

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 7, 2004
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 7, 2004, at 6:00 p.m., in the Old Supreme Court Chambers, Room 303, State Capitol Building.

Members Present

Mayor Smith indicated for the record that Commissioners Oitzinger, Cartwright, and Parriman were present. Commissioner Pouliot was excused. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Jacki Pierson were present. Others present were Anne Pitchette representing the Youth Advisory Council, Jerry Hutch representing the Helena Citizens Council and Jason Mohr with the Independent Record.

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 May 17, 2004 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. FY03 US Department of Homeland Security Equipment grant and budget amendment
- C. A resolution of intention to establish a rate matrix for service charges for Commercial collection and disposal of garbage and refuse in the City of Helena, Montana for Fiscal Year 2005 **Res. #19097**
- D. A resolution of intention to establish charges for collection and disposal of Residential garbage and refuse in the City of Helena, Montana, for Fiscal Year 2005 **Res. #19098**
- E. Professional services contract for Great Northern traffic study
- F. Professional services contract for the Forrest Estates Pumps Station
- G. Interlocal Library Agreement
- H. Second passage of Ordinance #2992 – amending section 11-13-2 of the Helena City Code to allow churches as a permitted use in CLM (Commercial-Light Manufacturing) Districts.

City Manager Tim Burton recommended approval of the claims.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Oitzinger moved approval of items A through H on the consent agenda. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Bid Award

BID AWARD:

- A. 11th Avenue sidewalk construction, City Project No. 99-18

Staff Report

City Engineer Ryan Leland reported staff recommends tabling this item for two weeks due to financing issues.

Public Comment Mayor Smith asked for public comment, none was received.

Motion Commissioner Cartwright moved to table the award of City Project No. 99-18 until June 21, 2004. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

B. Tamarack Street construction, City Project SID No. 413

Staff Report City Engineer Ryan Leland reported this project reconstructs 300 lineal feet of Tamarack Street to a 33-foot wide paved section with curb & gutter. This project will eliminate a dust problem and annual gravel road maintenance. Fronting property owners' participation in the SID is paying the full cost of the construction. To minimize SID bonding cost, this SID and the SID 418, McHugh Lane Reconstruction will be combined for bond issuance.

The project was advertised and bids were opened on May 11, 2004. Two contractors submitted bids. Gruber Excavating Inc. of Clancy, Montana submitted the low bid of \$32,500.74. A math error of \$1.74 was discovered in the low bid but the error does not change the order of the bidders.

Mr. Leland recommended awarding the work to Gruber Excavating Inc.

Public Comment Mayor Smith asked for public comment, none was received.

Motion Commissioner Oitzinger moved to award City Project SID 413, Tamarack Street construction to the lowest, responsible bidder, Gruber Excavating Inc. of Clancy, Montana in the amount of \$32,500.74. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
The commission gave their condolences to Commissioner Oitzinger.
Commissioner Parriman congratulated his son on his high school graduation.
Commissioner Cartwright stated he has been asked by several citizens regarding the locations of the downtown walking mall improvement plans and asked for a list of those locations.
Commissioner Oitzinger thanked the commission for their condolences and the city family members who made a contribution to the Humane Society in her mother's name.

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

Report of the City Manager REPORT OF THE CITY MANAGER
City Manager Tim Burton listed the numerous locations of the Downtown Improvement plans.

HCC Communications HELENA CITIZENS COUNCIL COMMUNICATIONS
No report given.

Street Maintenance CONSIDER FIRST PASSAGE OF AN ORDINANCE DEFINING THE METHOD OF ACCOMPLISHING AND PAYING FOR STREET MAINTENANCE

Staff Report City Attorney David Nielsen reported at the time the City's street maintenance districts were formed, they were termed "sprinkling districts" and their sole function was to sprinkle the dirt streets for dust control. To form a sprinkling district, the city was required to pass an ordinance that provided the method of doing the sprinkling and paying for it. In 1983, the Montana Legislature changed "sprinkling districts" to "street maintenance districts" and expanded the types of maintenance to include chip sealing, seal coating, and overlays. A new ordinance would bring the old enabling ordinance up to date and incorporate the statutory changes that have occurred since the district's original creation.

City Attorney David Nielsen recommended enacting a new enabling ordinance that embodies the changes in statute that have occurred since the passage of the first enabling ordinance, and adopt the methods currently used by the city to accomplish and pay for maintenance.

Public Comment Mayor Smith asked for public comment, none was received.

Motion **Commissioner Cartwright moved approval for first passage of an ordinance defining the method of accomplishing and paying for street maintenance.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ord. #2993**

US 12 Frontage Road CONSIDER A RESOLUTION AND CONSTRUCTION AGREEMENT FOR US 12 FRONTAGE ROAD REALIGNMENT

Staff Report Public Works Director John Rundquist stated City Attorney David Nielsen recommended tabling the action pertaining to the construction agreement with MDT to coincide with the public hearing on the right-of-way vacation.

Public Comment Mayor Smith asked for public comment, none was received.

Discussion Mayor Smith asked if the recommendation to table the construction agreement included the resolution, as well? Mr. Rundquist concurred both the resolution and agreement should be tabled.
Commissioner Cartwright asked regarding the old gas tanks and who would be responsible for those? Mr. Rundquist explained the lot would remain in private ownership.

Motion **Commissioner Oitzinger moved to table of the agreement and resolution of the US 12 Frontage Road realignment with the Montana Department of Transportation until June 21, 2004.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

MT Ave./Tara Court CONSIDER A RESOLUTION AND CONSTRUCTION AGREEMENT FOR THE INSTALLATION OF A TRAFFIC SIGNAL AT MONTANA AVENUE AND TARA COURT – MDT PROJECT STPHS 5809(16)

Staff Report

Public Works Director John Rundquist reported the Montana Department of Transportation proposes to construct a traffic signal at the intersection of Montana Avenue and Tara Court about one block south of Custer Avenue. According to MDT, this location is a particular traffic safety issue due to the accident history. The work will also include installation of raised median on Custer Avenue and Montana Avenue.

MDT asked that the city agree to the terms of the attached construction agreement and execute both the agreement and resolution. MDT will fully fund the project and no city cost contribution is required to complete this work.

Mr. Rundquist recommended approval of the agreement and resolution.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Commissioner Cartwright asked regarding MDT's traffic studies and accident history reports? Mr. Rundquist explained the city is independent conducting another traffic analysis associated with the Transportation Plan and he has yet to see MDT's findings.

Motion

Commissioner Parriman moved approval of the construction agreement and resolution with the Montana Department of Transportation for MDT Project STPHS 5809(16).
Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19114**

MT Ave. Safety Improvements

CONSIDER A RESOLUTION AND CONSTRUCTION AGREEMENT FOR MONTANA AVENUE SAFETY IMPROVEMENTS – NORTH OF HELENA – MDT PROJECT STPHS 5809(15)

Staff Report

Public Works Director John Rundquist reported the Montana Department of Transportation would be constructing roadway, safety and pedestrian improvements on Montana Avenue north of Ptarmigan Lane to Buffalo Road. These improvements will include street widening to three lanes, curb and gutter on both sides, pedestrian path/bikeway on the east side, median improvements, signing and striping. As a small amount of the work will be within city limits, MDT requires approval of a standard construction agreement. MDT will administer the project and no contribution of City funds is required for this work.

Mr. Rundquist recommended approval of the construction agreement.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Commissioner Cartwright asked what the design speed is on this road? Mr. Rundquist stated he was unsure. Commissioner Cartwright mentioned he believes it is 50mph and asked if the city wants to take on that kind of speed into an urban network? Mr. Rundquist explained he is unsure what the speed plan is for the approach into or leaving Helena. Commissioner Cartwright stated there is a good chance the city would be annexing towards this area; however it is being built for a much higher speed then would be desirable for an urban road. He explained he is uncomfortable taking on those kinds of obligations and liabilities and stated if this is suppose to be a safety project he is unsure the city wants to build a road that won't meet the safety requirements of an urban area.

Mr. Rundquist stated without seeing the speed report from MDT he is unable to comment on that issues; however, it is a safety project designed to separate pedestrians and traffic from that area. Commissioner Cartwright explained that area is being built for much higher standards then will be appropriate over the next few years. Mayor Smith stated an option would be to convince the commission to table the item and invite someone from MDT to speak with the commission regarding present and future plans for North Montana Avenue. Mayor Smith asked what MDT's timeframe is on this project? Mr. Rundquist stated MDT was planning on having this project executed as soon as possible. City Manager Tim Burton explained this project was discussed at the time the Forestville Interchange was denied, so it has been implemented in phases more north of the city and this item is another link to that project. Mr. Burton explained there is a speed limit plan for that entire section from Lincoln Road all the way into the city. He suggested because the Transportation Commission has already approved that plan, the city commission act on this agreement but bring in MDT to explain the issues. Commissioner Cartwright explained he is still uncomfortable with the speed plan and the possibility of annexing these high-speed roads into the city over the next couple years. Mayor Smith mentioned the city has been annexing north of Custer Avenue for years now and stated discussions with MDT would be available regardless of the commission's action here tonight.

Motion

Commissioner moved Parriman approval of the construction agreement and resolution with the Montana Department of Transportation for MDT Project STPHS 5809(15).

Commissioner Oitzinger seconded the motion. Motion carried 3:1 with Commissioner Cartwright voting no. **Res. #19115**

Cruse/ Benton Ave.

CONSIDER A MINOR UTILITY RELOCATION AGREEMENT FOR CRUSE AVENUE RESURFACING, PARK AVENUE TO 11TH – MDT PROJECT CM5815(4)

Staff Report

Public Works Director John Rundquist reported the city was made eligible and awarded a Pavement Management Grant from Montana Department of Transportation due to the City Street Division's maintenance of an inventory, assessment and indexing program for street pavement condition. MDT selected Cruse and Benton Avenues to apply the grant funds for pavement restoration and has completed design and contract preparation for a project this summer. The project will consist of overlay, mill and overlay, handicap ramp improvements, chip seal, and pavement markings.

MDT requires that the city agree to allow MDT to adjust utilities (sewer manholes and water valves) and requires that the city share the costs when such exceed \$25,000. The cost to this project is estimated at \$390 and therefore no city participation is anticipated.

Mr. Rundquist recommended approval of the utility relocation agreement.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Commissioner Oitzinger stated when this grant was applied for Henderson Avenue was the city's top priority; however, Henderson Avenue did not qualify for this particular grant because it was considered to badly damaged. Commissioner Oitzinger asked how the grant process

works? Mr. Rundquist explained Henderson Avenue was the top priority; however, Henderson Avenue's pavement is so deteriorated that the mill and overlay would not be a worthwhile investment but the project is in the capital plan to replace the pavement and base of that road. Commissioner Oitzinger asked if it is a federal or state requirement that no base work can be accomplished with this type of fund? Mr. Rundquist explained it is a federal regulation that the grant was intended to assist local communities with pavement management that does not disturb the base. Commissioner Oitzinger stated she would like to visit with MDT regarding what the strategy would be for working with the federal government for more flexibility so the city can submit a true priority list that would be followed.

City Manager Tim Burton explained MDT is holding a series of public hearings pertaining to the level of funding in the urban system.

Commissioner Cartwright asked regarding angle parking on Cruse Avenue? Mr. Rundquist explained those details have been sorted out with MDT and the city will be restoring the parking to how it exists today when the project is finished.

Motion **Commissioner Oitzinger moved approval of the minor utility relocation agreement with the Montana Department of Transportation for MDT Project No. CM5815(4).** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Cruse/Benton Ave. CONSIDER A RESOLUTION AND CONSTRUCTION AGREEMENT FOR CRUSE AVENUE RESURFACING, PARK AVENUE TO 11TH – MDT PROJECT CM5815(4)

Staff Report Public Works Director John Rundquist reported the city was made eligible and awarded a Pavement Management Grant from Montana Department of Transportation due to the City Street Division's maintenance of an inventory, assessment and indexing program for street pavement condition. MDT selected Cruse and Benton Avenues to apply the grant funds for pavement restoration and has completed design and contract preparation for a project this summer. The project will consist of overlay, mill and overlay, handicap ramp improvements, chip seal, and pavement markings.

MDT requires that the city agree to the terms of the attached construction agreement to be eligible for this work. The agreement does not require cost participation by the city.

Mr. Rundquist recommended approval of the construction agreement and resolution.

Public Comment Mayor Smith asked for public comment, none was received.

Motion **Commissioner Cartwright moved approval of the construction agreement and resolution with the Montana Department of Transportation of MDT Project CM5815(4).** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19116**

Cruse/Benton Ave. CONSIDER A TEMPORARY CONSTRUCTION PERMIT FOR HANDICAP RAMP CONSTRUCTION ON CITY PROPERTY AT BROADWAY AND CRUSE, ASSOCIATED WITH MDT PROJECT CM5815(4)

Staff Report Public Works Director John Rundquist reported the city was made eligible and awarded a Pavement Management Grant from Montana Department of Transportation due to the City Street Division's maintenance of an inventory, assessment and indexing program for street pavement condition. MDT selected Cruse and Benton Avenues to apply the grant funds for pavement restoration and has completed design and contract preparation of r project this summer. The project will consist of overlay, mill and overlay, handicap ramp improvements, chip seal, and pavement markings.

MDT requests a Temporary Construction Permit to complete a handicap ramp at Broadway and Cruse. The work will extend a few feet outside the public right-of-way on city property. The work will restore any impact to existing structures or landscaping on city property.

Mr. Rundquist recommended approval of the temporary construction permit.

Public Comment Mayor Smith asked for public comment.

Jerry Hutch asked if the blind has been taken into consideration when constructing this intersection. Mr. Rundquist concurred.

Motion **Commissioner Oitzinger moved approval and authorized the City Manager to sign the Temporary Construction Permit for handicap ramp construction on city property at Broadway and Cruse associated with MDT Project CM5815(4).** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Cruse/Benton Ave. CONSIDER A TEMPORARY CONSTRUCTION PERMIT FOR THE DRIVEWAY APPROACH TO THE NEIGHBORHOOD CENTER PARKING LOT ON CRUSE AVENUE, ASSOCIATED WITH MDT PROJECT CM5815(4)

Staff Report Public Works Director John Rundquist reported the city was made eligible and awarded a Pavement Management Grant from Montana Department of Transportation due to the City Street Division's maintenance of an inventory, assessment and indexing program for street pavement condition. MDT selected Cruse and Benton Avenues to apply the grant funds for pavement restoration and has completed design and contract preparation for a project this summer. The project will consist of overlay, mill and overlay, handicap ramp improvements, chip seal, and pavement markings.

MDT requests a Temporary Construction Permit to construct a mill and overlay on the driveway approach to Cruse Avenue from the Neighborhood Center Parking Lot. The city of Helena is the named property owner of record for the driveway approach.

Mr. Rundquist recommended approval of the temporary construction permit.

Public Comment Mayor Smith asked for public comment, none was received.

Motion **Commissioner Cartwright moved approval and authorized the City Manager to sign the Temporary Construction Permit for the driveway approach to the Neighborhood Center Parking Lot on Cruse Avenue associated with MDT Project CM5815(4).**

Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Cruse/Benton Ave. CONSIDER A MINOR UTILITY RELOCATION AGREEMENT FOR BENTON AVENUE RESURFACING, CUSTER TO WILDER – MDT PROJECT CM5805(8)

Staff Report Public Works Director John Rundquist reported the city was made eligible and awarded a Pavement Management Grant from Montana Department of Transportation due to the City Street Division's maintenance of an inventory, assessment and indexing program for street pavement condition. MDT selected Cruse and Benton Avenues to apply the grant funds for pavement restoration and has completed design and contract preparation for a project this summer. The project will consist of overlay, mill and overlay, handicap ramp improvements, chip seal, and pavement markings.

MDT requires that the city agree to allow MDT to adjust utilities (sewer manholes and water valves) and requires that the city share the costs when such exceed \$25,000. The cost to this project is estimated at \$5,029 and therefore no city participation is anticipated.

Mr. Rundquist recommended approval of the utility relocation agreement.

Public Comment Mayor Smith asked for public comment, none was received.

Motion **Commissioner Parriman moved approval of the minor utility relocation agreement with the Montana Department of Transportation for MDT Project CM5805(8).** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Cruse/Benton Ave. CONSIDER A RESOLUTION AND CONSTRUCTION AGREEMENT FOR BENTON AVENUE RESURFACING, CUSTER TO WILDER – MDT PROJECT CM5805(8)

Staff Report Public Works Director John Rundquist reported the city was made eligible and awarded a Pavement Management Grant from Montana Department of Transportation due to the City Street Division's maintenance of an inventory, assessment and indexing program for street pavement condition. MDT selected Cruse and Benton Avenues to apply the grant funds for pavement restoration and has completed design and contract preparation for a project this summer. The project will consist of overlay, mill and overlay, handicap ramp improvements, chip seal, and pavement markings.

MDT requires that the city agree to the terms of the construction agreement to be eligible for this work. The agreement does not require cost participation by the city.

Mr. Rundquist recommended approval of the construction agreement and resolution.

Public Comment Mayor Smith asked for public comment, none was received.

- Discussion Mayor Smith asked regarding notification to the public on this project? Mr. Rundquist explained the project is about a year away and MDT would be starting the notification to the public soon.
- Motion** **Commissioner Parriman moved approval of the construction agreement and resolution with the Montana Department of Transportation for MDT Project CM5805(8).** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19117**
- North St. Right-of-Way** CONSIDER A RESOLUTION OF INTENTION TO VACATE UNDEVELOPED NORTH STREET RIGHT OF WAY LYING SOUTH OF LOTS 1-8 IN BLOCK 31 AND NORTH OF LOTS 4-8 IN BLOCK 32, IN THE CITY PARK ADDITION IN HELENA, LEWIS AND CLARK COUNTY, MONTANA
- Staff Report City Engineer Ryan Leland reported the intersection of the Frontage Road on the south side of US 12 and 18th Street is problematic as the intersection is so near to the traffic signal at US 12 and 18th Street. Traffic movement from Frontage Road through the signal to westbound US 12 is nearly impossible during peak traffic hours and creates a safety issue.
- MDT proposes to realign the frontage road to move the intersection south to where Cannon Street currently intersects. Concurrently, Community First Bank is proposing to construct a new branch building in the area of the proposed realignment.
- North Street is currently vacant land between the MDT frontage road and the adjacent land. The traffic currently uses the Frontage Road ROW instead of the North Street ROW.
- Mr. Leland recommended vacating North Street ROW in cooperation with obtaining new ROW associated with the frontage road realignment. The city does have a water main in the North Street ROW and will retain a 20' utility easement, for operation and maintenance.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Cartwright moved approval of the resolution of intention to vacate North Street Right-of-Way and set a public hearing date for June 21, 2004.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19099**
- Donaldson St. Right-of-Way** CONSIDER A RESOLUTION OF INTENTION TO VACATE A PORTION OF DONALDSON STREET RIGHT OF WAY ADJACENT TO LOT 20 IN BLOCK 72 OF THE ORIGINAL HELENA TOWNSITE IN HELENA, LEWIS AND CLARK COUNTY, MONTANA
- Staff Report City Engineer Ryan Leland reported Donaldson Street is currently undeveloped land located between Howie Street and Harrison Avenue. There are currently no utilities in Donaldson Street, at this location.
- Mr. Leland recommended approval of the resolution of intention.
- Public Comment Mayor Smith asked for public comment, none was received.

Discussion

Commissioner Cartwright asked if the intent is to eventually have Donaldson Street connect with Howie Street and Reeders Village Drive? Mr. Leland concurred. Commissioner Cartwright mentioned moving the public hearing to July 12, 2004 in order to have ample discussion time.

Mayor Smith asked if between Harrison Street to Reeders Village Drive is a gully? Mayor Smith stated the last proposal the commission saw was to extend Harrison Street straight across and to build it up on a berm and he asked if this is still the intention of the applicants? Mr. Leland concurred. Mayor Smith explained he is hesitant to support the motion because the action tonight could commit the city to the remainder of the project. Mr. Rundquist explained Harrison Avenue, under the current proposal, wouldn't be extended to the gully; however, there will be fill associated with Harrison Street in order to construct that roadway, within the right-of-way that it gets.

Commissioner Parriman asked if by setting the public hearing tonight would tie the city into anything in the future? Mr. Rundquist explained this property already has existing platted lots and several property owners are trying to build the infrastructure to serve those lots within the existing right-of-way. The action tonight allows for the property owners to give away, as well as, receive some right-of-way. Relative to future commission action on this item, another action that needs to take place is the extension of water/sewer service area boundaries.

Mr. Burton stated setting the public hearing tonight does not tie the commission into any decision one way or the other.

Commissioner Oitzinger stated she would like more information on emergency service access and the fill that is being proposed. She stated she would like to change the public hearing from June 21, 2004 to July 12, 2004.

Motion

Commissioner Oitzinger moved approval of the resolution of intention to vacate a portion of Donaldson Street Right-of-Way and set a public hearing date for July 12, 2004. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #19100**

Helena City Code
8-11-13

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 8-11-13 OF THE HELENA CITY CODE TO CLARIFY ANGLE PARKING

Staff Report

Public Works Director John Rundquist reported Montana Code 61-8-355 allows a local authority, ordinance, permit angle parking on a roadway, except that angle parking may not be permitted on any federal-aid or state highway unless the Montana Department of Transportation determines that the roadway is of sufficient width to permit angle parking without interfering with the free flow of traffic.

This issue comes up occasionally on Cruse Avenue and Park Avenue as both streets have sections of angled parking and both are designated federal-aid urban routes. Although our present ordinance does allow for angled parking, the ordinance is not specific to any given roadway. This issue was brought to our attention with the proposed MDT project to rehabilitate Cruse Avenue.

Mr. Rundquist recommended approval of the ordinance.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion **Commissioner Cartwright moved approval for first passage of an ordinance amending Section 8-11-13 of the Helena City Code to clarify angle parking.** Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ord. #2994**

Series 1992 B Bonds CONSIDER A RESOLUTION RELATING TO CITY WATER SYSTEM REVENUE BONDS: AUTHORIZING THE ISSUANCE OF WATER SYSTEM REVENUE REFUNDING BONDS TO REFUND CERTAIN OUTSTANDING WATER SYSTEM BONDS

Staff Report City Controller Glenn Jorgenson reported the city proposes to take advantage of the current low interest rates to save money refunding Water System Bonds. He anticipates a 2% to 3% decrease in interest rates through refunding.

The city also proposes to work with Piper Jaffray & Co. as the underwriter for a negotiated bond sale. Sale parameters in the proposed resolution plus market comparisons will assure us of an economical bond refunding. This resolution authorizes the Mayor, City Manager, and Administrative Services Director to complete the final negotiation on the date of sale.

Mr. Jorgenson recommended approval of the resolution relating to city water system revenue bonds.

Public Comment Mayor Smith asked for public comment, none was received.

Discussion Commissioner Parriman commended the city staff for finding such a great money saving solution.

Commissioner Oitzinger asked if the ability to refund these bonds is driven by the 11-1-04-call date? Mr. Jorgenson concurred.

Motion **Commissioner Parriman moved approval of the resolution relating to city water system revenue bonds: authorizing the issuance of water system revenue refunding bonds to refund certain outstanding water system bonds.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #19101**

Helena Transfer Station CONSIDER A RESOLUTION OF INTENTION SETTING FEES CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION FOR FISCAL YEAR 2005

Staff Report Public Works Director John Rundquist reported the city commission passes a resolution annually establishing charges for the Transfer Station. The proposed resolution includes all charges that are currently being utilized by the Transfer Station and includes them on one resolution. The Public Works Department is recommending a \$.75 reduction in the tipping fee charged for disposal at the Transfer Station. This reduction is made up from a \$1.75 reduction in the county tipping fee due to refunding landfill bonds and a \$1.00 increase in the city tipping fee in order to cover operating expenses, meet bond coverage, and equipment reserve goals.

Mr. Rundquist recommended approval of the resolution of intention.

Public Comment Mayor Smith asked for public comment, none was received.

Motion **Commissioner Oitzinger moved approval of a resolution of intention to set fees charged for disposal of garbage and refuse at the city of Helena Transfer Station for Fiscal Year 2005 and set a public hearing date of June 21, 2004.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #19102**

Municipal Budget Law CONSIDER A RESOLUTION OF INTENTION TO AMEND THE ANNUAL APPROPRIATIONS IN THE BUDGET FOR FISCAL YEAR 2004

Staff Report Budget Manager Robert Ricker reported on June 23, 2003, the city commission adopted Resolution 12003, granting budget authority at various fund and department appropriation levels. The budget is not a static document, and budget amendments become necessary in light of new of changing circumstances. Budget Amendments are summarized as follows:

1. \$20,440 for unanticipated employee retirement costs in the Helena Area Transit System (HATS) fund, to be funded 50% from General Fund cash reserves and 50% from Section 5311 federal grant funding.
2. \$12,100 to provide for overtime costs in the Fire Department to cover for a staffing shortage due to the absence of two firefighters on medical leave.

Mr. Ricker recommended approval of the budget amendments.

Public Comment Mayor Smith asked for public comment, none was received

Discussion Commissioner Parriman asked regarding the 50/50? Mr. Ricker explained the 50% comes from the 5311 federal grant funding which is an operational grant for the Helena Transit System. For each dollar they fund the city kicks in their own dollar.

Motion **Commissioner Oitzinger moved approval of a resolution of intention to amend the annual appropriations in the budget for Fiscal Year 2004 and set a public hearing date of June 21, 2004.** Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #19103**

Annual Charges CONSIDER RESOLUTIONS OF INTENTION TO LEVY AND ASSESS THE FOLLOWING ANNUAL CHARGES:

- A. STREET LIGHTING DISTRICTS
- B. STORM WATER UTILITY
- C. TREE PLANTING AND MAINTENANCE DISTRICT
- D. SPECIAL IMPROVEMENT DISTRICTS (SID'S)
- E. SIDEWALK IMPROVEMENT PROGRAM

Staff Report Budget Manager Robert Ricker reported each year the city commission must levy and assess the following annual charges in order for them to be placed on the upcoming tax bills.

Street Lighting Districts: Street Lighting districts assessments are based upon the anticipated cost of electric utility bills and administrative services. **Res. #19104**

Storm Water Utility: The Storm Water Utility resolution of intention anticipates no increase in the rate or change in the method of assessment. **Res. #19105**

Tree Planting and Maintenance District: The proposal is to keep the assessment rate the same at \$10 per GEO code or parcel. **Res. #19106**
Special Improvement Districts (SIDs): The SID assessments are for outstanding debt. New SIDs or advance payments of assessments will automatically create related budget adjustments. **Res. #19107**
Sidewalk Improvement Program: The Sidewalk Improvement Program resolution of intention shows the total amount of annual assessments that will be placed on the tax bills for the 2001 and prior programs. **Res. #19108**

Mr. Ricker recommended approval of the resolutions of intention.

Public Comment

Mayor Smith asked for public comment, none was received

Discussion

Commissioner Parriman asked regarding dust control districts. Mr. Ricker explained they have been phased out and funds are now taken out of the street maintenance.

Motion

Commissioner Oitzinger moved approval of the resolutions of intention to levy and assess the annual charges; a. Street Lighting Districts; b. Storm Water Utility; c. Tree Planting and Maintenance District; d. Special Improvement Districts (SID's); e. Sidewalk Improvement Program for Fiscal Year 2005 and set a public hearing for June; 21, 2004. Commissioner Parriman seconded the motion. All voted aye, motion carried.

HPC Budget

CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE HELENA PARKING COMMISSION FOR FISCAL YEAR 2005

Staff Report

Budget Manager Robert Ricker reported State law (§7-14-4615, MCA) requires the Helena Parking Commission report transactions and financial affairs and the city commission approve the budgets of any appointed board. The Helena Parking Commission has presented its proposed 2005 budget to the city commission for consideration.

Public Comment

Mayor Smith asked for public comment.
Hal Fossum, Director of the Helena Parking Commission, urged the commission for approval.

Discussion

Commissioner Oitzinger asked if this would help get the reserve into a better situation. Mr. Fossum concurred.

Motion

Commissioner Oitzinger moved approval of the resolution of intention to approve the proposed budget of the Helena Parking commission for Fiscal Year 2005 and set a public hearing date for June 21, 2004. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #19109**

BID Budget

CONSIDER A RESOLUTION OF INTENTION TO LEVY AN ASSESSMENT FOR THE CITY OF HELENA BUSINESS IMPROVEMENT DISTRICT (BID) AND TO APPROVE THE PROPOSED WORK PLAN AND BUDGET OF THE BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2005

Staff Report

Budget Manager Robert Ricker reported on July 24, 2000, the city commission passed Resolution #11542 which recreated the BID for an additional ten years. State law (§7-12-1132) requires the BID to submit its budget and work plan to the city commission for consideration and approval of the related assessment to support the district.

Mr. Ricker recommended approval of the resolution of intention.

Public Comment

Mayor Smith asked for public comment.

Hal Fossum, Director of the Downtown Helena BID, urged the commission for approval.

Discussion

Commissioner Cartwright mentioned to Mr. Fossum that discussions regarding the BID's expansion and extensions after the downtown improvements will be discussed in future meetings.

Motion

Commissioner Cartwright moved approval of the resolution of intention to levy an assessment for the city of Helena Business Improvement District (BID) and to approve the proposed work plan and budget of the Business Improvement District for Fiscal Year 2005 and set a public hearing of June 21, 2004. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #19101**

9-1-1 Fund Budget

CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE 9-1-1 FUND FOR FISCAL YEAR 2005

Staff Report

Budget Manager Robert Ricker reported State law (§7-6-4035 MCA) requires that the city commission approval the budget of any appointed board. The 9-1-1 fund falls under the direction of the Support Services Division Board, which has presented the proposed budget to the city commission for consideration.

Mr. Ricker recommended approval of the resolution of intention.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Parriman moved approval of the resolution of intention to approve the proposed budget of the 9-1-1 fund for Fiscal Year 2005 and set a public hearing date of June 21, 2004. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #19111**

Support Services Budget

CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE SUPPORT SERVICES DIVISION FOR FISCAL YEAR 2005

Staff Report

Budget Manager Robert Ricker reported State law (§7-6-4035 MCA) requires that the city commission approval the budget of any appointed board. The Support Services Division has presented the proposed 2005 budget to the city commission for consideration.

Mr. Ricker recommended approval of the resolution of intention.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion **Commissioner Parriman moved approval of a resolution of intention to approve the proposed budget of the Support Services Division for Fiscal Year 2005 and set a public hearing date of June 21, 2004.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #19112**

Property Tax Rev. CONSIDER A RESOLUTION OF INTENTION TO BUDGET ADDITIONAL PROPERTY TAX REVENUE FOR FISCAL YEAR 2005

Staff Report Budget Manager Robert Ricker reported the proposed budget includes tax revenue increases for:

1. the CPI-U inflation factor of 0.97%, or \$39,665;
2. the tax revenue authorized but not levied in the prior year totaling \$275,568;
3. the increase in group benefit premiums of \$30,697; and,
4. the projected State Personal Property Tax Reimbursement decrease of \$8,396.

The total General Fund property taxes of \$4,926,493 do not even cover the \$6,235,326 cost of Police and Fire Services. Property tax revenue growth has not kept up with inflation, and has caused the city to limit services that the community has asked for and needs.

Mr. Ricker recommended approval of a resolution of intention.

Public Comment Mayor Smith asked for public comment, none was received.

Motion **Commissioner Oitzinger moved approval of the resolution of intention to budget additional tax levy revenue for Fiscal Year 2005 and set a public hearing of June 21, 2004.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #19113**

Public Hearings Brewery Ord. PUBLIC HEARINGS:
A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTIONS 11-11-2 AND 11-12-2 OF THE HELENA ZONING ORDINANCE TO ALLOW SMALL BREWERIES AS A PERMITTED USE IN THE B-2 (GENERAL COMMERCIAL) AND B-3 (CENTRAL BUSINESS) DISTRICTS

Staff Report City Planner Lucy Morell-Gengler reported on May 18, 2004, the Helena Zoning Commission unanimously recommended approval of an ordinance amending Section 11-11-2 (B-2 District) and Section 11-12-2, (B-3 District) to allow small breweries as a permitted use.

1. Amending Section 11-11-2 to allow a small brewery, Standard Industrial Classification Manual, Division D, Industry Number 2082 (SIC#2082), that has an annual production of not more than 10,000 barrels as a permitted use in the B-2 District.
2. Amending Section 11-12-2, to allow a small brewery (SIC#2082) that has an annual production of not more than 10,000 barrels as a permitted use in the B-3 District.

The proposed size limitation on the number of barrels produced annually is based upon the number identified in Montana law, 16-3-213 MCA.

Ms. Morell-Gengler recommended approval of the adoption of the ordinance.

Public Hearing

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

Mike Casey, 2088 Grizzly Gulch Dr., stated he wanted to express his appreciation for the staff for looking at the zoning requirements and in looking at revising the definitions in uses.

Hal Fossum, Director of the Downtown Helena BID urged the commission to support the proposal.

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

Motion

Commissioner Cartwright moved approval for first passage of an ordinance amending Helena Zoning Ordinance as follows, 1. Amending Section 11-11-2 to allow a small brewery, (SIC #2082) that has an annual production of not more than 10,000 barrels as a permitted use in the B-2 (General Commercial) District. 2. Amending Section 11-12-2, to allow a small brewery (SIC #2082) that has an annual production of not more than 10,000 barrels as a permitted use in the B-3 (Central Business) District. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ord. #2995**

Art Studio Ord.

- B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 11-8-2 OF THE HELENA ZONING ORDINANCE TO ALLOW PERSONAL AND PROFESSIONAL SERVICES TO INDIVIDUAL CONSUMERS; AND ART STUDIOS AS PERMITTED USES IN THE R-O (RESIDENTIAL OFFICE) DISTRICT
- C. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 11-10-2 OF THE HELENA ZONING ORDINANCE TO ALLOW THE PERMITTED USES OF THE R-O DISTRICT; MUSEUMS, ART GALLERIES, AND LIVE PERFORMANCE THEATERS; ANTIQUE SHOPS; AND REPAIR OF SMALL PERSONAL ITEMS AND HOUSEHOLD GOODS, EXCLUDING AUTOMOTIVE REPAIR AS PERMITTED USES IN THE B-1 (NEIGHBORHOOD BUSINESS) DISTRICT; AND SECTION 11-21-5 (H) TO ALLOW THE CONDITIONAL USES OF THE R-O DISTRICT AS CONDITIONAL USES IN THE B-1 (NEIGHBORHOOD BUSINESS) DISTRICT AND RELATED AMENDMENTS TO REMOVE REPETITIVE USES

Staff Report

City Planner Lucy Morell-Gengler reported first passage of ordinances amending various section of the Helena Zoning Ordinance to revise some of the permitted and conditional uses. The language for these changes has been amended slightly (new language is underlined) from what was presented to the Zoning Commission. The changes are intended to better clarify the use and to be consistent with language in other section of the zoning ordinance.

1. Ordinance amending Section 11-8-2 to allow personal and professional services to individual consumers; and art studios as permitted uses in the R-O (Residential-Office) District.

- 2.

2. Ordinance amending Section 11-10-2 to allow the following uses as permitted uses in the B-1 (Neighborhood Business) District:
 - a. The permitted uses of the R-O District; museums, art galleries, and live performance theatres; antique shops; and repair of small personal items and household good, excluding automotive repair.

Delete 11-10-2 (A) "Uses permitted in the R-3 District, with the exception of mobile homes." And 11-10-2 (B) "Retail, service, and professional uses permitted in the R-O District. The permitted uses in the R-3 District are permitted in the R-O district so it would be repetitive to state the permitted uses in the R-O District and the permitted uses in the R-3 District.

Amend Section 11-21-5 (H) to allow the conditional uses of the R-O District as conditional uses in the B-1 (Neighborhood Business) District. Amend 11-21-5 (F) (3), by changing "Office parks" to "Office uses." Office parks typically deal with the placement of buildings which is guided by the setbacks, lot coverage and other zoning district requirements. "Office use" is a more accurate description of a use and thus is a more appropriate term for this section.

Amend 11-21-5 (H) by deleting:

1. Personal and professional services to individual consumer.

2. Office uses

3. Parking lots, if landscaped and screened.

These items are repetitive of uses or conditional use in the R-O district and to restate them is unnecessary.

Ms. Morell-Gengler recommended approval of first passage of an ordinance.

Public Hearing

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

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

Discussion

Commissioner Cartwright noted in the report from the Zoning Commission the Chair of the Zoning Commission thought that this question wouldn't come up if the UDO was dealt with; however, looking at the length of the resolution he would hope the commission move forward on UDO and if not UDO something that takes care of these things so we don't have to deal with them in the meeting. Mr. Burton stated he met with the Chairman of the Zoning Commission and he's trying to work a review of the UDO or the zoning ordinance into the commission work schedule and will report back to the commission that the budget work has been concluded.

Motion

Commissioner Oitzinger moved approval of first passage of an ordinance to amend Section 11-8-2 of the Helena Zoning Ordinance to allow other personal and professional services to individual consumers; and art studios as permitted uses in the R-O (Residential-Office) District. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ord. #2995**

Motion

Commissioner Oitzinger moved approval of first passage of an ordinance to amend the Helena Zoning Ordinance Section 11-10-2 to allow the following uses as permitted uses in the B-1 (Neighborhood Business) District: the permitted uses of the R-O

District; museums, art galleries, and live performance theatres; antique shops; and repair of small personal items and household good, excluding automotive repair. Section 11-10-2 (A) to delete "Uses permitted in the R-3 District, with the exception of mobile homes." Section 11-10-2 (B) to delete "Retail, service, and professional uses permitted in the R-O District." Section 11-21-5 (F) (3) to changing "Office parks" to "Office use;" and Section 11-21-5 (H) to allow the conditional uses of the R-O District as conditional uses in the B-1 (Neighborhood Business) District; and Section 11-21-5 (H) by deleting: 1.Personal and professional services to individual consumer. 2.Office uses 3.Parking lots, if landscaped and screened. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ord. #2996**

**Minor Subdivision/
Preliminary Plat**

D. CONSIDER A MINOR SUBDIVISION/PRELIMINARY PLAT CREATING TWO LOTS FROM LOT 10-A LOCATED IN THE B-2 (GENERAL COMMERCIAL) DISTRICT LEGALLY DESCRIBED AS LOT 10-A, BLOCK 1, SKELTON ADDITION; GENERALLY LOCATED BETWEEN ROAD RUNNER DRIVE AND DREDGE DRIVE AND SOUTH OF PTARMIGAN LANE

Staff Report

City Planner Belinda Waters reported the applicant proposes that the existing 97,675 square foot lot be subdivided into two lots. Lot 10-A1 will be 63,278 square feet in size and Lot 10-A2 will be 34,397 square feet. Both of the lots located in the proposed subdivision will meet minimum lot area requirements of 2,500 square feet and width requirements of 25 feet for the B-2 District. Currently, both lots are vacant and undeveloped.

Ms. Water recommended approval of the minor subdivision/preliminary plat subject to the following:

1. Effects on Agriculture and Agricultural Water User Facilities

Findings:

The property is located inside the City limits and is not presently in agricultural use. The applicant has not provided information on the existence of water rights on the property.

Conclusion:

The proposed subdivision is not expected to have a significant impact on agriculture or agricultural water user facilities.

2. Effect on Local Services

Findings:

- A) Water and Sewer

Water and waste water mains are available to serve the proposed subdivision and are located in Dredge Drive and Road Runner Drive.

2) The site plan proposes a four-inch water and waste water service line to Lot 10-A2; Lot 10-A1 will be used for the expansion of Murdock's (formally Big R) and no new services will be necessary.

Access

Legal and physical access is provided to both lots by two City streets, Dredge Drive and Road Runner Drive.

Conclusions:

Streets were designed for site-specific requirements during the layout of the major subdivision review. The traffic study already considered that the proposed lots were designated with the B-2 zoning classification and anticipated commercial type uses.

Impacts on local services can be mitigated with the completion of the conditions for subdivision approval.

3. Effects On Natural Environment

Requirements are in place to minimize the effect on the natural environment.

Therefore, this minor subdivision is not expected to negatively affect the natural environment.

4. Effects On Wildlife And Wildlife Habitat

There are no known significant or critical wildlife habitats located within the project area; therefore, the proposed minor subdivision is not anticipated to have a significant impact on wildlife and wildlife habitat.

5. Effects On Public Health And Safety

Findings:

A) Fire Hydrants

The fire protection system, including the location and placement of fire hydrants meeting fire flow requirements have been installed during the original subdivision. It may be necessary to modify the placement of fire hydrants as buildings are constructed on the lots.

B) Storm water Drainage

A storm water drainage plan was submitted to the City Engineer for review during the major subdivision phase of this development. This plan received approval from the City. Storm water drainage for these two lots is handled by the plan for the original subdivision as noted on the site plan.

Conclusions:

The City Engineer must approve any deviations from the approved storm water drainage plans before construction is started. Additional fire hydrants may be necessary to adequately protect new structures built on the two proposed lots. Adverse impacts on public health and safety should be minimal as conditioned.

6. Survey Requirements

Findings:

A) The City maintains plats in a digital format for archival and mapping purposes.

B) The final plat must be in an electronic format compatible with the City's and reflect the City's coordinate system.

Conclusion:

Applicant to provide a copy of the final plat in the acceptable electronic format.

7. Helena Subdivision Regulations

Findings:

The proposed minor subdivision, a component of the Skelton Major Subdivision, complies with Chapter 12, Helena Subdivision Regulations.

Conclusion:

Any additional improvements, not covered under the original subdivision, required for the minor subdivision, must be installed per approved plans or their completion financially guaranteed.

8. Easements

Findings:

No additional easements required.

Conclusion:

Easements were established in the major subdivision and are to be maintained.

9. Legal and Physical Access

Findings:

Preliminary plat shows legal access is provided to all lots.

B) Site visit confirms physical points of legal access to both lots is provided by Dredge Drive and Road Runner Drive.

Conclusion:

Legal and physical access is provided.

CONDITIONS

In light of their findings and determinations, the Helena City Commission hereby votes to conditionally approve the preliminary plat of the Skelton Minor Subdivision – Phase 1 creating 2 lots from Lot 10-A, a 97,675 square feet (2.24 acres) lot legally described as Lot 10-A, Block 1,

Skelton Addition, Helena, Montana. The reason for the conditions is to mitigate the potential for adverse impacts are identified in the Findings above. The evidence supporting these reasons is that contained in the City staff report to the City Commission, and all the testimony and evidence received by the City Commission. This approval is subject to the following conditions as required by §76-3-620, MCA:

1. The Survey Requirements Provided For In Part 4 Of This Chapter

The developer must provide a copy of the final plat in the acceptable electronic format.

Public Hearing

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

Dave Crofts, 2844 Spokane Creek Rd., explained the reasons behind the proposal and urged the commission to support it.

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

Motion

Commissioner Cartwright moved conditional preliminary plat approval of a minor subdivision creating 2 lots from Lot 10-A of the Skelton Major Subdivision containing 97,675 square feet (2.24 acres) in a B-2 (General Commercial) District, generally located between Road Runner Drive and Dredge Drive and south Ptarmigan Lane, and to adopt the Findings of Fact and the conditions outlined above. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Public Communications

PUBLIC COMMUNICATIONS

No report given.

Meetings of Interest

MEETINGS OF INTEREST

Mayor Smith stated the next city commission meeting would be held on Monday, June 21, 2004 at 6:00 and the next administrative meeting would be held on Wednesday, June 16, 2004 at 4:00.

Commissioner Oitzinger mentioned June 8, 2004 is Election Day.

Commissioner Cartwright verified the meeting on June 28, 2004 would be discussing both the walking mall and the entire downtown.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:30 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission