

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
September 13, 2004
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, September 13, 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 Cartwright, Oitzinger, Pouliot and Parriman were present. 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 August 30, 2004 were approved as submitted.

Confirmation of Police Officers

Confirmation of Police Officers Brett Petty and Berkley Conrad
Police Chief Troy McGee introduced Officers Brett Petty and Berkley Conrad. Chief McGee gave a brief biography on each of the officers. He then recommended confirmation of Brett Petty and Berkley Conrad as Police Officers with the Helena Police Department.

Officer Brett Petty thanked the commission, the Helena Police Department and Chief McGee for this confirmation. He spoke of the extensive training he received over the last twelve months. Officer Petty introduced his wife Rose Petty and his parents Mickey and Dennis Petty.

Officer Berkley Conrad introduced his parents, Burk and Estella Conrad, to the commission. He then spoke of his long-term interest in becoming a police officer with the Helena Police Department. He thanked the commission, City Manager Burton, Chief McGee and the command staff for the opportunity to work with the Helena Police Department.

Motion

Commissioner Pouliot moved confirmation of Brett Petty and Berkley Conrad as Police Officers with the Helena Police Department. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Commission comments

Commissioner Parriman congratulated and thanked both officers for their accomplishments.

Commissioner Oitzinger spoke on the training the officers receive. She then spoke on the very ethic of public safety that each of the officers brings to the position as a police officer. She thanked Officers Petty and Conrad for the enthusiasm.

Mayor Smith welcomed and congratulated Officers Petty and Conrad. He then asked them to stay for the meeting, as further discussion will be held regarding the recent prisoner escape.

**Introduction of
Lieutenant Livesay**

Introduction of Lieutenant Corey Livesay

Police Chief Troy McGee introduced members of the Helena Police Department who were in attendance including Officer Bailey, Captain Anderson, Sergeant Steve Hagen, Officer Curt Stinson and Corporal Cliff Wakefield.

Chief McGee introduced Lieutenant Corey Livesay with the Helena Police Department. Chief McGee gave a brief biography of Lieutenant Livesay and congratulated him on his promotion to Lieutenant.

Lieutenant Livesay introduced his wife Katrina and his three daughters, Sophie, Macy and Gracie. He thanked the commission, the Police Department, City Manager Burton, Chief McGee and the citizens for the opportunity to serve as Lieutenant.

Mayor Smith congratulated Lieutenant Livesay for the promotion to within the Helena Police Department.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Consider a resolution supporting Gateway Economic Development Corporation and the Gateway Economic Development District **Resolution 19161**

City Manager Tim Burton recommended approval of the claims. City Manager Burton referred the commission to the revised resolution supporting Gateway Economic Development Corporation. The revised resolution has some housekeeping changes.

Motion

Commissioner Parriman moved approval of items A and B on the consent agenda. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Cartwright stated in the course of his work he deals with projects working on building new generating facilities and one of the things they are complaining about is the ever-increasing cost of concrete and steel. The upcoming TIF projects may run into the same issues; however, he wants to reiterate that the budget we have is the budget we have. There are not additional funds available for any increase in material costs.

Commissioner Pouliot stated two weeks ago, the Holter Museum was authorized to use 70' of the Thomas Cruse fence. It has been installed and looks very good.

Commissioner Oitzinger announced the Community Youth Advisory Council is accepting applications. However, the insert was late arriving and therefore the deadline for submitting applications has been extended to Friday, September 24th.

**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. Chief McGee Debriefing – Police Chief McGee reported on the prisoner's escape that occurred on September 2, 2004. Chief McGee introduced Sheriff Liedle and thanked her for the Sheriff Department's

assistance. Chief McGee thanked all departments who were involved and the coordination between law enforcement.

Chief McGee reviewed the details of the escape; the number of prisoners involved and how each was apprehended and the steps the law enforcement officers took to ensure the safety of the citizens. After the incident, staff has reviewed the incident and has identified some areas that need improvement. The Police Department has been in contact with the Department of Corrections and TransCor in regards to the escape; they asked for the Police Department's advice on how to prevent another escape. The cost of this incident is approximately \$20,000. Chief McGee thanked everyone who assisted with the incident, specifically Sheriff Liedle and the Sheriff's Department, the commission and the City Manager for their support of the Helena Police Department.

Sheriff Liedle addressed the commission regarding the incident. The citizens of Helena should be very proud of the Helena Police Department and Lewis & Clark County Sheriff's Department. Some of the concerns have been addressed through a memorandum of understanding. There are some issues regarding the transport of prisoners that will also be addressed with the Montana Sheriff's Association.

B. Department of Corrections Director Bill Slaughter – Director Slaughter, on behalf of Governor Martz and the Department of Corrections, he thanked Chief McGee and Helena Police Department for their assistance with the prisoner escape on September 2nd. He then spoke on the corrective measures that have taken place to ensure that another incident does not happen.

Director Slaughter spoke on the behavior patterns of the prisoners that were being transported. The four were identified as maximum-security prisoners and were being transferred to Deer Lodge. There is a constant movement of prisoners from one prison to another within the state.

Mr. Slaughter spoke on how the prisoners had defeated the restraints during transport and the van security cage. The Department of Corrections will hold ongoing meeting with various law enforcement agencies to discuss how the TransCor agents responded to the prisoners during the incident. A memorandum of understanding has been developed to avoid this type of situation from happening again. The terms of the MOU were accepted and signed by TransCor.

Mr. Slaughter spoke on how the transportation of prisoners between local law enforcement agencies no longer worked because of the demand to transport prisoners. Since April of 2004, TransCor has transported just for the Department of Corrections, 644 DOC inmates and 409 inmates for the US Marshall's Service.

Mr. Slaughter then reviewed six mandatory changes, which are in the MOU, that will be implemented prior to any further transporting of prisoners.

Mr. Slaughter spoke of the excellent department the Helena Police Department is. He specifically spoke on the excellent job Lieutenant Livesay did as the incident commander. He thanked the Sheriff's Department and the Montana Highway Patrol for their assistance during this incident. There were many law enforcement departments, citizens, local media and elected officials involved in this incident and all are to be commended.

Commission comments

Commissioner Parriman stated he is concerned with the estimated cost of \$20,000 to cover this incident. What is the total cost and who is ultimately responsible? City Manager Burton stated he believes the helicopter and those associated costs, that were ordered by the Governor and others are not included in the \$20,000 total. For the most part, it includes the Helena Police Department and Lewis & Clark Sheriff's Office. It may also include the Highway Patrol.

Commissioner Parriman asked if the coordination system is in place. Chief McGee stated this particular incident was centrally located and the communications between the departments worked well. However, the Lewis & Clark County radio project is not up and running at this time.

Director Slaughter stated there is a very good contract in place with TransCor. He asked anyone who has bills associated with this incident, that they be submitted for reimbursement.

Commissioner Oitzinger spoke to Director Slaughter regarding his involvement in this incident. Commissioner Oitzinger asked about the particular inmates and why they were not maximum security and who makes that decision, how and when.

Director Slaughter explained how the prisoners are processed and how they are classified. The only time a prisoner is constantly classified as maximum security is when they have a death sentence. These individuals had worked their way out of maximum security and were transferred to Shelby. However, their behavior deteriorated and they were reclassified to maximum and were being moved back to Deer Lodge.

Commissioner Oitzinger asked if a hearing officer of DOC makes each decision on where individual inmates are classified. Mr. Slaughter clarified there is a group of people who hold hearings and determines the classifications of the inmates.

Commissioner Oitzinger asked for clarification on whether or not the Shelby prison was going to handle only Montana inmates. Director Slaughter stated after the last legislation, 700 inmates were released from prison. When this happened, the owners of the Shelby prison appeared before the Legislature and were authorized to house out-of-state prisoners. However, the Shelby prison has never had to house out-of-state inmates. There are also Montana federal prisoners housed at Shelby.

Commissioner Oitzinger asked for clarification regarding a chase car. She asked who would operate the chase car and who would cover the additional costs. Mr. Slaughter stated those details need to be worked out. For the time being, if a chase car is required, the Department of Corrections would provide it.

Commissioner Oitzinger observed that privatization has been costly with this contract. Commissioner Oitzinger stated she has an ethic of public service, public involvement, public law enforcement and public safety. She continues to be concerned with having a private contractor.

Mayor Smith stated he has worked with Director Slaughter for many years. He then asked how do the ethics, work habits and dedication of law enforcement officers be instilled in a private contractor. Director Slaughter stated he believes the contract will be amended and Montanan's will be hired. Contract monitors, who will be a DOC employee, will also be used to monitor this contract. Director Slaughter stated the local law enforcement officers do have more of a connection

and commitment than private contractors. However, the cost to run DOC is huge and this contract may be a stopgap for further discussion.

Mayor Smith asked when the citizens could expect a final report on what went wrong. The most frequent question is how did the prisoners get out of the restraints. Mr. Slaughter stated a tool was found in the van that assisted the inmates in getting out of their restraints.

Mayor Smith asked Sheriff Liedle if she and Chief McGee are conducting an independent investigation of this incident. Sheriff Liedle concurred with Mayor Smith.

Commissioner Pouliot stated the citizens of Helena would be more informed after tonight's meeting. He thanked Director Slaughter, Chief McGee and Sheriff Liedle for coming to the meeting and answering these questions.

City Manager Burton stated it is important to remember the close cooperation between the law enforcement agencies doesn't happen by accident. The joint corporation between the agencies provides a safer work environment for all law enforcement officers.

C. Compliance Inspection Report for the City of Helena, Wastewater Treatment Plant, Permit Number MT-0022641

City Manager Burton referred the commission the letter from the Montana Department of Environmental Quality regarding the compliance inspection at the Wastewater Treatment Plant. He then invited Water/Wastewater Superintendent Don Clark up to address the commission.

Superintendent Don Clark gave a brief summary of the annual DEQ inspection report for the Wastewater Treatment Facility.

***HCC Communications* HELENA CITIZENS COUNCIL COMMUNICATIONS**

HCC Representative George Hoff had no report. There is a HCC meeting on September 15, 2004.

Commissioner Cartwright thanked Mr. Hoff for all of his work on the renaming of Last Chance Gulch.

***Amending Res. 12093* CONSIDER A REQUEST TO AMEND RESOLUTION 12093 FOR A CONDITIONAL USE PERMIT (CUP) WHICH ALLOWED STORAGE UNITS IN THE B-2 (GENERAL COMMERCIAL) DISTRICT TO REFLECT THE INTENTION OF CONDITION #1; GENERALLY LOCATED SOUTH OF BROADWAY, BETWEEN AND ADJACENT TO I-15 AND COLONIAL DRIVE; LEGALLY DESCRIBED AS LOTS 2A AND 4, BLOCK 4, EAST PARK #1 ADDITION, HELENA, MONTANA.**

Staff Report

City Planner Belinda Waters reported at the April 5, 2004 public hearing before the city commission, public concerns were voiced related to locating the storage units at this location. CUPs allow evaluation of the effects a land use will have on a neighborhood, and appropriate conditions can be required to address concerns and maintain compatibility. The city commission approved Resolution 12093 subject to 4 conditions, including Condition 1, which states "Screening must be installed along the south property boundary adjacent to Colonial Drive. Chain link fencing is not permitted along this southern property boundary."

For reference, Section 11-1-2 of the Helena Zoning Ordinance defines screening as "concealed or cut off from visual access." Section 11-24-8 of the ordinance states, "Where landscaped screening is

required or provided, said screening shall consist of shrubs, closely spaced and maintained at a height of at least four feet, unless otherwise specified, by this Title.”

The legislative history of the application shows that a decorative fence was proposed and accepted by both planning staff and zoning commission. In rewording the condition language, which was done only for clarification and not a substantive change, the word “screening” was used, and there was not intent to be more restrictive and exclude the decorative fencing. Therefore, Condition 1. could be revised to state, “Screening or decorative fencing must be installed along the south property boundary adjacent to Colonial Drive. Chain link fencing is not permitted along this southern property boundary.”

The proposal is to amend Condition 1 to clarify the screening requirement along Colonial Drive to include allowing the installation of decorative fence to serve as screening. The applicant has stated they “will continue with the plan to build a decorative aluminum or steel fence. The requirement for a hedge causes a security issue. Any vandalism of the property facing Colonial Drive would not be detected if the hedge were installed. We will continue with the approved landscape plan, which requires grass and trees on the boulevard adjacent to Colonial Drive.”

Ms. Waters stated Acting Community Development Director Brandt Salo would address the landscaping plans that were submitted. Mr. Salo brought forward the original landscaping plan that was submitted. The plan showed a single curb cut from Saddle Drive and it had trees/shrubs disbursed across the front of the property on Colonial and shrubbery going down both sides of the property and some at the rear of the property. The Building Division reviewed the original landscaping plan and indicated that there were conditions in the CUP that required there would be screening placed across the front of the property. Staff then received a revised landscaping plan, which made modifications to the 1st, indicating there was going to be wrought iron decorative fence across the front with a 4’ high hedge and showed some additional trees in the boulevard area. However, somewhere in the course of the process, the applicant submitted a 3rd revised landscaping plan directly to the Director of Parks & Recreation. The 3rd set of plans had less landscaping than what was on the 2nd set of plans. Due to staff’s comments for additional information, the 3rd set of plans showed the irrigation system, the veritable types of plantings. However in the course of the process, it dropped out all of the landscaping shrubbery on the two sides of the lot and decreased the amount of trees and shrubbery across the frontage of the property, it did not show the hedge and did not show the fence. This plan was approved by Director Lilje, as being the minimal allowed by the city’s standards. Mr. Lilje was not aware that this plan was tied to a CUP, when he approved it; there was not reference on the set of plans.

Mr. Salo stated it is staff’s position that the 2nd set of plans that were submitted would be the set that would comply with the CUP.

Commissioner Cartwright stated when the CUP was approved; an architect’s drawing was included. However, the submitted plan did not include what was on the drawing. The question he had last time was “would the landscaping that actually ends up, be similar to what was proposed”. Mayor Smith asked if the 2nd set of landscaping plans include what was originally shown to the commission when the CUP was approved? Mr. Salo stated the 2nd set of plans; shows more landscaping

than what was shown on the initial set of plans. They added the fence, hedge and some additional trees in the boulevard portion. Commissioner Cartwright stated he would prefer the 2nd set of landscaping plans and if that is what is being proposed, he is prepared to vote for the change in the CUP.

Mr. Salo stated a wrought iron fence is a decorative item and is not used as screening. He is not sure if the applicants will be asking to delete the fence in lieu of the shrubbery. Commissioner Cartwright again reiterated he would support the approval of the 2nd set of landscaping plans submitted. However, he wants to make sure before a motion is made. City Manager Burton referred the commission to the original information that was included in the August 18th packet, and copied for the meeting tonight.

Commissioner Cartwright asked Project Engineer Bob McKenna to come forward. Mr. Bob McKenna updated the commission on the project, which is currently under construction. When the original plan was approved, it included several conditions; one of those conditions was that the fencing, parallel to Colonial Drive, not be the same type of fencing that would go on the other three-sides of the project. The fencing would require screening along the south side of the property. When the 2nd set of plans was submitted, it included a wrought iron decorative fence for the south side, with a 4' high hedge in front of the fence. The reason the hedge was proposed at that time was at the request of the Building Division. The owner has reservations about installing a hedge along the decorative fence because of security concerns. After the 2nd set of plans for the project was submitted, the landscape plan was submitted to the Director of Parks & Recreation Lilje and it was ultimately approved. Mr. Lilje was not aware that the landscaping was tied into a CUP. The applicants are requesting to go with the original plan that was submitted, which does not include the hedge along the wrought iron fence. The rest of the original landscaping would be installed.

Commissioner Cartwright asked if there would be trees in front of the project along Colonial Drive and would there will be hedges along the sides. Mr. McKenna clarified there would be trees along the sides. Commissioner Cartwright stated he is ready to support the request to amend Resolution 12093.

Commissioner Pouliot stated the first plan plus the decorative fence is what is being proposed. Mr. McKenna concurred. Commissioner Pouliot asked for clarification on what the motion would be approving?

Mayor Smith stated if the resolution were amended, it would approve the plans as originally submitted, with a wrought iron fence and no hedge. Mayor Smith asked Mr. Salo what is being approved? Mr. Salo clarified the 1st set of plans did not show a hedge or a wrought iron fence. The fence did not show up until the 2nd set of plans was submitted. Mayor Smith asked if the recommended motion for approval is offered and passed, what is the commission approving? City Manager Burton stated if the motion is approved it would include a wrought iron fence, less the continuous hedge and the remainder of the landscaping as proposed.

Motion

Commissioner Pouliot moved approval of a resolution to amend Resolution 12039 for a conditional use permit (CUP) which allowed storage units in the B-2 (General Commercial) District to

reflect the intention of Condition #1: generally located south of Broadway, between and adjacent to I-15 and Colonial Drive; legally described as Lots 2A and 4, Block 4, East Park #1 Addition, Helena, Montana. Commissioner Cartwright seconded the motion.

Discussion Commissioner Oitzinger stated even though she voted against this proposal, she will vote in favor of the amendment.

Vote All voted aye, motion carried. **Resolution 19162**

Crystal Springs Final CONSIDER THE FINAL PLAT FOR THE CRYSTAL SPRINGS SUBDIVISION PHASE II CREATING 27 RESIDENTIAL LOTS AND PARKLAND DEDICATION FROM REMAINDER LOTS 1 AND 2 AS SHOWN ON THE CRYSTAL SPRINGS SUBDIVISION PHASE I FINAL PLAT, LOCATED IN A R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT GENERALLY LOCATED EAST OF GREEN MEADOW DRIVE AND WEST OF THE EXISTING PIONEER VILLAGE SUBDIVISION. ACTION: APPROVE, TABLE OR DENY THE FINAL PLAT FOR THE CRYSTAL SPRINGS SUBDIVISION PHASE II.

Staff Report Planner Lucy Morell-Gengler reported on February 25, 2002, the city commission gave conditional preliminary plat approval for the entire Crystal Springs Subdivision creating 108 residential lots form an approximately 40-acre tract of land. The commission also approved R-2 and R-3 pre-zoning for the property. This proposed subdivision is located east of Green Meadow Drive and west of the existing Pioneer Village Subdivision.

The Crystal Springs Subdivision is being developed in four phases. The city commission gave final plat approval for the first phase on August 8, 2003. The applicant is now requesting final plat approval for the second phase, which is approximately 8.8 acres of the total 40-acre subdivision.

The preliminary plat approval was subject to several conditions, which have been completed, financially guaranteed, or are no longer applicable. A list of the original subdivision conditions were attached to the staff report.

The applicant has submitted the disposition of the water rights for the property and has indicted the intention to relocate the wells that were located in the residential areas of Phase I and II to the proposed parkland area. A well has been drilled on the proposed parkland and the applicant is in the process of establishing his water rights at that location. An easement is indicated on the plat for maintenance of that well.

The requirement for a temporary bike/pedestrian path will be delayed until Phase III since right-of-way has not been established between the Benton and Custer Avenues intersection and the Crystal Springs Subdivision.

Ms. Morell-Gengler recommended approval of the final plat for the Crystal Springs Subdivision Phase II creating 27 lots and parkland dedication from Remainder Lots 1 and 2 of the Crystal Springs Subdivision Phase I final plat, located in a R-2 (Single-Family Residential) District; generally located east of Green Meadow Drive and west of the existing Pioneer Village Subdivision.

Commission Comments Commissioner Cartwright asked if Benton Avenue is currently developed. Ms. Morell-Gengler explained the developer, except for the

portion that is still in the county, would develop the portion of Benton Avenue adjacent to the subdivision. An application was been submitted for subdivision for property south of this development, that would continue Benton Avenue south, but it would not connect with the subdivision. Commissioner Cartwright asked if this subdivision would connect with Coulter Loop. Ms. Gengler stated this subdivision is currently connected to Coulter Loop.

Commissioner Oitzinger referred to page six of the evaluation of conditions – financial guarantee. She asked if the storm water detention pond has been installed or financially guaranteed. Ms. Morell-Gengler stated the area has been improved, however, a financial guarantee was included in Phase I. Mr. Rundquist stated all the infrastructure improvements in Phase I are complete and the storm water drainage improvements have been installed.

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

Motion Commissioner Pouliot moved approval of the final plat for the Crystal Springs Subdivision Phase II, creating 27 lots and parkland dedication for the remainder of Lots 1 and 2 of the Crystal Springs Subdivision Phase I Final Plat, located in the R-2 (Single-Family Residential) District; generally located east of Green Meadow Drive and west of the existing Pioneer Village Subdivision.
Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Consultant Selection CONSIDER A RESOLUTION REPEALING RESOLUTION NO. 9959 AND AUTHORIZING THE CITY MANAGER TO ADMINISTER PROCUREMENT OF PROFESSIONAL SERVICES CONTRACTS FOR ARCHITECTURAL, ENGINEERING AND LAND SURVEYING CONSULTING CONTRACTS

Staff Report Public Works Director John Rundquist reported in 1987, the city commission approved Resolution 9959. Since that time, Montana Codes regarding consultant selection have been amended causing inconsistency with city rules. In addition, the city commission has indicated a preference to have the City Manager administer selection of consultants with appointment of appropriate screening committees.

City legal staff has reviewed Montana Codes and suggested a resolution to repeal Resolution 9959 and delegate the appropriate authority for consultant selection to the City Manager.

Director Rundquist recommended approval of the resolution repealing Resolution 9959 and authorizing the City Manager to administer procurement of professional services contracts for architectural, engineering and land surveying consulting contracts.

Commission comments Mayor Smith asked if this is approved, would the city be in line with state statutes. Mr. Rundquist concurred.

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

Commissioner Oitzinger stated she has sat on many consultant selection processes and believes she has contributed toward the process. Public Works Director Rundquist stated staff appreciates commission members serving on selection committees. With the

repealing of Resolution 9959, it would not preclude a commission member from serving on a selection committee.

Commissioner Pouliot asked if any of the commission members be appointed to the selection committees? City Manager Burton stated that opportunity is there and if a commission member is interested in a specific project, they could serve on the selection committee.

Mayor Smith stated if this resolution is approved, commission members would not be required to sit on selection committees, however, they could sit on any selection committee they want to. City Manager Burton concurred.

Commissioner Pouliot asked how the commission members would know that a selection committee was going to be put together? City Manager explained the projects are identified through the budget process. Staff could let the commission know when the consultant selection process was going to happen. Mayor Smith stated his personal feelings is it is the commission's job to govern and it is the job of the City Manager to administer and it is important to maintain that separation.

Commissioner Oitzinger asked if a commission member volunteers for a selection committee, would they have the same involvement as in the past. City Manager Burton stated he would not ask anyone to sit on a selection committee as an observer.

Commissioner Parriman stated he too has sat on several selection committees and has enjoyed the opportunity. However, he stated he does not feel a commission member should be required to sit on a selection committee.

Motion

Commissioner Parriman moved approval of a resolution repealing Resolution 9959 and authorizing the City Manager to administer procurement of professional services contracts for architectural, engineering and land surveying consulting contracts.

Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution 19163**

***Right of Way
Dedication***

CONSIDER A PLAT AMENDMENT AND RIGHT OF WAY DEDICATION FOR THE FIRST COMMUNITY BANK AT 19TH AVENUE AND US 12 FRONTAGE ROAD

Staff Report

Public Works Director John Rundquist 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 the 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 and 18th Street currently intersect. In addition, First Community Bank will be constructing a new branch building in the area of the proposed realignment. MDT has postponed immediate plans for reconstruction of the frontage road due to controversy with nearby property owners about the improvements. However, the dedication of right of way by the bank for widening 19th Street will still be necessary to accommodate the future street improvements. In exchange for this dedication, the commission previously approved the vacation of North Street right of way fronting the

bank property. North Street right of way adjacent to the US 12 frontage road has never been improved with street construction or use.

Director Rundquist recommended approval of an amended plat for dedication of right-of-way by the First Community Bank at 19th and the US 12 frontage road.

Commission comments

Commissioner Pouliot stated there are two legal documents included in the packet; one is Dedication of Public Right-Of-Way from First Community Bank to the city and the other is Quit claim Deed from the City of Helena to the Montana Department of Transportation. He asked if both of these documents would be incorporated in the motion. Mr. Rundquist referred the question to City Attorney Nielsen.

City Attorney David Nielsen explained the amended plat does three things. The commission previously approved the vacation of the old North Street. Therefore, in addition to the two documents attached to the staff report, there is an additional Quit Claim Deed from the city that would transfer that portion of North Street to the property owner.

Commissioner Cartwright asked if the right-of-way the city is receiving is the same as they are giving up? Director Rundquist concurred.

Public Comment

Mayor Smith asked for public comments, none was received.

Motion

Commissioner Pouliot moved approval of an amended plat for dedication of right-of-way by the First Community Bank at 19th and the US 12 frontage road. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Sidewalk Variance

CONSIDER A VARIANCE FOR CURBSIDE SIDEWALKS FOR 1520 BUTTE AVENUE

Staff Report

City Engineer Ryan Leland reported the property at 1520 Butte Avenue currently has no sidewalks along the property frontage. There are very limited amounts of sidewalks installed in the vicinity.

In conjunction with the city's 2004 volunteer sidewalk program, the property owner is requesting a variance to install a new 5-foot wide curbside sidewalk along Butte Avenue. The variance request is based on the amount of mature landscaping on the applicant's property and surrounding lots. The length is approximately 40 lineal feet.

City Engineer Leland showed several pictures of the property and the location of the proposed curbside sidewalks.

City Engineer Leland stated he does not have a recommendation for the request for a variance. City Manager Burton stated staff does not make a recommendation for a variance.

Commission comments

Commissioner Parriman asked what type of sidewalks are installed on the other side of the street. Mr. Leland showed a 3-foot wide boulevard sidewalk. Commissioner Parriman stated his personal preference is a boulevard sidewalk; however, he believes the commission needs to be flexible in some instances. He would like to see consistency in a neighborhood and stated he will support the variance.

Commissioner Cartwright asked what happens to the mailbox if the curb type sidewalk is installed. Mr. Leland stated the mailbox would be located within the sidewalk. Commissioner Cartwright asked if the mailbox is installed by regulation or could it be moved closer to the curb?

City Engineer Leland stated the mailboxes have been installed by postal regulations; however, some of them may be able to be moved.

Public comment

Mayor Smith asked for public comment. HCC member George Hoff stated in order to install a boulevard sidewalk at this residence, it would be very expensive because the amount of fill it would require. He recommended the variance be approved. Mr. Hoff stated he is speaking on his own behalf and not the Helena Citizens' Council.

Matt Egan, 1520 Butte Avenue, spoke in support of the sidewalk variance. He explained if a boulevard sidewalk were required, a retaining wall would have to be built. He noted he plans on moving the mailbox to the west side of the driveway. Mr. Egan asked for commission approval of the variance.

Motion

Commissioner Parriman moved approval of a variance for curbside sidewalks for 1520 Butte Avenue. Commissioner Pouliot seconded the motion.

Commissioner Oitzinger stated this request is very difficult for her; however, she understands the drainage issues and costs affiliated to install a boulevard sidewalk and will support the motion.

Vote

All voted aye, motion carried.

Sidewalk Variance

CONSIDER A VARIANCE FOR CURBSIDE SIDEWALKS FOR 1025 PHOENIX AVENUE

Staff Report

City Engineer Ryan Leland reported the property at 1025 Phoenix Avenue currently has no sidewalks along the property frontage. There are very limited amounts of sidewalks installed in the vicinity.

The property owner is requesting a variance to install a new 5-foot wide curb type sidewalk along Phoenix Avenue. The request is based on utility interference that prevents standard boulevard sidewalks. The length is approximately 200 lineal feet.

City Engineer Leland showed several pictures of the property and the location of the proposed curbside sidewalks.

City Engineer Leland stated he has no recommendation for the variance request for curbside sidewalk at 1025 Phoenix Avenue.

Commission comments

Commissioner Pouliot asked if the commission is dealing with National Avenue? City Engineer Leland stated the only request for a variance is for Phoenix Avenue.

Commissioner Parriman stated there are boulevard sidewalks in the vicinity and asked if a boulevard sidewalk would work if the power poles were located in the boulevard. City Engineer Leland showed the distance between the street and the power poles is approximately 5-feet. If a boulevard sidewalk were required, staff would have to verify if there is enough right-of-way to install the boulevard sidewalks. Commissioner Parriman stated if the rest of the neighborhood has boulevard sidewalks and it is possible to install them here, he would support that. However, if it were not possible, he would support the variance.

Mayor Smith asked what the neighborhood is zoned? City Engineer Leland stated he is unsure what the zoning designation is; however, there are a lot of commercial businesses in the area.

Commissioner Cartwright asked if the property line runs along the fence line? City Engineer Leland stated he is not sure exactly where the property line runs.

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

Commissioner Pouliot stated in view of the questions that have been asked, he will make a motion to table this variance request.

Motion **Commissioner Pouliot moved to table a variance for curbside sidewalks for 1025 Phoenix Avenue.** Commissioner Oitzinger seconded the motion.

Discussion Mayor Smith stated City Engineer Leland has indicated he is unsure if there is room for a boulevard sidewalk.
Commissioner Oitzinger asked that staff also address and make any necessary recommendations concerning any storm water impacts of curbside or boulevard sidewalks.

Amended Motion **Commissioner Pouliot amended the motion to table a variance for curbside sidewalks for 1025 Phoenix Avenue and that staff address and make any necessary recommendations concerning any storm water impacts of curbside or boulevard sidewalks.** Commissioner Oitzinger seconded the amended motion.

Vote All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR A PRE-ZONING DESIGNATION TO PLI (PUBLIC LANDS & INSTITUTIONS) DISTRICT FOR 42.01 ACRES PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA. SAID 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

B. CONSIDER A RESOLUTION TO ANNEX 42.01 ACRES OF ADJACENT PROPERTY OWNED BY THE CITY OF HELENA. 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

Planner Belinda Waters stated she would present one staff report for both public hearings; because the pre zoning and annexation is for the same property.

Ms. Belinda Waters reported the City of Helena owns the 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, consists of 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.

On August 10, 2004 the Helena Zoning commission unanimously recommended approval of the adoption of an ordinance for a pre-zoning designation of PLI for these acres prior to annexation.

Because the property is contiguous government-owned land, it may be annexed to the city by a method specifically targeted to that situation, as set for tin 7-2-401 *et seq.*, MCA. Annexation was initiated by receipt of a request to annex the property, and by passage on August 16, 2004 of a resolution of intention by the city commission. The proposal to consider annexation of this property was duly advertised as specified under state law. To date, no public comments have been received.

One of the parcels, Tract B-1-A-2, as shown on COS 623202/E, consists of 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. However, on August 16, 2004, the city commission did first passage of an ordinance for 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. Therefore, 3.96 acres of the original 40 acres has been pre-zoned to B-2.

Ms. Watters recommended approval for first passage of an ordinance for a pre-zoning designation prior to annexation into the City of Helena, Montana, for a 36.04-acre and a 2.01-acre parcel to PLI (Public Lands & Institutions) District; for property in Lewis and Clark County, Montana.

Ms. Waters recommended approval of a resolution annexing into the City of Helena, Montana, a 40-acre parcel and a 2.01-acre parcel in Lewis and Clark County, Montana. 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.

Commission comments

Commissioner Cartwright asked if the 40-acres was acquired with Open Space Funds. Ms. Waters concurred. Commissioner Cartwright asked how 3.96 acres could be zoned B-2? City Manager Burton explained when the commission considered the Nob Hill Subdivision, there was a land trade as part of that proposal, which is the 3.96 acres. The city received 18 acres in exchange for the 3.96 acres.

Commissioner Parriman asked if the donated property would be developed? Ms. Waters stated the designated open space property would not be developed.

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 Cartwright moved approval for first passage of an ordinance for a pre-zoning designation prior to annexation into the City of Helena, Montana, for a 36.04-acre and a 2.01-acre parcel to PLI (Public Lands & Institutions) District; for property in Lewis and Clark County, Montana. Commissioner Parriman seconded the motion. All voted aye, motion carried. Ordinance 3002

Motion Commissioner Parriman moved approval of a resolution annexing into the City of Helena, Montana, a 40-acre parcel and a 2.01-acre parcel in Lewis and Clark County, Montana. 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 Cartwright seconded the motion. All voted aye, motion carried. Resolution 19164

Public Communications PUBLIC COMMUNICATIONS – Brandt Salo assured the commission the landscaping plan, being recommended by the applicants for the storage units, complies with what the commission approved.

Meetings of Interest MEETINGS OF INTEREST – The next administrative meeting is September 22nd and the next regular city commission meeting is September 27th.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 8:50 p.m.

Mayor James E. Smith

ATTEST:

Clerk of Commission