

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**October 18, 2004**  
**6:00 P.M.**

**Time & Place**

A regular City Commission meeting was held on Monday, October 18, 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, City Clerk Debbie Havens and Deputy City Clerk Robyn Brown were present. Anne Pichette representing the Youth Advisory Council was also present.

**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 September 27, 2004 were approved as submitted.

**Proclamation**

PROCLAMATION

A. Acupuncture and Oriental Medicine Day

Mayor Smith read and presented the Acupuncture and Oriental Medicine Day proclamation to Brigit Mazurek.

Ms. Mazurek thanked Mayor Smith for the proclamation and gave the history of alternative type of therapy.

**Appointments**

APPOINTMENTS

- A. Business Improvement District/Helena Parking Commission
- B. Golf Course Advisory Board
- C. Helena International Affairs Council
- D. Helena Youth Advisory Council
- E. Zoning Commission

Mayor Smith asked for commission concurrence on the following appointments:

**BID/HPC** Reappointment of Peter Sullivan the BID/HPC.

**Bill Roberts Golf Advisory Board** Reappointment of Gerald Charlton, Sheila Hill and Stephen Frankino to the Golf Advisory Board.

**Helena International Affairs Council** Reappointment of Kay Hansen, Kevin Nielsen and Carla Wambach to the HIAC.

**Helena Zoning Commission** Appointment of David Hansen and the reappointment of Carolyn Adams and John Koerth to the Helena Zoning Commission.

**Community Youth Advisory Board** Appointment of the following to the CYAC: **Adult Members** – Marla Jacoby, Jan Lombardi, Micah Mitchell, Diana Oldham, Shannon Stober, Bruce Ewals, and Richard Norine – **Youth Members** – Samantha Copenhaver, Kaylee Drinville, Ashley Ewals, Brooke Ewals, Katherine Neiman, Gladys Nightwalker,

Phoenix Richards, Ellie Tinsley, Savanna Townsend, Emily Willig, Ryan Boggs, Ray Lombardi, Tyler Strom, and Joel Wilson.

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

**Motion** Commissioner Pouliot moved approval of the appointments to the Business Improvement District/Helena Parking Commission, Golf Course Advisory Board, Helena International Affairs Council, Helena Youth Advisory Council, and Zoning Commission.  
Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Utility bill insert – City of Helena Water Department  
C. Utility bill insert – United Way of Lewis & Clark County  
D. Resolution declaring certain personal property to be abandoned and unclaimed (bicycles) Resolution 19169

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Mayor Smith asked for public comment, none was received.

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

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Cartwright reminded the commission of the community forum regarding the Patriot Act on October 19, 2004, Carroll College Lower Commons, 7:00 p.m.

Mayor Smith thanked the Patriot Act Committee for setting this meeting up.

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

**Report of the City Manager** REPORT OF THE CITY MANAGER  
No report was given.

**HCC Communications** HELENA CITIZENS COUNCIL COMMUNICATIONS  
No report was given.

**Water Rates** CONSIDER A RESOLUTION OF INTENTION TO INCREASE WATER RATES FOR ALL WATER CUSTOMERS.

Staff Report Utility Customer Service Supervisor Liz Hirst reported water rates have remained the same since July 1997. The increases are necessary to:

- Replace failing city water meters
- Provide for better customer service (monthly meter reads)
- Keep up with inflation
- Provide for necessary capital improvements

- Continue to meet bonded debt coverage

The approval of the resolution of intention will provide for the department to hold a public rate hearing and establish increases to fund the water operating and capital systems for fiscal year 2005.

Ms. Hirst recommended approval of the resolution of intention to increase water rates 3.7% and set public hearing date for November 22, 2004.

Commission comment Commissioner Cartwright asked if the electricity for pumping is major part of the M&O budget? Public Works Director Rundquist concurred. Commissioner Cartwright commented the electricity rates have increased significantly and proposed 3.7% increase may not be a large enough increase to cover the costs. Mr. Rundquist explained staff has achieved some energy efficiencies in other areas to compensate for utility rate increases.

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

**Motion** Commissioner Oitzinger moved approval of a resolution of intention to increase water rates 3.7% and set public hearing date for November 22, 2004. Commissioner Cartwright seconded the motion. All voted aye, motion carried. Resolution 19170

Mayor Smith stated he believes maximum public outreach on this issue would be well advised.

**Waste Fees** CONSIDER A RESOLUTION OF INTENTION TO INCREASE THE FEE FOR DISCHARGE OF HAULED WASTE INTO THE CITY OF HELENA'S SEWER SYSTEM.

Staff Report Public Works Director John Rundquist reported that on January 28, 2002 the rate for hauled waste was set by resolution to \$35.04 per 1,000 gallons. The cost to treat this waste has increased and fees charged should reflect this.  
Director Rundquist stated after this item was put on the agenda, staff advised him that they would like to change some of the calculations. Therefore, he recommended the commission table this resolution until staff has a chance to make a new recommendation.

Commission comments Commissioner Pouliot asked if the new recommendation would be lower or higher. Mr. Rundquist commented it would probably be higher.

Commissioner Cartwright asked if staff could provide an analysis on how much waste is from within the city versus outside the city limits. Mr. Rundquist clarified that there is a limited number of septic tanks in Helena; therefore, a very low percentage of usage is from inside the city limits.

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

**Motion** Commissioner Parriman moved to table, to the call of the City Manager, the resolution of intention to set hauled waste fees to \$37.60 per 1,000 gallons. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Planning Contract**      CONSIDER A SECTION 5313 PLANNING CONTRACT FOR THE HELENA AREA TRANSIT SERVICE (HATS) FOR FY2005.

Staff Report                      Shop/Fleet Superintendent Ed Robinson reported that the Helena Area Transit Service (HATS) requested and received a Section 5313 Planning Grant from the Montana Department of Transportation for hiring a consultant to assist in selecting an appropriate site (sites) for building a new transit facility. At the present time HATS operates from an old service station converted to a bus facility in 1979. An appraisal of this property has indicated that this facility has outlived its useful life. The consultant will work with staff to select appropriate sites to serve the Helena community, and it's transit service into the future. The Section 5313 Planning Grant is for \$10,000.00. The state will provide \$8,000.00 and the city matching share will be \$2,000.00. The city's matching share will be provided from the existing general fund budget allocation.

Superintendent Robinson recommended authorization for the City Manager to sign the Section 5313 Planning Contract providing up to \$10,000.00 for selecting a new site for a new transit facility for the Helena Area Transit Service.

Commission comment              Commissioner Cartwright asked if the contract would involve the disposing of the current property? Mr. Robison stated staff would look at all options for the purpose of selecting the best site for the new facility and it may include selling the current property.

Commissioner Cartwright stated the property where the facility is currently located is worth a lot more than when it was purchased. City Manager Burton reminded the commission the City of Helena received a direct appropriation in the amount of \$500,000 for the construction of a new facility in last years Congressional Act.

Public comment                      Mayor Smith asked for public comments; none was received.

**Motion**                                      **Commissioner Oitzinger moved approval for the City Manager to sign the Section 5313 Planning Contract providing up to \$10,000.00 for selecting a new site for a new transit facility for the Helena Area Transit Service.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Public Hearings**                      PUBLIC HEARINGS  
A.              CONSIDER A RESOLUTION TO AUTHORIZE THE SALE OF SURPLUS REAL PROPERTY OWNED BY THE CITY OF HELENA; LEGALLY DESCRIBED AS LOTS 22 AND 23 OF HELENA TOWNSITE BLOCK 75 AND LOTS 20, 21, 27 AND 28 OF HELENA TOWNSITE BLOCK 75 (LOCATED ON HARRISON AVENUE).

Staff Report                              Accounting Supervisor Brandi Pierson reported the city of Helena currently owns two adjacent pieces of property located on Harrison Avenue between Park Avenue and Reeder's Village Drive. The properties are legally described as Lots 22 and 23 of Helena Townsite Block 75 and Lots 20,21,27 and 28 of Helena Townsite block 75.

Ms. Pierson stated that if approved for surplus the property would be advertised for sale. A notice will be published twice in the Independent Record. In addition, all parties who have expressed an interest in bidding to the city will be sent a letter. This letter will include a

map; minimum amount the city will sell it for, Bidder's Instructions, and time, date, and place of sale. The following provisions will apply to all Bidders:

1. A separate auction will be held for each parcel of property and will be conducted individually.
2. Sealed bids for each parcel must be submitted individually.
3. A minimum bid of \$1,328.50 is required for the parcel consisting of Lots 22 and 23.
4. A minimum bid of \$32,938.00 is required for the parcel consisting of Lots 20,21,27 and 28.
5. The purchaser must be current on all property taxes within Lewis and Clark County.
6. Earnest money equal to two percent of bid but not less \$500 must accompany the bid.
7. Name, address, and telephone number must be included with bid.
8. A buy-sell agreement must be signed within five working days of bid acceptance.
9. The purchaser must build within 18 months of closing. If not, the city has the option of repurchasing the property for the sales price less any outstanding liens, taxes, and assessments.
10. The closing will be processed through the City Attorney's Office.
11. The city will issue a quitclaim deed.
12. After all sealed bids are opened; the city may then negotiate with all interested parties to achieve the highest possible bid price. The city reserves the right to accept the bid that would be in the best interest of the city or to reject all bids.
13. After all negotiations are concluded, the proposed purchase price must be brought to the Commission for approval.

Ms. Pierson recommended the approval of the resolution to surplus these parcels owned by the City of Helena.

#### Commission comments

Commissioner Pouliot asked if there has been any public comment received? Ms. Pierson stated the calls she received were regarding what process would be used to sell the property and not the question of surplus the property.

Commissioner Pouliot asked if the city department directors have looked at the property and determined if they have no use for the property. Ms. Pierson concurred.

Commissioner Oitzinger asked Ms. Pierson to describe the actual location of the property that is being discussed. Ms. Pierson explained where the property is located and the adjacent streets. Commissioner Oitzinger asked if the property is flat or is there a hill? Ms. Pierson stated it is both, the initial part that fronts Reeders Village Drive is level, and then it is a steep slope.

Mayor Smith stated there has been interest in extending Harrison Avenue from Reeders Village Drive across that gully and perhaps providing access off of Reeders Village Drive. He asked if the surplus property has anything to do with the extension of Harrison Avenue between Reeders Village and Reeders Alley? Ms. Pierson stated the property is the first parcel on the proposed Harrison Street SID; it was brought to staff's attention as part of the SID project. Mayor Smith commented it might be in the realm of the city to keep the property and use it to provide access of Harrison Avenue.

City Manager Burton explained several weeks ago, the commission considered a vacation to realign Harrison Avenue, which does not include these particular lots. Staff received an inquiry from an adjacent property owner who wanted to purchase the property. That inquiry prompted the review within the city departments as to whether there is a city need to for this property, in which the answer came back no. Staff then started the process of surplusing this property. Mr. Burton stated the sale of this property and the extension of Harrison Avenue are two separate items.

Commissioner Pouliot stated he believes whomever purchases this property would probably want to develop it.

#### Public Testimony

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

**Doug Krebs, 69 Hill Brothers Road, Clancy**, representing Mr. & Mrs. McGuire, gave an overview of what the McGuire's have done regarding putting together an infrastructure plan for the property that they own and would like to ultimately develop. There is an amended plat that realigned Donaldson Street to assist in obtaining access to Harrison Avenue.

Mr. Krebs stated he met with City Attorney Nielsen regarding his clients wanting to obtain the property that is being surplused this evening. During this meeting, there was discussion on the value of this property and how it was valued.

Mr. Krebs stated he then went down and started working with the Department of Revenue and found with this particular property, the value when he first looked at it was \$99,000. After he met with the Department of Revenue, the value went to \$9,000 and according to Ms. Pierson; the value is now at \$61,000. Mr. Krebs noted the Department of Revenue showed the lots as having water and sewer service and a dirt street and were ready for development.

Mr. Krebs noted during his discussions with city staff, there was never a commitment that the city would sell the property to his clients. Mr. Krebs expressed concerns that if the city sells this property through the bid process, his clients may not be able to purchase it and would have additional costs to develop their property.

Mr. Krebs noted the property does not touch Reeders Village Drive. He then passed around a map for commission to review.

**Martin Lewis, 3 Reeders Village Drive**, stated he is not opposed to the development of this property. He did express concerns that the entire package for development has been piecemealed and therefore is somewhat confusing for the citizens who may be interested in bidding.

Mr. Lewis noted that Lot 2 is land locked on three sides of the property and is not large enough to build anything. Mr. Lewis asked that the entire proposal be brought forward at one time for everyone to review.

**Dan McLain, 9 Reeders Village Drive**, stated he is uncertain on what the commission is being asked to do. If he understands it correctly the property does not have access and believes the entire proposal should be brought forward in a total package. He asked what is the purpose and design for selling this property at this time when there is no access?

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

City Manager Burton commented that he understands the testimony that the people would like to see this reviewed in a similar fashion as subdivisions are reviewed. However, the city's authority does not exist to do so. These are legally platted lots, with that comes private ownership and private property rights. This lot does have legal access, even though the road is not in place. In visiting with City Attorney Nielsen, he believes Provision #9, requiring the purchaser to build within 18 months of closing is a carryover from previous proposals and if the commission wishes to delete this, that would be appropriate.

Mayor Smith asked for clarification on whether or not this property is a legally platted parcel and why it wouldn't go through the normal subdivision review? Mr. Burton explained there are numerous platted lots that exist in the city limits. Some of the lots are buildable and some not. What has changed over time is the city's ability to provide sewer and water services to certain areas. Once the property is subdivided, under the laws of Montana, the property becomes grandfathered in to the rules that apply at that time. The owners of the property own the property with full intention of having the ability to build on it. The city cannot come in after the fact and say we're going to change the rules. That would lead right down the path to a government taking.

City Manager Burton stated this particular parcel is not needed for any purpose by any city department. When staff determines there is no need to keep the property, it has always been the recommendation to sell the property and get it back on the tax roles.

There has been discussion among the property owners in the area as to how they would proceed in installing sewer, water and streets and build on their lots. It may appear piecemealed, but staff receives questions one at a time from various property owners and responds to them. It is not the city driving this conversation, city staff is responding to requests from property owners within the city of Helena.

City Attorney Nielsen concurred with City Manager Burton comments. He noted that subdivision review would not apply to the adjacent property of these two parcels.

Mayor Smith asked how the determination of buildable or not buildable is determined? City Manager Burton explained a property owner hires a private engineer to assist with the design and if they can design a house for the property, then it is a buildable lot. City staff reviews the design, including water, sewer and street grade. If the infrastructure cannot be installed, then the property is not buildable.

City Manager Burton recommended the commission remove Provision #9 within the city staff report.

Commissioner Pouliot stated he believes it is a good idea to sell surplus property. He then asked how staff set the minimum bid price. City Manager Burton stated the taxable evaluations with the Department of Revenue are not necessarily the most accurate figures, although they work for tax purposes. He then asked Director Magee to address Commissioner Pouliot's question.

Administrative Services Director Tim Magee explained the Department of Revenue did have several valuations on the property.

Staff has reviewed the values and set the minimum bid:

Parcel 1: top 8,400 build able sq ft @ **\$3.51\*** per sq ft = \$29,484  
 bottom 6,908 non-build able sq ft @ \$0.50 sq ft = \$ 3,454  
 total \$32,938

This is considered a realistic minimum value where sewer and street access is available, but water is not

Parcel 2: 2657Sq ft @ \$0.50 per sq ft = \$1,328.50.

**\*\$3.51 was derived from DOR's current value of \$61,107  
 (61,107/17,409 sf per DOR = \$3.51 per sq ft)**

Commissioner Pouliot noted there was some suggestion that by selling this property to someone who might want to develop it, somehow or another the city is doing something improper. He asked City Manager Burton to address this issue. City Manager Burton stated it isn't always city staff's obligation to be the keeper of the gate. So when a citizen asks a question, staff needs to answer it to the best of their ability and in a timely manner. City business has been conducted in the commission chambers with due advertising. If several questions have been asked at different times, there is nothing improper about it.

Mayor Smith stated he believes this resolution is a separate issue.

Commissioner Cartwright stated for clarification on the grandfathering; current standards apply in the public right of way for infrastructure and the standards in place at the time the lots were platted apply within the private property. City Manager concurred. Commissioner Cartwright stated that property cannot be unplatted; however, would it be possible to revert the right of way to the abutting landowners; or do the plats come with a guarantee for the right of access? City Manager Burton explained he believes the city has the ability, under the commission's authority, to vacate right of way. City Manager Burton noted he believes the city would have some difficulty if the commission eliminated access, whether it is developed or undeveloped, to make property inaccessible where in fact prior to that decision they had legal access. City Attorney Nielsen concurred with City Manager's comments.

Commissioner Cartwright stated the only decision the commission has on this property is whether or not the public infrastructure meets city standards. City Manager Burton concurred.

Commissioner Oitzinger asked if the city has no affirmative duty to sell these parcels. City Attorney Nielsen concurred.

**Motion**

**Commissioner Pouliot moved approval of the resolution authorizing the sale of surplus real property owned by the city of Helena, and that Provision #9 in the bidder instructions be removed.**

Commissioner Parriman seconded the motion.

Commission discussion

Mayor Smith stated he is prepared to support the motion. He understands how the various issues have come before the commission at separate meetings. He would like the development of this area to work for all involved.

**Vote**

Motion carried 4-1 with Commissioner Oitzinger voting no.  
**Resolution 19171**

B. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) FOR A CASINO WITH UP TO 20 GAMING MACHINES TO BE LOCATED IN THE B-2 (GENERAL COMMERCIAL) DISTRICT. LEGALLY DESCRIBED AS THE WEST 52.2 FEET OF LOT 15, AND ALL OF LOTS 16-19, BLOCK 26, FLOWER GARDEN ADDITION, HELENA, MONTANA; GENERALLY LOCATED WEST OF OAKES STREET AND NORTH OF CEDAR STREET AT 1730 CEDAR.

#### Staff Report

Planner Kathy Macefield noted the applicant for this proposal is Rocky Mountain Restaurant Services, LLC. There is not a representative for the applicant present this evening. Ms. Macefield stated in the past, the commission has not proceeded if the applicant wasn't represented at the meeting. Mayor Smith stated the public hearing has been advertised and he would like to proceed.

City Planner Kathy Macefield reported that on September 14, 2004 the Helena Zoning Commission recommended approval (2:1 vote) for a Resolution for a Conditional Use Permit (CUP) to allow a casino with up to 20 gaming machines to be located in a B-2 (General Commercial) District. Said property is legally described as the west 52.2 feet of Lot 15, and all of Lots 11-16, Block 26, Flower Garden Addition, Helena, Montana; generally located west of Oakes Street and north of Cedar Street with a property address of 1730 Cedar Street.

This approval is subject to the following condition:

Site Plan Revisions:

- 1) The site plan must be revised to accurately show the location and dimensions of all onsite parking, landscaping, signs, and utilities.
- 2) The revised site plan must show the location of the dumpster.
- 3) The revised site plan must be submitted prior to occupancy, and the landscaping must comply with the approved site plan.

Ms. Macefield reviewed the site plan requirements; the applicants submitted a new site plan showing 61 parking spaces and they are required to have 60 spaces; therefore they have met the on-site parking requirements. In addition they have the three ADA spaces that are required. The site plan does not show the bicycle parking, which is a requirement; it does not show the dimensions of the parking spaces and it does not provide the landscaping dimensions.

Ms. Macefield noted the applicants have done some changes to the landscaping in the front and backside of the building

Ms. Macefield reported that this proposal reuses an existing building, represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with some of the identified Economic Vitality objectives of the 2001 Helena Growth Policy. The proposal generally conforms to the Zoning Ordinance although the landscaping may need to be brought into compliance. The proposed casino is compatible with the surrounding land uses.

Ms. Macefield recommended approval for a Resolution granting a Conditional Use Permit (CUP) to allow a casino with up to 20 gaming machines to be located in a B-2 (General Commercial) District as legally described in the staff report.

## Commission comments

Commissioner Parriman stated his construction company is under contract to remodel the exterior of the building. The work he is doing would take place whether the CUP is approved or not. Therefore, he does not see a conflict and will vote on the conditional use permit.

City Attorney Nielsen concurred that Commissioner Parriman does not have a legal conflict with this project.

Commissioner Pouliot asked for clarification on why this proposal may not conform to the city's growth policy. Ms. Macefield explained this property would be considered infill development; it is a vacant and underutilized building. It already has city water and sewer and paved streets. In that sense, it is an example of infill development. It is located in the entryway into the city; the appearance could be improved with more landscaping to be consistent with the identified appearance goal and policy. It could be compatible to the identified economic vitality policy but not entirely consistent because the economic vitality goals and objectives talks about high paying jobs, although this does support a new business. The social objectives and the sustainable concept in the growth policy could be in conflict because one of the things is to prevent destructive behaviors and gambling could be considered a destructive behavior.

Commissioner Pouliot asked if staff is comfortable with the approval of the conditional use permit. Ms. Macefield stated is always best to get all the information up front. However, if that isn't possible, then it would be approved with the condition listed. The latest site plan that was submitted still is missing some of the information.

Mayor Smith asked if casinos are specifically prohibited in the B-2 Zone. Ms. Macefield stated casinos are specifically identified as conditional use permit in the B-2 and B-3 zones and are not allowed approved by right in any zone.

Mayor Smith referred to Zoning Commission member Patricia Spencer's comments regarding the location of the business being right on the main entryway into Helena. He asked if the commission approves the CUP, would they have to accept the site plan that has been submitted. Ms. Macefield stated one of the conditions states the revised site plan needs to be submitted prior to occupancy that shows all the required elements and that the landscaping needs to comply with the approved site plan.

Ms. Macefield stated one of the points of discussion could be whether additional landscaping would be required in terms of square footage, whether or not going from a restaurant to a casino is seen as a change of use or not. If it is seen as a change of use, because it requires a CUP, it could require additional landscaping.

Commissioner Cartwright again asked if casinos have to go through the CUP process. Ms. Macefield concurred; the only time casinos are allowed is with a CUP and that is in the B-2 and B-3 zones. Commissioner Cartwright noted the Montana Taverns Association has been quite clear that restaurants are different than casinos and therefore he believes this is a change of use.

## 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.

Mayor Smith stated he does not know the exact definition used by the Montana Tavern Association; however, he concurred that this would be a change of use.

**Motion**

**Commissioner Cartwright moved to table, to the call of the City Manager, a resolution for a Conditional Use Permit (CUP) to allow a casino with up to 20 gaming machines to be located in a B-2 (General Commercial) District. Said property is legally described as the west 52.2 feet of Lot 15, and all of Lots 11-16, Block 26, Flower Garden Addition, Helena, Montana; generally located west of Oakes Street and north of Cedar Street with a property address of 1730 Cedar Street.** Commissioner Pouliot seconded the motion.

Commissioner Parriman stated he believes the owner of the property is complying with all city standards regarding the parking spaces, landscaping and exterior remodel. The owner has turned in a landscaping plan.

Commissioner Cartwright stated his concern is that the conditions set by the commission need to be agreed upon by the applicant prior to approval.

**Vote**

All voted aye, motion carried.

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING LOTS 1, 2 AND 4 TO B-2 (GENERAL COMMERCIAL) DISTRICT AND LOTS 3 AND 5 TO CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT FOR THE PROPOSED RAVEN ROCK SUBDIVISION. LEGALLY DESCRIBED AS AN 18.57-ACRE TRACT OF LAND LOCATED IN THE W ½ SW ¼ SW ¼ OF SECTION 27, T10N, R3W, P.M.M. LEWIS & CLARK COUNTY; GENERALLY LOCATED SOUTH OF HIGHWAY 12 EAST, AND THE FRONT ROAD AND WEST OF ELAINE STREET AT 3215 HIGHWAY 12 EAST.

**Staff Report**

City Planner Belinda Waters reported that currently the property is vacant and undeveloped. The applicant is requesting approval of the two pre-zoning designations, which are accompanied by two simultaneous requests for minor subdivision/preliminary plat approval and annexation.

Ms. Waters reported that on Tuesday, July 22, 2003, the Helena Zoning Commission unanimously recommended approval for adoption of an Ordinance for two pre-zoning designations of B-2 (General Commercial) District for Lots 1, 2, and 4, and to CLM (Commercial Light Manufacturing) District for Lots 3 and 5 for 18.58 acres as indicated on the preliminary plat of the proposed Raven Rock Subdivision.

Ms. Waters stated that annexation and development of this property with the two zoning districts would encourage utilizing city services, and would facilitate compliance with City regulations with the accompanying minor subdivision proposal.

Ms. Waters recommended approval of the first passage of an ordinance pre-zoning Lots 1, 2 and 4 to B-2 (General Commercial) District and Lots 3 and 5 to CLM (Commercial Light Manufacturing) district for the proposed Raven Rock Subdivision. Legally described as an 18.57-acre tract of land located in the W ½ SW ¼ SW ¼ of Section 27, T10N, R3W, P.M.M. Lewis & Clark county; generally located south of

Highway 12 East and the front road and west of Elaine Street at 3215 Highway 12 East.

Commission comments Mayor Smith asked Ms. Waters where the location of this property is compared to the First Community Bank property and MDT. Ms. Waters showed the location of the property and the location of and the bank and MDT properties.

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

**Tim Birk, 880 Farm Road, Kalispell**, spoke in support of the ordinance. An office building for GSA is proposed to be built on the property. Mr. Birk explained the work he has down on the property.

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

Commissioner Oitzinger asked if GSA stands for General Services Administration. Mr. Burke concurred.

Commissioner Cartwright stated his general observation is that the city should be doing area wide planning and building office buildings at the edge of town could be a bad idea as they increase the costs of maintaining public infrastructure.

**Motion** Commissioner Pouliot moved approval of the first passage of an ordinance pre-zoning Lots 1, 2 and 4 to B-2 (General Commercial) District and Lots 3 and 5 to CLM (Commercial Light Manufacturing) district for the proposed Raven Rock Subdivision. Legally described as an 18.58-acre tract of land located in the W ½ SW ¼ SW ¼ of Section 27, T10N, R3W, P.M.M. Lewis & Clark county; generally located south of Highway 12 East and the front road and west of Elaine Street at 3215 Highway 12 East. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. Ordinance 3004

D. CONSIDER A RESOLUTION ESTABLISHING FEES TO BE CHARGED FOR THE BILL ROBERTS MUNICIPAL GOLF COURSE FOR THE 2005 SEASON.

Staff Report Parks and Recreation Director Randy Lilje reported that since the city made significant changes in the operation of the golf course two years ago the golf course fund has continued to make improvements in maintenance and operation as well as capital investment in the course. The Golf Advisory Board has analyzed in detail the operations and capital needs of the golf course and developed a long-term plan for continued improvement.

Director Lilje stated that based on its review the Golf Advisory Board is now recommending an increase in fees for the 2005 season. The purpose of this increase is to continue the high level of maintenance and operation that the golfers have come to expect at Bill Roberts Golf Course and fund the debt service for capital repairs, replacements, and improvements that have been done.

At this time, this fee increase does not put aside reserves for future capital expenditures and provide funds for off years where revenues are down due to bad weather or course construction. However, the Board and staff are working toward that in future years so

that the golf course remains fully funded through the revenues generated.

Finally, the Board always considers the golfing market in the Helena area, as well as, the region remains affordable to the golfing public while maintaining its high standards. Bill Roberts Golf Course still has the most affordable golf with great playing conditions to make this course the best golfing value in the area if not the state.

At its September 27, 2004 meeting the City Commission approved the resolution of intention to increase the fees at Bill Roberts Golf Course and set the public hearing for its meeting on October 18, 2004.

Director Lilje recommended approval of the resolution to establish fees to be charged for the Bill Roberts Golf course for the 2005 season.

Public Testimony

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

**Jerry Charlton, 110 S. Hannaford**, member of the Golf Advisory Board, spoke in support of the proposed resolution.

**Susan Court, Wildwood Lane**, member of the Golf Advisory Board, also spoke in support of the proposal.

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

Motion

**Commissioner Parriman moved approval of a resolution establishing fees to be charged for the Bill Roberts Municipal Golf Course for the 2005 season.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 19172**

Mayor Smith, on behalf of the city commission, thanked the Golf Advisory Board for the work that they have done. Commissioner Pouliot also thanked staff for their work.

E. CONSIDER SECOND PASSAGE OF ORDINANCE 3003, ESTABLISHING METHOD FOR SETTING WASTEWATER RATES, AMENDING SECTION 6-3-2 OF THE HELENA CITY CODE, AND SETTING APPLICABILITY DATE OF JULY 1, 2005.

Staff Report

Public Works Director John Rundquist reported the present situation regarding the ordinance.

a) The current ordinance uses a two-month winter quarter average (December/January or January/February) to calculate the wastewater charge for the entire year. Extending the winter quarter average period from October to May would be a better reflection of base water usage during the non-irrigation season. The City of Helena currently has the shortest winter quarter averaging period of all major Montana cities (excluding Butte which uses flat rates). This change is intended to be revenue neutral to the City but would affect customer's differently depending on water usage during the averaging period.

b) The current ordinance also charges non-residential properties using the winter quarter average. The exceptions to this rule are schools, laundromats (which may request that each billing period be based on actual water since they use more water during the winter) and car washes (since they don't use as much water during the winter). All other major Montana cities (except Butte) base non-residential

wastewater charges on the actual monthly water used (whether calculated or metered). Metered water used solely for irrigation purposes would not be used to calculate the service charge. This change has the potential to add revenue to the Wastewater Fund depending on water usage and the time of year of the usage for different types of non-residential properties.

c) The current ordinance does not address how to calculate a service charge for a property served by an unmetered well. Although a meter is required, there are certain times and certain situations when the meter has not been installed.

Director Rundquist reported that advantages to amending section 6-3-2 of the Helena city code are:

a) Extending the winter quarter averaging period will give a better reflection of the base water used to calculate the wastewater service charge for residential properties.

b) Changing the method of calculation for non-residential properties based on the actual amount of water used (instead of the winter quarter average) is more reflective of the actual benefit received from these properties and removes the exceptions granted schools, laundromats, and car washed in the current ordinance. Bowling alleys, taverns, laundromats and schools typically use more water in the winter and have been exempted by the current ordinance or penalized by the current winter quarter average. Restaurants, motels, hotels and car washes that typically use more water in the summer have been included by ordinance or benefited by the current winter quarter average.

c) A methodology on how to charge property served by an unmetered well will assist staff in these situations.

Director Rundquist recommended approval for second passage of Ordinance 2003 establishing method for setting wastewater rates, amending section 6-3-2 of the Helena city code, and setting applicability date of July 1, 2005.

Public Testimony

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

**Carl Maehl, 13.32 University**, stated he has had an ongoing problem with the wastewater calculation during the January/February averaging. Mr. Maehl spoke in support of the ordinance to make the averaging more equitable.

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

Motion

**Commissioner Pouliot moved approval of second passage of Ordinance 3003, establishing method for setting wastewater rates, amending section 6-3-2 of the Helena city code, and setting applicability date of July 1, 2005.** Commissioner Parriman seconded the motion.

Commissioner Parriman noted he believes that this methodology will be more equitable for the citizens of Helena. He noted there would be some customers whose bills will increase. He used the street maintenance fee methodology as an example when the commission changed the methodology and then heard from many citizens that it was not fair.

Commissioner Oitzinger stated she has a much higher comfort level on this proposal than the street maintenance assessment.

Vote

All voted aye, motion carried. **Ordinance 3003**

***Public  
Communications***

PUBLIC COMMUNICATIONS – There was no public comment.

***Meetings of  
Interest***

MEETINGS OF INTEREST – The next administrative meeting is October 20th and the next regular city commission meeting is October 25<sup>th</sup>.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 8:00 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of Commission