, the city of Helena Subdivision Regulations. The Planning Board recommended approval of the proposed changes for turnarounds, sidewalks, and amended plats. Due to a tie vote, the Planning Board did not make a recommendation regarding street grades.

Ms. Morrell-Gengler recommended amending Title 12, the Subdivision Regulations and Section 7-4-2 of the City Codes and subject to the following amendments:

TURNAROUNDS

Comments: Changes are proposed for Section 12-4-2: GENERAL REQUIREMENTS FOR STREETS of the Helena Subdivision Regulations to accommodate the International Fire Code Institute Application Manual design. These changes would provide turnaround dimensions and would also allow curb sidewalks around the various turnaround designs; currently boulevard sidewalks are required.

12-4-2: GENERAL REQUIREMENTS FOR STREETS:

C. Dead-end streets may be allowed in compelling circumstances such as enhancement of safety, topography constraints, mitigating disturbance of existing water-courses, and mitigation of access obstructions. Except as other wise provided, dead-end streets may not exceed 700 feet in total length and must have a turnaround suitable for fire apparatus. (Ord. 2913-8-13-2001)

D. The design of the turnaround must be approved by the Public Works Department to ensure maneuverability of fire apparatus. The minimum dimensions for right-of-way and pavement, curvature radius of entry to turnaround and sidewalk requirements are as follows:

1. CUL-DE-SACS:

- a. The minimum diameter of right-of-way for a cul-de-sac is 109 feet.
- b. The minimum diameter of pavement from face of curb for the cul-de-sac is 96 feet.
- c. The radius of the curvature from the connecting street to the cul-de-sac is 28 feet. A sidewalk that is no less than

five foot (5') wide must be located one foot (1') from the property line around the circumference of the right-of-way.

2. ALTERNATE TURNAROUNDS: Under certain conditions a turnaround other than a cul-de-sac, such as a "hammerhead" or "Y" type, may be used to mitigate impacts to the terrain and when the dead-end street does not exceed 400 feet in length. The Public Works Department must approve the use of these alternate turnarounds.

a. The minimum right-of-way and pavement width for all parts of an alternate turnaround is the same as the standard for local access streets.

b. The radius of the curvature from the connecting street to the arm of the alternate turnaround is 28 feet. Each arm of the turnaround must be no less than 60 feet long as measured from the center of connecting street to the end of the turnaround.

c. A curb sidewalk adjacent to the arm of the turnaround may be permitted when it is located to reasonably connect with other sidewalks.

STREET GRADES

Comments: Changes are proposed for Section 12-4-4: STREET GRADES of the Helena Subdivision Regulations to accommodate street grades exceeding 8%. Street grades exceeding 8 % might not be appropriate for all street designs; requiring a variance would allow additional review and possible conditions to mitigate potential adverse impacts of street grades exceeding 8%.

ITE (Institute of Traffic Engineers) has revised its recommendations for intersections and approaches grades to allow a 4% grade at those locations; the proposed changes are consistent with those recommendations.

12-4-4: STREET GRADES:

A. The maximum grade for:

1. Streets is eight percent (8%), except as otherwise provided in this section; and
2. An intersection, the fifty foot (50') of street approach prior to an intersection, and emergency turnaround are ~~three~~ four percent (~~3%~~)(4%). (The measurement of a street approach to an intersection is taken from where the projected curbs intersect.)

B. Variances from the maximum street grade may not be granted by the city commission—under the provisions of 12-2-3(B) and subject to the following restrictions and conditions:

1. The variant street grade is not more than 10%;
2. Subdivision streets exceeding 8% grade must intersect with a street with a grade not exceeding 8%;
3. The applicant for a variant street must demonstrate the proposed street design will provide for:
 - Safe and adequate access for residential vehicles and pedestrians;
 - Street and utility installation and maintenance; and
 - The delivery of general and emergency services including fire apparatus set up and operation.

ALLEYS

Comments: To clarify Sections 12-1-6 and 12-4-6 of the Helena Subdivision Regulations, the following changes are proposed:

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

B. Any alley within a subdivision shall conform to the following:

1. A minimum right of way width of twenty feet (20').

ALLEY: A dedicated public right of way, ~~not over twenty feet (20') in width~~, which provides only a secondary means of access to property and is not intended for general travel.

SIDEWALKS

Comments: Currently, subdivision sidewalks are required to be installed concurrent with installation of streets, curbs and gutters. Typically, subdivision streets, and thus sidewalks, are installed prior to building construction, which can sometimes result in damage to sidewalks as construction of buildings proceeds. To reduce replacement costs of sidewalks damaged during building construction, the proposed changes would allow installation of subdivision sidewalks to be deferred for 3 years if financially guaranteed, or longer if approved by the City Commission. The financial guarantee may be reduced as sidewalks are installed.

Proposed changes to Section 7-4-2 of The City Codes would require installation of sidewalks as part of the building permit for the principal structure. This requirement would apply to existing vacant lots as well as new subdivisions.

12-4-11: PUBLIC IMPROVEMENTS:

The following public improvements must be installed in conformance with plans, specifications and a construction schedule approved by public works. The required improvements must be installed as follows:

A. Street construction. The street rights of way must designate the location of sidewalks and be graded and an approved base installed to allow for placement of sidewalks.

B. Sidewalks or walkways must be constructed by the ~~property owner~~ developer concurrent with installation of streets, curbs and gutters unless deferred as provided in this section. Except for sidewalks on rights of way abutting private or public parks, open space, common areas, or other areas intended to be used by the public or common owners, the installation of other sidewalks may be deferred pursuant to 12-4-14 for which a performance bond or other approved security is in effect that guarantees the installation.

Comments: Concurrent changes to the City Codes would include the following:

7-4-2: OWNERS TO BUILD:

All persons owning abutting property shall build the sidewalks, curbs and gutters ~~and all necessary sidewalks, curbs and gutters~~ for such property, and the same shall be built to the following standards:

- A. Residential And Commercial Sidewalk Placement: The location and installation of sidewalks on public right of way are subject to the following:
1. All sidewalks are to be placed one foot (1') from the property line with the remaining right of way to the curb line to be developed as a boulevard. The minimum width of the sidewalk is five feet (5') and the maximum is fourteen feet (14'). ~~The edge of the sidewalk closest to the street may not extend into the right of way more than fourteen feet (14') from the property line.~~
 2. Upon approval by the city commission of an application from the owner of the property abutting the proposed sidewalk, the owner may install curb sidewalks for boulevard walks.
 3. Upon approval of the city manager or the city manager's designee, the owner may make other minor deviations on the location of the sidewalk, including meandering the sidewalk to accommodate immovable obstacles and terrain impediments and for attachment to and continuity with adjacent sidewalks.
 4. The location of the walks will be determined during the development of the preliminary plat for the new subdivisions, approval of conditional use permits, issuance of building permits for construction of principal structures on adjacent property, and upon establishment of conditions for annexation.
 5. Unless previously constructed, sidewalks must be installed on abutting right of way as part of the construction of a principal structure. The installation of needed sidewalks must be part of the building permit issued for the principal structure. (Ord. 2877, 7-12-1999; amd. Ord. 2885, 10-25-1999)

AMENDED PLATS

Comments: Proposed amendments to Section 12-7-4: APPROVED AMENDED PLAT of the Helena Subdivision Regulations would provide for access, water, and sewer to amended City lots.

12- 7-4: **APPROVED AMENDED PLAT:** An approved amended plat that is not exempt from subdivision review must be certified by the City Engineer, Director of Community Development or designated representative, Mayor, and Clerk of the Commission. Approved amended plats that are exempt from subdivision review must be certified by the Director of Community Development or designated representative and City Engineer. Amended plats may not be certified or approved for filing unless the lots or parcels created thereby have legal and physical access to public ways and are served by water and sewer mains located in adjacent public rights-of-way or city-held easements. The installation of required public improvements may be deferred pursuant to 12-4-14 for the period for which a performance bond or other irrevocable security is in effect that guarantees the installation. Approved amended plats are returned to the applicant for filing with the County Clerk and Recorder.

Discussion Commissioner Netschert asked what the current minimum diameters of right-of-ways and pavement? Ms. Morrell-Gengler explained it is based on ITE and the subdivision regulations. Commissioner Netschert asked if the dead-end street does not exceed 400 feet in length, what is the current standard? Mr. Morrell-Gengler explained there is not a limitation for that other than dead-end street limited to 700 feet.

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

Dave Stahly, 2687 Airport Road, spoke in support of raising the maximum grade allowable.

Judy Shire, 609 3rd Street, explained she is very uncomfortable with changing of the street grades and does not support the proposal.

Bridget Holland, 21 N. Last Chance Gulch, stated she concurred with Mr. Stahly and spoke in support of the proposal.

Joe Mueller, 2002 Sweetgrass Rd, stated he concurred with Mr. Stahly and spoke in support of the proposal.

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

Discussion Commissioner Netschert stated he feels there is room for adjustment and explained there is some language in the proposal that he would like to amend. One of them would be to the alternate turn a round and that would be increasing the length consistent with the city's maximum street length regarding dead-end streets and he would amend making the street grades 10% and not include variances.

Motion **Commissioner Oitzinger moved approval of the amendments to the city of Helena City Code Title 12 Subdivision in accordance with the staff memorandum July 23, 2003.**

Discussion Commissioner Parriman mentioned he is comfortable with the proposal and would support 10% by right without any variance. Commissioner Parriman stated he believes in joint city/county standards. He explained regarding the sidewalks, he believes the sidewalks should be installed during the permit process.

Second Commissioner Pouliot seconded the motion.

Substitute Motion **Commissioner Oitzinger moved to table the approval of the amendments to the city of Helena City Code Title 12 Subdivision in accordance with the staff memorandum July 23, 2003, subject to discussion during an Administrative Meeting.** Commissioner Parriman seconded the motion.

Discussion Commissioner Parriman explained he would like to see it done as soon as possible.

Mayor Smith stated the discussion will be held on August 13, 2003 and amendments will be discussed and made at that time.

Commissioner Netschert stated he would be prepared to submit any changes within a day or two.

Commissioner Oitzinger mentioned she likes the idea of variances.

Commissioner Pouliot stated he would be voting for it.

Vote All voted aye, motion carried.

**Public
Communications**

PUBLIC COMMUNICATIONS

Jerry Hutch, 1111 E. State Street, explained last year at this time, during the city commission meeting, people spoke regarding the ordinance of bicycles on the pedestrian walking mall. He stated not quite a year ago, a resident of Helena, was knocked down and sustained injuries that eventually killed him. The issue has to do with people who ride bicycles on the pedestrian walking mall have a tendency to wear helmets and pedestrians do not. The kinetic energy that is generated from those individuals hitting a pedestrian, throws them to the ground very severely. Mr. Hutch urges the Helena Police Department to continue enforcing the laws. He mentioned having the ordinances extend to include segways.

Mayor Smith asked if Mr. Hutch could gather some information regarding segways for the commission.

George Hoff, 1409 Cannon, mentioned the prime contractor and Montana's Department of Transportation wanted him to inform the commission that the road construction on Lyndale Avenue, North Main, Cedar and Montana Avenue has been completed.

**Meetings of
Interest**

MEETINGS OF INTEREST

No report given.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:30 p.m.

Mayor Smith

ATTEST:

CLERK OF THE COMMISSION

