

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
August 16, 2004
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, August 16, 2004, 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 and Parriman were present. Commissioners Cartwright and Pouliot were excused. City Manager Tim Burton, City Attorney David Nielsen, and City Clerk Debbie Havens were present. Others present were Anne Pitchette representing the Youth Advisory Council and George Hoff representing the Helena Citizens Council.

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 26, 2004 were approved as submitted.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Utility bill insert - Mikal Kellner Foundation
C. Utility bill insert - Community Youth Advisory Council
D. Acceptance of a \$9,000 planning grant from the Community Development Block Grant Program, Montana Department of Commerce, amending the budget to expend the grant funds, entering into a contract with the Department of Commerce, and authorizing the City Manager to sign the contracts
E. Release the City's interest in a utility easement located between Lots 2-A and 3-A, Block 1, Skelton Addition; generally located between Road Runner and Dredge Drives

City Manager Tim Burton recommended approval of the claims.

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

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

Bid Awards Bid Awards
A. 2005 long haul semi-tractor cab and chassis – Wastewater Division

Staff Report Assistant Public Works Director Phil Hauck reported bids were let for a new semi-tractor cab and chassis to replace Unit #471 on June 29,2004. Two bids were received with the low bid coming from Great Falls Truck Center. Mr. Hauck referred the commission to the summary of the bids. Great Falls Truck Center bid a 2005 Freightliner at a net price of \$66,589.00 after trade of #471. Budget appropriation for this unit was \$75,000.00.

The purchase of this until will allow the city to upgrade its Wastewater Treatment division's fleet providing a reliable unit, which will also reduce maintenance, costs.

Assistant Public Works Director Phil Hauck recommended the commission accept the bid from Great Falls Truck Center for the 2005 Freightliner Semi-tractor for a price not to exceed \$66,589.00.

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

Motion **Commissioner Parriman moved to accept the bid from Great Falls Truck Center for the 2005 Freightliner Semi-tractor for a price not to exceed \$66,589.00.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

B. Broadway Reconstruction, city project #04-11

Staff Report Assistant Public Works Director Phil Hauck reported this construction project would reconstruct 2,345 lineal feet of roadway surface on Broadway between Lamborn Street and California Street.

The project was advertised and bids were opened on July 20, 2004. One contractor submitted a bid. Helena Sand & Gravel of Helena submitted the low bid of \$241,482.00. A total of \$270,000 is budgeted for the project as shown on the worksheet.

When preparing their bid, Helena Sand & Gravel omitted the traffic control bid item price, but included a price for traffic control in the total over all bid. Staff has received verification from Helena Sand & Gravel that was their intent.

Assistant Public Works Director Phil Hauck recommended awarding City Project 04-10 to the lowest responsible bidder, Helena Sand & Gravel in the amount of \$241,482.00.

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

Motion **Commissioner Parriman moved to award City Project 04-11 to Helena Sand & Gravel in the amount of \$241,482.00.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

C. Sewer Main Replacement, city project #04-01

Staff Report Assistant Public Works Director Phil Hauck reported this construction project would install approximately 1,230 lineal feet of 8-inch PVC sanitary sewer main on Townsend Avenue and Poplar Street.

The project was advertised and bids were opened on July 20, 2004. Four contractors submitted bids. Hard Rock Road Building & Utilities of Helena submitted the low bid of \$110,589.50. A total of \$130,000.00 is budgeted for the project as shown on the worksheet.

The new main will be in the street portion of the right-of-way and more accessible to maintenance crews.

Assistant Public Works Director Phil Hauck recommended awarding City Project No. 04-01 to Hard Rock Road Building & Utilities of Helena, Montana in the amount of \$110,589.50.

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

Motion

Commissioner Parriman moved to award City Project 04-01 to Hard Rock Road Building & Utilities of Helena, Montana in the amount of \$110,589.50. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

D. 2004 Chip and Seal, city project #04-19

Staff Report

Assistant Public Works Director Phil Hauck reported this project would add a new wear surface and pavement sealer by applying a single application of asphalt material on a prepared asphalt surface, followed by spreading a 3/8 inch gravel chip. Two bids were received and opened on August 5, 2004. Helena Sand & Gravel of Helena submitted the lowest bid in the amount of \$211,190.67 for all awarded schedules and alternates.

The city's portion of this project includes Schedule 1, Additive alternates 1, 2 and 8. Additive alternates 3, 4, 5, 6 and 7 provides chip & seal for private developers, which include Anderson Business Park, Skelton Addition, Crystal Springs Addition, and the private streets of Ferndale Lane & Wildwood Lane. These Additive alternates will be paid directly by the developers and homeowner's association.

Staff recommends awarding the work to Helena Sand & Gravel for Schedule 1, portions of Additive 1, and all of Additive alternates 3, 4, 5, 6, and 7. Mr. Hauck referred the commission to the worksheet for specific locations. The city's budget for this project is \$160,000, however the contract price for the city's portion is \$162,680.72. Savings from this years completed projects will be used to make-up the difference through an administrative budget amendment.

Commission comments

Commissioner Parriman asked for an explanation on exactly what the city's portion is versus the total bid amount. Mr. Hauck explained the city's portion is \$162,680.72 and private developers will pay the remaining.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Parriman moved to award Schedule 1 and portions of Alternate 1 and all of Additive Alternates 3, 4, 5, 6, and 7 of the Chip and Seal Project, City Project No. 04-19, to Helena Sand & Gravel, Inc. in an amount not to exceed \$211,190.67.

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

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Oitzinger welcomed Mayor Smith back.

Commissioner Parriman stated he received an email from Bill Schneider asking to meet with the Friend of Downtown Group. Commissioner Parriman stated he responded that he would be happy to meet with the group in a public meeting with all commission members present.

Mayor Smith stated he too received a request from Mr. Schneider and has not responded at this time. Commissioner Oitzinger stated she too received an invitation and will probably go and meet with the group.

City Attorney David Nielsen stated this issue is not an ex-parte situation and the commission members could meet individually with the group of interested citizens.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

A. Sergeant Steve Hagen Award

City Manager Burton invited Chief of Police Troy McGee up to explain an award that Sergeant Steve Hagen received. Chief McGee reported Sergeant Hagen was awarded a metal of honor for responding to an incident with the Lewis & Clark Sheriff Deputies. During the standoff, Sergeant Hagen and a Deputy Sheriff were shot.

Sergeant Hagen received a plaque and metal from the Montana Association of Chiefs of Police and the Montana Association of Peace Officers at their convention in July. Sergeant Hagen thanked the citizens of Helena for letting him serve the community and Chief McGee for his efforts in obtaining this award for him.

Mayor Smith thanked Sergeant Hagen for his commitment to the Helena Police Department. Commissioner Oitzinger asked Sergeant Hagen to extend the commissions thanks to his family. Commissioner Parriman extended his thanks to Sergeant Hagen.

HCC Communications HELENA CITIZENS COUNCIL COMMUNICATIONS

HCC Representative George Hoff reported the HCC would be finalizing a recommendation on the numbering system on buildings. Mr. Hoff is currently working on getting the Cooney Home cemetery platted on the map.

Release of Funds

CONSIDER RELEASE OF PREVIOUSLY AUTHORIZED FUNDS FOR THE LEWIS & CLARK LIBRARY AREA PARKING IMPROVEMENTS TIF PROJECT.

Staff Report

Community Facilities Director Gery Carpenter reported the city commission approved this project for the Lewis and Clark Library Area Parking Improvements in Ordinance 2963 at a funding level of \$250,000.00 and released \$50,000.00 in Resolution 11987 for development of project plans. Additional funding in the amount of \$150,000 was released at the April 19, 2004 meeting of city commission.

This project is near completion with only minor punch list items left. Staff has encountered additional challenges in completing the project including: 1) Site topo work 2) Relocation of the Northwestern Energy power distribution box 3) Replacement of subsoil under the former Wong Street 4) Relocation of the entrance and the ticket machine for the parking lot on the west side of Park Avenue across from the Library 5) Introduction of hi-early into the concrete for the sidewalk across the former Wong Street to allow traffic in that area as soon as possible 6) Additional backfill at the southwest ramp 7) Landscaping at the building entrance and 8) Costs of signage at the site to direct parking.

Total budgeted monies fro the project were \$250,000. Approved contracts with the contractor were \$149,388 and with the project architect were \$42,000. The additional items completed total \$25,794.18

leaving a balance of \$32,817.82 which can be redirected towards other TIF projects.

Community Facilities Director Carpenter recommended the commission acknowledge the satisfaction of the conditions and, therefore, release previously authorized fund in the amount of \$17,182.18 for the Lewis & Clark Library Area Parking Improvements Project.

Commission comments

Commissioner Parriman asked for an overview on where the \$32,000 in savings came from? Mr. Carpenter explained the library decided not to pursue a parking lot on the south side of the building and put additional money toward the reconstruction of Wong Street and freed up the TIF funding. In addition, there were additional trees planted along the west side of Park Avenue.

Commissioner Parriman asked what happens with the savings of \$32,817 in TIF funds? Does the commission make the decision on where they are allocated? City Manager Burton explained when the commission authorized the ordinance allocating all of the TIF projects; there was discussion that the estimated revenue could be less than estimated. This is the case and the \$32,000 would be allocated toward the remaining projects. The commission would allocate the funds.

Commissioner Parriman noted the \$32,000 would fund the deficit in TIF funding and once that is done and there is any funds remaining, the commission could identify another project and allocate funds. City Manager Burton concurred.

Staff will be prepared to give an update on the TIF projects at the August 25, 2004 admin meeting.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Parriman moved to acknowledge the satisfaction of conditions and, therefore, release previously authorized funds in the amount of \$17,182.18 for the Lewis and Clark Library Area Parking Improvements Project. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Resolution of Intention—Civic Center Fees

CONSIDER A RESOLUTION OF INTENTION TO INCREASE THE FEES CHARGED BY THE HELNEA CIVIC

Staff Report

Civic Center Manager Diane Stavnes reported the current fee schedule was adopted prior to the 2003-2004 season. This spring a survey of other state facilities was conducted showing some rental rates 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 June 2, 2004 meeting.

A revision of the rental rate charged for the Ballroom weekend days (Friday-Sunday) is proposed, along with an increase in exposition (rectangular) style table charges to equalize with round style banquet table charges. Language clarification is proposed for the dance floor to reflect actual practice.

A yearly review of the schedule allows smaller, more regular changes to the fee schedule, while allowing the Civic Center to keep at

market value with the other facilities. Clients indicate they prefer this to larger, less frequent changes.

Ms. Stavnes recommended approval of a resolution of intention to increase the fees charged by the Helena Civic Center and to set a public hearing date for August 30, 2004.

Commission comments Mayor Smith asked if the users have been notified of the proposed changes? Ms. Stavnes stated a letter would be mailed letting them know of the public hearing. Mayor Smith asked if the increase is approved would it reduce the general fund subsidy. Ms. Stavnes concurred.

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

Motion Commissioner Oitzinger moved approval of a resolution of intention to increase the fees charged by the Helena Civic Center and to set a public hearing date for August 30, 2004. Commissioner Parriman seconded the motion. All voted aye, motion carried.
Resolution 19152

Resolution to Annex CONSIDER A RESOLUTION ANNEXING TRACT 1 OF THE INTER-CITY II MINOR SUBDIVISION, AND THE ENTIRE WIDTH OF THE ADJACENT HIGHWAY 12 EAST RIGHT-OF-WAY, LEWIS AND CLARK COUNTY, MONTANA, INTO THE CITY OF HELENA; GENERALLY LOCATED EAST OF THE CURRENT CITY LIMITS AND NORTH OF HIGHWAY 12 EAST.

CONSIDER ACCEPTANCE OF THE 60-FOOT WIDE ACCESS EASEMENT AS DEDICATED RIGHT-OF-WAY TO THE CITY FOR THE EASTWARD CONTINUATION OF CENTENNIAL DRIVE; GENERALLY LOCATED EAST OF THE CURRENT CITY LIMITS AND NORTH OF HIGHWAY 12 EAST.

CONSIDER A REQUEST TO HAVE THE CITY RELEASE ITS INTEREST IN A 20-FOOT WIDE UTILITY EASEMENT LOCATED BETWEEN LOT 16, BLOCK 6 OF THE INTER-CITY COMMERCIAL SUBDIVISION AND TRACT 1 OF THE INTER-CITY II MINOR SUBDIVISION; GENERALLY LOCATED EAST OF THE CURRENT CITY LIMITS AND NORTH OF HIGHWAY 12 EAST.

Staff Report City Planner Lucy Morell-Gengler reported the proposal is for annexation of Tract 1 of the Inner City II Minor Subdivision, approximately 3.5-acres, and the adjacent Highway 12 East right-of-way currently located in Lewis and Clark County, Montana. Also being reviewed is the acceptance of the right-of-way dedication for the continuation of Centennial Drive and release of the city's interest in a utility easement between the subject property and the adjacent lot.

The owner of this property, Tractor and Equipment Co., represented by Culver Varnado, has applied for annexation into the city of Helena and proposed to construct a Caterpillar Rental Store and dealership at this location.

On March 8, 2004, the city commission established conditions to annexation of Tract 1 of the Inter-City II Minor Subdivision, and the entire width of the adjacent Highway 12 East right-of-way (Resolution 12084),

and established CLM (Commercial Light Manufacturing) rezoning designations for the property (Ordinance 2988).

The conditions of annexation included the following:

1. Street Right-of-Way: The property owner must dedicate the 60-foot wide "permanent access and utility easement" located across Tract I to the city as right-of-way for the extension of Centennial Drive. **The City Commission approval of the right-of-way dedication is a simultaneous action with the annexation.**
2. Infrastructure: The property owner must install infrastructure improvements as required by the city, to city standards, including water, sewer, fire hydrants, street, curb, gutter, and sidewalks, or enter into a development agreement acceptable to the city of Helena that defines responsibility for the installation or deferral of the improvements. **Infrastructure has been installed or financially guaranteed.**
3. Review of new construction: The property owner must submit plans for the review by the city of Helena for all construction commenced subsequent to the adoption of this resolution and prior to annexation of the property to ensure compliance with infrastructure, zoning, and all other Code requirements, including building and fire codes, and pay all fees for such review in the same manner and on the same basis as do owners of properties already in the city. **Building plans have been submitted to the City for review.**
4. Completion of Conditions: The property owner must notify city planning in writing upon completion of the conditions for approval of annexation, which must occur within one (1) year of the date of approval of this resolution of intention. If obligation to annex the property and may discontinue any city services, including water and sewer service to the property.

The conditions of annexation have been fulfilled and annexation has been requested by the applicant and is recommended by staff.

Ms. Morell-Gengler recommended the following:

1. Approval of the resolution annexing property legally described as Tract 1 of the Inter-City II Minor Subdivision, and the entire width of the adjacent Highway 12 East right-of-way, Lewis and Clark County, Montana; generally located east of the current city limits and north of Highway 12 East, into the City of Helena.
2. Accept the dedication of the 60-foot wide access and utility easement, as right-of-way to the city.
3. Release the City of Helena's interest in a 20-foot wide utility easement located between Lot 16, block 6 of the Inter-City Commercial Subdivision and Tract 1 of the Inter-City II Minor Subdivision.

Commission Comments Mayor Smith asked if there had been any pre-zone discussions. Ms. Gengler explained the property was already zoned correctly and there would be no zoning issues.

Mayor Smith stated in the past, there has been some reluctance from the city in abandoning right of ways. Ms. Gengler explained in the past, subdivisions had easements on all properties lines. Through the years when property owners want to aggregate these, the city has released these easements.

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

Motions

Commissioner Parriman moved approval of the resolution annexing property legally described as Tract 1 of the Inter-City II Minor Subdivision, and the entire width of the adjacent Highway 12 East right-of-way, Lewis and Clark County, Montana into the City of Helena. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 19153**

Commissioner Parriman moved to accept the dedication of the 60-foot wide access and utility easement, as right-of-way to the City. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Commissioner Parriman moved to release the City of Helena's interest in a 20-foot wide utility easement located between Lot 16, Block 6 of the Inter-City Commercial Subdivision and Tract 1 of the Inter-City II Minor Subdivision. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Resolution of Intent To Annex

CONSIDER A RESOLUTION OF INTENTION TO ANNEX 158.09 ACRES OF LAND, GENERALLY LOCATED WEST OF I-15, EAST OF SOUTH HILLS DRIVE, AND NORTH OF THE LEWIS AND CLARK/JEFFERSON COUNTY LINE IN LEWIS & CLARK COUNTY, MONTANA, INTO THE CITY OF HELENA, MONTANA, FOR PROPERTY LEGALLY DESCRIBED AS TRACT B-1-A-1 OF COS #515521/B LOCATED IN SECTION 33 AND THE SW ¼ OF SECTION 34, T10N, R3W; TRACT 4A1 OF COS #573581/F; A PORTION OF GOVERNMENT LOT 3 OF COS #455669/T LOCATED IN THE N ½ NW ¼ OF SECTION 3, T9N, R3W; AND TRACT 4B1A AND TRACT 4B1B OF COS #3021254, ALL LOCATED IN SECTION 3, T9N, R3W, LEWIS AND CLARK COUNTY, MONTANA, AND ESTABLISH CONDITIONS FOR ANNEXATION.

Staff Report

City Planner Belinda Waters reported the commission would be considering several separate agenda items for the Nob Hill Development. The first is the resolution of intention for annexation, which is not a public hearing.

Later on in the agenda, under the public hearings, the commission will consider pre-zoning and preliminary plat for the major subdivision.

Ms. Waters reported the resolution of intention is to annex 158.09 acres as outlined on the agenda. This presentation covers the annexation portion of the proposal and the conditions of annexation, which would be completed with the final plat. The subject property is

adjacent to existing city limits and the proposed annexation would not create any additional wholly surrounded areas.

The Nob Hill Developer's property is 155.57 acres; staff added two other small parcels, under separate ownership, of 2.52 acres for a total of 158.09 acres to be annexed. There are three property owners who have requested annexation. Ms. Waters stated her staff report covers the annexation portion of the proposal, and proposed conditions for annexation, which would be completed with the final plat. The subject property is adjacent to existing city limits and the proposed annexation would not create any additional wholly surrounded areas.

On Tuesday, July 13, 2004, the Helena Zoning Commission unanimously recommended approval of the adoption two ordinances for various pre-zoning designations prior to annexation.

Ms. Waters showed a map of the preliminary plat and the area to be annexed by the Nob Hill Developers. She also showed the location of the 40-acre open space parcel and the two other parcels included in the annexation.

Ms. Waters recommended approval of the resolution to annex 158.09 acres of land into the City of Helena, Montana, legally described as Tract B-1-A-1 of COS #515521/B; Tract 4A1 of COS #573581/F; a portion of Government Lot 3 of COS #455669/T; and Tract 4B1A and Tract 4B1B of COS #3021254, Lewis and Clark County, Montana, subject to the following conditions:

1. Taxes and Assessments: Taxes and assessments must be paid and current at the time of tiling the resolution of annexation.
2. Review of new construction: For all construction commenced prior to annexation, the property owners shall submit plans for review by the city of Helena to ensure compliance with infrastructure, zoning, and Uniform fire code requirements of the city, and shall agree to pay all fees for such reviews in the same manner and basis as do owners of properties already in the city.

Any residential construction work following passage of this resolution would be undertaken in anticipation of annexation. Therefore, any construction prior to annexation should be completed in conformance with city requirements, including zoning, building, public works, and fire codes. A condition is included to ensure that any further building prior to annexation would be reviewed by the city for conformance with its zoning and infrastructure requirements.

3. Final Plat: Present subdivision of final plat for commission approval.
4. Completion of Conditions: The applicant must notify City Planning in writing upon completion of the conditions for approval of annexation, which must be on or before the date of completion of conditions for subdivision of this property and is subject to the same time limitations. If the conditions are not completed within that time frame, the city is under no obligation to annex the property and may discontinue any city services, including water and sewer.

Commission comments

Commissioner Parriman noted staff's memo addresses a property exchange between the developers and the city of Helena; he asked Ms. Waters to explain the proposal. He asked if the open space properties have restrictions regarding future development?

Ms. Waters stated later on the agenda this situation would be further explained. She then showed on the preliminary plat, where the properties are that would be exchanged between the applicants and the

city. Ms. Waters noted the Parks Board has recommended approval of the exchange. Mr. Burton explained the parkland dedication in this proposal exceeds the parkland dedication and the city would exchange approximately a four-acre parcel for an 18-acre parcel.

Mayor Smith asked Ms. Waters to show the location of the new south interchange. Commissioner Oitzinger asked for the vote of the Parks Board. Ms. Waters stated it was unanimous.

Public Comment

Mayor Smith asked for public comment. Jason Emineth, owner of one of the privately owned parcels, spoke in support of the proposal. He thanked staff and the developers for the process they took to do a great development.

Motion

Commissioner Parriman moved approval of a resolution of intention to annex 158.09 acres of land into the City of Helena, Montana, legally described as Tract B-1-A-1 of COS #515521/B; Tract 4A1 of COS #573581/F; a portion of Government Lot 3 of COS #455669/T; and Tract 4B1 and Tract 4B1B of COS #3021254, Lewis and Clark County, Montana, subject to the conditions outlined above. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 19154**

***Resolution of Intent
To Annex***

CONSIDER A RESOLUTION OF INTENTION TO ANNEX 42.01 ACRES OF ADJACENT PROPERTY OWNED BY THE CITY OF HELENA AND SET A PUBLIC HEARING DATE OF SEPTEMBER 13, 2004. THE PROPERTIES ARE LEGALLY DESCRIBED AS GOVERNMENT LOT 1 LOCATED IN SECTION 4, T9N R3W, P.M.M., LEWIS & CLARK COUNTY, MONTANA, AS SHOWN ON COS #502634/O AND DESCRIBED IN WARRANTY DEED BOOK M22 PAGE 6559, CONTAINING 40 ACRES; AND TRACT B-1-A-2 LOCATED IN SECTION 33, T10N R3W, P.M.M., LEWIS & CLARK COUNTY, MONTANA, AS SHOWN ON COS #623202/E, CONTAINING 2.01 ACRES; GENERALLY LOCATED WEST OF I-15, EAST OF SOUTH HILLS DRIVE, AND NORTH OF THE LEWIS & CLARK/JEFFERSON COUNTY LINES.

Staff Report

City Planner Belinda Waters reported the city of Helena owns two parcels of land located on the southeast side of the city. One of the parcels, Tract B-1-A-2, as shown on COS #623202/E, contains 2.01 acres and presently contains the city's water reservoir. The other parcel, Government Lot 1, as shown on COS #502634/O, contains 40 acres, was acquired with open space funds, and has been designated as open space.

Because both properties are contiguous government-owned land, they may be annexed to the city by a method specifically targeted to that situation, as set forth in 7-2-4401 *et seq.*, MCA. Annexation by that method would be initiated by passage of a resolution of intent by the city commission, at which time a public hearing date would be set. The matter would then be advertised for two successive weeks, and the required 20-day comment period would occur. Following the close of comments, the city commission may then hold a public hearing and act on the proposed.

If the city commission approves the resolution of intention to annex, the following timeline is projects:

August 22, 2004 First publication of legal ad

August 29, 2004	Second publication of legal ad
September 11, 2004	End of public comment period
September 13, 2004	City Commission public hearing on proposed annexation and rezoning

Ms. Waters recommended approval of a resolution of intention to annex two parcels totaling 42.01 acres owned by the city of Helena and setting a public hearing date for September 13, 2004.

Commission comments

Mayor Smith asked if the 40-acres was purchased with the Open Space funds? Ms. Waters concurred; it currently sits in the county in the OSR (Open Space – Residential) District. Staff is recommending the commission annex the property and the majority is proposed to stay open space.

Commissioner Parriman stated if the city purchased this property with open space funds and designated it open space, can the commission sell the property and undesignated it open space? City Manager Burton explained the open space designation is not legally binding. However, this property is intended to remain open space. Prior to the open space funding sun setting, there were several exchanges between private property owners and open space. Commissioner Parriman stated the proposal makes sense; he just wanted to make sure that the open space property could be exchanged.

Commissioner Oitzinger stated she too was concerned with the original proposal to exchange open space property. She then asked if the open space properties have a zoning designation. City Manager Burton explained the open space property is essentially city owned parkland and does not need to be zoned. Commissioner Oitzinger stated she is glad to see there is a process the city has to follow regarding this proposal.

Ms. Waters reported when Mr. Peccia and his associates were planning this proposal, the recommendation for the exchange came after the layout of the entire proposal was completed.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Parriman moved approval of a resolution intention to annex 42.01 acres of adjacent property owned by the City of Helena and setting a public hearing date of September 13, 2004. The properties are legally described as Government Lot 1 located in Section 4, T9N R3W, P.M.M., Lewis & Clark County, Montana, as shown on COS #502634/O and described in Warranty Deed Book M22 Page 6559, containing 40 acres; and Tract B-1-A-2 located in Section 33, T10N R3W, P.M.M., Lewis & Clark County, Montana, as shown on COS #623202/E, containing 2.01 acres; generally located west of I-15, east of South Hills Drive, and north of the Lewis & Clark/Jefferson County lines. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 19155**

Public Hearings

PUBLIC HEARINGS

- A. CONSIDER A RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NOS. 413 AND 418, FINAL LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICTS FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS.

Staff Report

Administrative Services Director Tim Magee reported on July 26, 2004, the city commission passed a resolution proposing the preliminary levy of special assessments on property within the special Improvement District No. 413 – Tamarack and Special Improvement District No. 418 – McHugh for the purpose of financing the costs of certain local improvements.

The bonds are payable primarily from the collection of a special assessment which is a lien against the assessable real property within the district benefited by the improvements. The special assessments are payable in semiannual installments over a term not exceeding 15 years, each of substantially equal semiannual installments of principal and interest over a period of 15 years, at an annual rate equal to the sum of the average rate of interest borne by the then outstanding bonds, plus one-half of one-percent per annum.

Mr. Magee recommended approval of the resolution relating to Special Improvement District Nos. 413 and 418, final levy of special assessments on property within the districts for the purpose of financing the cost of certain local improvements.

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

Motion

Commissioner Oitzinger moved approval of a resolution relating to Special Improvement District Nos. 413 and 418, final levy of special assessments on property within the districts for the purpose of financing the cost of certain local improvements.

Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution 19156**

B. CONSIDER ACCEPTANCE OF A 2004-05 FEDERAL LAW ENFORCEMENT BLOCK GRANT

Staff Report

Chief of Police Troy McGee reported the Helena Police Department has received funding from the Bureau of Justice Assistance for the past seven years that has been used to help retain one officer position that may otherwise have been eliminated due to budget reductions. Funding is for a two-year period, however, because we have chosen to use ours for salaries, our funding lasts for only one year.

Chief McGee recommended acceptance of the grant funding the amount of \$6,758 from the Bureau of Justice Assistance to be used for officer salary and benefits.

Commission comments

Mayor Smith asked if general funds have made up the loss in grant funding over the last few years. Chief McGee concurred.

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

Motion

Commissioner Parriman moved to accept the FY2004-05 Bureau of Justice Assistance Federal Law Enforcement Block Grant Funding in the amount of \$6,758 to be used for officer salary and benefits. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

C1. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO:

1. R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT FOR ALL OF BLOCKS 8,9,10,11, 12, 16, 18 AND 21; LOTS 5 THROUGH 19, BLOCK 13; LOTS 5 AND 6, BLOCK 17 AS SHOWN ON THE PRELIMINARY PLAT OF THE PROPOSED NOB HILL SUBDIVISION; AND TRACT 4B1A AND TRACT 4B1B AS SHOWN ON COS #3021254 (36.66 ACRES);
2. R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT FOR ALL OF BLOCKS 6, 14, 15, AND 19; LOTS 4 AND 5, BLOCK 5; LOTS 1 THROUGH 4, BLOCK 13; LOTS 1-4, LOTS 7 AND 8, BLOCK 17 AS SHOWN ON THE PRELIMINARY PLAT OF THE PROPOSED NOB HILL SUBDIVISION (15.73 ACRES);
3. R-O (RESIDENTIAL-OFFICE) DISTRICT FOR LOTS 20 THROUGH 27, BLOCK 13 AND ALL OF BLOCK 20 (5.10 ACRES) AS SHOWN ON THE PRELIMINARY PLAT OF THE PROPOSED NOB HILL SUBDIVISION;
4. B-2 (GENERAL COMMERCIAL) DISTRICT FOR ALL OF BLOCKS 1,2,3, AND 7; LOTS 3 THROUGH 5 AND THE REMAINING 124,640 SQUARE FEET OF THE EASTERLY PORTION OF LOT 2 IN BLOCK 4; LOTS 1 THROUGH 3, BLOCK 5 (27.28 ACRES) AS SHOWN ON THE PRELIMINARY PLAT OF THE PROPOSED NOB HILL SUBDIVISION; AND
5. PLI (PUBLIC LANDS & INSTITUTIONS) DISTRICT FOR ALL OF BLOCKS 22, 23, AND 24 (23.04 ACRES) AS SHOWN ON THE PRELIMINARY PLAT OF THE PROPOSED NOB HILL SUBDIVISION; FOR A TOTAL OF 107.81 ACRES PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA.

Staff Report

City Planner Belinda Waters reported currently, three parcels have single-family residences located on them: Tract 4B1A and Tract 4B1B of COS #3021254 and Lot 1, Block 18 of the proposed Nob Hill Subdivision. The remainder of the property is vacant and undeveloped. The applicants are requesting approval of the various pre-zoning designations, which are accompanied by two simultaneous requests for major subdivisions/preliminary plat approval and annexation.

Ms. Waters reviewed the current zoning that exists in the area versus the proposed zoning. There already exists a multi-unit zoning.

The Helena Zoning Commission unanimously recommended approval of the adoption of the two ordinances for various pre-zoning designations prior to annexation.

Ms. Waters recommended approval for first passage of an ordinance for pre-zoning designations prior to annexation to:

1. R-2 (Single-Family Residential) District for all of Blocks 8,9,10,11, 12, 16, 18 and 21; Lots 5 through 19, Block 13; Lots 5 and 6, Block 17 as shown on the preliminary plat of the proposed Nob Hill Subdivision; and Tract 4B1A and Tract 4B1B as shown on COS #3021254 (36.66 acres);
2. R-3 (Medium Density Residential) District for all of Blocks 6, 14, 15, and 19; Lots 4 and 5, Block 5; Lots 1 through 4, Block 13; Lots 1-4,

Lots 7 and 8, Block 17 as shown on the preliminary plat of the proposed Nob Hill Subdivision (15.73 acres);

3. R-O (Residential-Office) District for Lots 20 through 27, Block 13 and all of Block 20 (5.10 acres) as shown on the preliminary plat of the proposed Nob Hill Subdivision;

4. B-2 (General Commercial) District for all of Blocks 1,2,3, and 7; Lots 3 through 5 and the remaining 124,640 square feet of the easterly portion of Lot 2 in Block 4; Lots 1 through 3, Block 5 (27.28 acres) as shown on the preliminary plat of the proposed Nob Hill Subdivision; and

5. PLI (Public Lands & Institutions) District for all of Blocks 22, 23, and 24 (23.04 acres) as shown on the preliminary plat of the proposed Nob Hill Subdivision; for a total of 107.81 acres prior to annexation into the City of Helena, Montana.

Public Testimony

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

Brett Jakovac, 1202 Day Break Loop, encouraged the commission to take further testimony on the zoning issues. Mr. Jakovac stated he believes there is a lot of misinformation in the community about the use of the property and the exact location of the south interchange.

Mark Kelly, 409 S. Beattie, Plan Helena representative, stated they generally support the proposal. He then spoke of the south interchange that will be built in the near future. Plan Helena wants to encourage the commission to take the visual appearance of Helena into consideration as people exit the new interchange.

Jason Emineth, 2212 Deerfield Lane, spoke in support of the proposal. He is one of the applicants and there have been numerous public meetings on this development. Mr. Emineth stated this development will be great for the gateway off the south interchange.

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

Commissioner Oitzinger asked Mr. Kelly if Plan Helena reviewed the proposal for the land exchange and if they are in support of it. Mr. Kelly concurred and noted he is not speaking on behalf of Plan Helena on this item.

Motion

Commissioner Oitzinger moved approval for first passage of an ordinance for pre-zoning designations prior to annexation to:

1. R-2 (Single-Family Residential) District for all of Blocks 8,9,10,11, 12, 16, 18 and 21; Lots 5 through 19, Block 13; Lots 5 and 6, Block 17 as shown on the preliminary plat of the proposed Nob Hill Subdivision; and Tract 4B1A and Tract 4B1B as shown on COS #3021254 (36.66 acres);

2. R-3 (Medium Density Residential) District for all of Blocks 6, 14, 15, and 19; Lots 4 and 5, Block 5; Lots 1 through 4, Block 13; Lots 1-4, Lots 7 and 8, Block 17 as shown on the preliminary plat of the proposed Nob Hill Subdivision (15.73 acres);

3. R-O (Residential-Office) District for Lots 20 through 27, Block 13 and all of Block 20 (5.10 acres) as shown on the preliminary plat of the proposed Nob Hill Subdivision;

4. B-2 (General Commercial) District for all of Blocks 1,2,3, and 7; Lots 3 through 5 and the remaining 124,640 square feet of the easterly portion of Lot 2 in Block 4; Lots 1 through 3, Block 5 (27.28

acres) as shown on the preliminary plat of the proposed Nob Hill Subdivision; and
5. PLI (Public Lands & Institutions) District for all of Blocks 22, 23, and 24 (23.04 acres) as shown on the preliminary plat of the proposed Nob Hill Subdivision; for a total of 107.81 acres prior to annexation into the City of Helena, Montana. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ordinance 2999**

C2. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR A PRE-ZONING DESIGNATION PRIOR TO ANNEXATION TO B-2 (GENERAL COMMERCIAL) DISTRICT FOR LOT 1 AND THE 24,025 SQUARE FEET OF THE WESTERLY PORTION OF LOT 2, BLOCK 4, IF THIS PROPERTY IS TRANSFERRED FROM THE CITY TO NOB HILL PROPERTIES, LLC AND THE CITY APPROVES THE NOB HILL MAJOR SUBDIVISION. SAID PROPERTY IS LOCATED IN A PORTION OF COS #502634/O IN THE N ½ NE ¼ OF SECTION 4, T9N, R3W IN LEWIS AND CLARK COUNTY, MONTANA AND WILL BE LEGALLY IDENTIFIED WITH THE NOB HILL SUBDIVISION.

Ms. Waters showed the location of the property and noted the Zoning Commission recommended approval of the pre-zone designation, on the condition the land exchange is approved.

Ms. Waters recommended approval for first passage of an ordinance for a pre-zoning designation prior to annexation to B-2 (General Commercial) District for Lot 1 and the 24,025 square feet of the westerly portion of Lot 2, Block 4, if this property is transferred from the city to Nob Hill Properties, LLC and the city approves the Nob Hill Major Subdivision. Said property is located in a portion of COS #502634/o in the N ½ NE ¼ of Section 4, T9N, R3W in Lewis and Clark County, Montana and will be legally identified with the Nob Hill Subdivision.

Public Testimony

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

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

Motion

Commissioner Parriman moved approval for first passage of an ordinance for a pre-zoning designation prior to annexation to B-2 (General Commercial) District for Lot 1 and the 24,025 square feet of the westerly portion of Lot 2, Block 4, if this property is transferred from the city to Nob Hill Properties, LLC and the city approves the Nob Hill Major Subdivision. Said property is located in a portion of COS #502634/o in the N ½ NE ¼ of Section 4, T9N, R3W in Lewis and Clark County, Montana and will be legally identified with the Nob Hill Subdivision. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance 3000**

D. CONSIDER A PRELIMINARY PLAT FOR THE NOB HILL MAJOR SUBDIVISION CREATING 153 LOTS FROM A 159.53 ACRES AND TO ADOPT THE FINDINGS OF FACT AND THE CONDITIONS CONTAINED THEREIN FOR PROPERTY LEGALLY DESCRIBED AS TRACT B-1-A-1 OF COS #515521/B LOCATED IN SECTION 33 AND THE SW ¼ OF SECTION 34, T10N, R3W; TRACT 4A1 OF COS #573581/F AND A PORTION OF GOVERNMENT LOT 3 OF COS #455669/T LOCATED IN THE N ½ NW ¼ OF SECTION 3, T9N, R3W;

AND A PORTION OF COS #502634/O LOCATED IN THE N ½ NE ¼ OF SECTION 4, T9N, R3W, ALL LOCATED IN LEWIS AND CLARK COUNTY, MONTANA.

Staff Report

Planner Belinda Waters reported state law allows the governing body 60- working days to make a decision on major subdivisions. The commission, after the public hearing on the preliminary plat, closes the public hearing and may not necessarily take action on the preliminary plat. The commission could table this preliminary plat and make a final decision at the August 30th commission meeting.

Ms. Waters reported the applicant is requesting approval of the preliminary plat for the proposed Nob Hill Subdivision, which is accompanied by simultaneous requests for pre-zoning designations and annexation.

Ms. Waters stated the parkland donation requirement is 11% of the property that is designated for residential zoning. Therefore, the developer is required to provide 6.058-acres of parkland to meet the 11%. The developer is providing 18.66-acres for parkland. In addition, he provided almost 3-acres of parkland for a park on Beltview Drive.

On July 20, 2004, the Planning Board recommended approval of the proposal subdivision/preliminary plat subject to the conditions in the staff report with one additional condition added by the Planning Board. The condition addressed one additional trail access to the Nob Hill area. The developer will work with the Director of Parks & Recreation to achieve the access. Mr. Peccia met with Director Parks & Recreation Randy Lilje and Andy Bauer from the Prickly Pear Land Trust and they sketched out a trail system for the area. Ms. Waters showed the location of the trail system.

Ms. Waters recommended to conditionally approve the preliminary plat for the Nob Hill major subdivision creating 153 lots from 159.53 acres and to adopt the Findings of Fact for property legally described as Tract B-1-A-1 of COS #515521/B located in Section 33 and the SW ¼ of Section 34, T10N, R3W; Tract 4A1 of COS #573581/F and a portion of Government Lot 3 of COS #455669/T located in the N ½ NW ¼ of Section 3, T9N, R3W; and a portion of COS #502634/O located in the N ½ NE ¼ of Section 4, T9N, R3W, all located in Lewis and Clark County, Montana; generally located west of I-15, east of South Hills Drive, south and east of the Nob Hill Water Tank, and north of the Lewis and Clark/Jefferson county line. Said approval is subject to the following conditions contained in the Findings of Fact:

1) Agriculture and Agricultural Water User Facilities

The applicant must submit to the City documentation as to the existence of water rights on the property, and if so, must provide to the City the disposition of these water rights.

2) Local Services

Access and Traffic

A. The City must approve the dedication of right-of-way across the northeast corner of the City's 40-acre parkland property for a street; and the developer needs to make a request to the City to approve the proposed 3.96-acre land exchange.

B. Colonial Drive must be extended and constructed to City standards.

C. The developer must provide at least one more non-motorized trail for access to the designated park area on Nob Hill. The City's Parks and Recreation Department must approve the location and design of any trails serving the proposed Nob Hill Park.

3) The Natural Environment & Wildlife And Wildlife Habitat

Any areas disturbed for the installation of infrastructure must be constructed in accordance with approved plans and to City standards.

4) Public Health and Safety

Storm water Drainage

The Nob Hill Subdivision is to accommodate part of the storm water drainage from the eastern side of the Sunrise Loop Subdivision. The applicant must install storm water drainage in accordance with an approved storm water drainage plan to City standards with sufficient detention basins to handle the additional storm water.

5) The Survey Requirements Provided For In Part 4 Of This Chapter

The final plat for this subdivision must be tied to the City coordinate system and provided to the City on acceptable digital formats for archival and mapping purposes.

6) Final Plat Filing

The remaining parcel of the City's 40-acre parkland parcel, not included in the proposed subdivision, must be designated as a separate parcel on the final plat.

Commission comments Mayor Smith stated the trail system isn't necessarily a condition of approval. Ms. Waters stated the conditions outlined in the Findings of Fact include the condition the applicant will work with staff to develop a trails system.

Public Testimony Mayor Smith declared the public portion of the hearing opened and called for any persons wishing to address the commission.
Jason Emineth, 2212 Deerfield Lane, commended the city and the developer for the great subdivision plans. He recommended approval of the preliminary plat. This subdivision will be a gateway to Helena with the construction of the south interchange.
Bob Peccia, Nob Hill Partnership, LLC, spoke in support of the proposal. He explained the process that he and his partners used to develop this proposal. He also spoke in support of the land exchange between the developers and the city of Helena.
Mark Kelly, Plan Helena, spoke in support of the proposal. The subdivision includes several smart growth elements.
There being no further persons wishing to address the commission, the public portion of the hearing was closed.

Commission comments Mayor Smith spoke on the comments from Mr. Jakovac to table it for two weeks. Mayor Smith stated he believes the public has been involved and he is prepared to support the proposal.

Motion Commissioner Oitzinger moved approval of a preliminary plat for the Nob Hill Major Subdivision creating 153 Lots from a from 159.53 acres and to adopt the Findings of Fact (which are attached to these minutes and made a part of) and the conditions

contained within, for property legally described as Tract B-1-A-1 of COS #515521/B located in Section 33 and the SW ¼ of Section 34, T10N, R3W; Tract 4A1 of COS #573581/F and a portion of Government Lot 3 of COS #455669/T located in the N ½ NW ¼ of Section 3, T9N, R3W; and a portion of COS #502634/O located in the N ½ NE ¼ of Section 4, T9N, R3W, all located in Lewis and Clark County, Montana; generally located west of I-15, east of South Hills Drive, south and east of the Nob Hill Water Tank, and north of the Lewis and Clark/Jefferson County line. Commissioner Parriman seconded the motion. All voted aye, motion carried.

E. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTIONS 11-2-6, "INTERPRETATION OF BOUNDARIES AND USES; AND SECTIONS 11-11-2 (A), 11-12-2 (A), 11-13-2 (A), AND 11-14-2 (A) ENTITLED "PERMITTED USES" FOR THE B-2 (GENERAL COMMERCIAL), B-3 (CENTRAL BUSINESS), CLM (COMMERCIAL-LIGHT MANUFACTURING), AND M-I (MANUFACTURING AND INDUSTRIAL) DISTRICTS RESPECTIVELY OF HELENA ZONING ORDINANCE

Staff Report

City Planner Kathy Macefield reported the object is to revise the Helena Zoning Ordinance to make it more relevant and easier to use. The proposed ordinance would amend Section 11-2-6, "INTERPRETATION OF BOUNDARIES AND USES; and Section 11-11-2 (A), 11-12-2 (A), 11-13-2 (A), and 11-14-2(A) entitled "PERMITTED USES" for the B-2 (General Commercial), B-3 (Central Business), CLM (Commercial-Light Manufacturing), and M-I (Manufacturing and Industrial) Districts respectively of the Helena Zoning Ordinance.

The B-2 (General Commercial), B-3 (Central Business), CLM (Commercial-Light Manufacturing), and M-I (Manufacturing and Industrial) districts all currently reference the 1972 SIC Manual in the Helena Zoning Ordinance. Two newer manuals are now available: Standard Industrial Classification (SIC) Manual, 1987 Edition and the North American Industry Classification system (NAICS), United States 2002 manual.

The Helena Zoning commission recommended approval for the adoption of an ordinance.

Ms. Macefield recommended approval for first passage of an ordinance amending Sections 11-2-6, 11-11-2 (A), 11-12-2 (A), 11-13-2 (A), and 11-14-2(A) of the Helena Zoning Ordinance.

Public Testimony

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

Community Development Director Michael Barros spoke in support of the amendments to the zoning ordinance.

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

Motion

Commissioner Parriman moved approval for first passage of an ordinance amending Sections 11-2-6, "INTERPRETATION OF BOUNDARIES AND USES; and Sections 11-11-2 (A), 11-12-2 (A), 11-13-2 (A), and 11-14-2 (A) entitled "PERMITTED USES" for the B-2 (General Commercial), B-3 (Central Business), CLM (Commercial-Light Manufacturing), and M-I (Manufacturing and Industrial) Districts respectively of Helena Zoning Ordinance. Commissioner

Oitzinger seconded the motion. All voted aye, motion carried.
Ordinance 3001

***Public
Communications***

PUBLIC COMMUNICATIONS – There were no public communications.

***Meetings of
Interest***

MEETINGS OF INTEREST – The next administrative meeting is August 25th and the next regular city commission meeting is August 30th. Mayor Smith noted the volunteer appreciation picnic is scheduled for Thursday, August 26th.

Adjournment

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

Mayor James E. Smith

ATTEST:

Clerk of Commission