

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
December 20, 2004  
6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, December 20, 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, Cartwright, Parriman, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Anne Pichette representing the Youth Advisory Council and Bill Roberts 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 December 6, 2004 were approved as amended.

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Contract for printing, stuffing and mailing of utility statements
- C. Utility bill insert - Growing Friends of Helena
- D. Utility bill insert - Helena Open Lands Management Advisory Committee (HOLMAC)
- E. Acceptance of fiscal year 2004 Comprehensive Annual Financial Report (CAFR)
- F. Amendment #1 to CM5899(20) Brady Street/Josyln Street agreement with the Montana Department of Transportation
- G. Gateway Economic Development Corporation calendar year 2005 budget for administrative expenses to manage the City's revolving loan fund

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

***Public Comment***

Mayor Smith asked for public comment, none was received.

***Commission comment***

Commissioner Oitzinger thanked City Controller Glenn Jorgenson and Accounting Supervisor Brandi Pierson for their work on the city's flawless audit for fiscal year 2004.

***Motion***

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

***Bid Award***

BID AWARD

- A. One (1) new Solid Waste Transfer Trailer – Solid Waste Division

***Staff Report***

Fleet Manager Ed Robinson reported bids were received for one (1) new Solid Waste Transfer Trailer to replace unit #233 and trade in of the existing unit. The low bid was from Reliance Trailer Company. A bid

summary was attached to the staff report. Reliance Trailers bid a 2005 Reliance Trailer at a price of \$43,767.00 after trade. The FY05 budget appropriation for this unit is \$58,350.00. The purchase of this unit will allow the city to continue to upgrade its Solid Waste division's fleet providing reliable equipment and reduce maintenance costs.

Mr. Robinson recommended the purchase of the new unit at the bid price of \$43,767.00 for the replacement of unit #233. Unit #233 will be submitted for trade to Reliance Trailer Company.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

**Commissioner Parriman moved to accept the bid from Reliance Trailer Co. for One (1) New Solid Waste Transfer Trailer for the bid price of \$43,767.00.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Parriman congratulated the Carroll College football team on their conference win.

Commissioner Oitzinger spoke of houses decorated for Christmas around town and wished everyone season's greetings.

Commissioner Cartwright stated when people send email to mayorandcommission@ci.helena.mt.us, he can't tell if it's going to him or the whole commission and asked Information & Technology Services to look into it.

Commissioner Pouliot spoke of the many Christmas functions around Helena, and stated they are a sign the arts are alive and well and wished everyone Merry Christmas.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney David Nielsen reported the Helena Parking Commission (HPC) has a substantial number of unpaid parking tickets. City Attorney Nielsen has been working with HPC to eradicate these tickets. The parking commission is granting an amnesty period until December 31, 2004; ticketed persons can redeem 50% of their ticket with a donation to food share. After January 1, 2005, criminal citations will be issued for unpaid tickets.

Mayor Smith asked for clarification of criminal citations. City Attorney Nielsen stated citations will be mailed to persons with unpaid tickets, if they do not appear in court then a warrant will be issued.

Report of the City Manager

REPORT OF THE CITY MANAGER

No report was given.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Bill Roberts reported the HCC will be meeting December 22, 2005 to finalize the ballot for officers in the coming year and will discuss the communications between HCC District 3 and westside property owners regarding annexation issues.

Mayor Smith thanked Mr. Roberts for his work with the HCC.

**Donated Land**

CONSIDER ACCEPTANCE OF DONATED LAND ADJACENT TO ROBINSON PARK, LOT 10A-1 IN BLOCK 64 OF THE NORTHERN PACIFIC ADDITION, FOR A PUBLIC PARK.

Staff Report

Parks & Recreation Director Randy Lilje reported in 1972 the Oakes Street Cemetery was conveyed to the City of Helena from the Catholic Bishop of Helena, a corporation sole, for the purpose of turning the old cemetery into a public park. That park is now known as Robinson Park.

A few weeks ago a local contractor was excavating for a water service line from the street into a lot adjacent to Robinson Park. When the excavator noticed that remnants of small caskets were being unearthed the work was immediately stopped.

An amended plat has been drawn which removes the area of the graves from the lot and the owner, Mr. Craig Hanson, desires to donate Lot 10A-1 to the City as public park to be added to Robinson Park. There will be no cost to the city.

Director Lilje recommended accepting the donation of the property from Mr. Hanson for a public park.

Commission comment

Mayor Smith asked if the survey of the lot was done at the expense of the property owner and developer? Director Lilje stated it was, and Mayor Smith asked Director Lilje to communicate appreciation to Mr. Hanson.

Public comment

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Pouliot moved approval to accept the donation of Lot 10A-1 in Block 64 of the Northern Pacific Addition to the City of Helena for a public park.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Discussion

City Manager Burton thanked all city and county staff involved with the excavation of the property for the professional and delicate manner with which they handled the situation.

Mayor Smith extended apologies to family members of those interred at Oakes Street Cemetery.

Commissioner Pouliot asked City Clerk Havens to send a letter to Mr. Hansen and Mr. Pierce expressing the city's appreciation for their work. Mayor Smith concurred.

**Right-of-Way**

CONSIDER DEDICATION OF RIGHT-OF-WAY (ROW) FOR THE EXTENSION OF HILLSDALE STREET.

Staff Report

City Engineer Ryan Leland reported there is no existing right-of-way between Shiland and Raleigh streets for the extension of Hillsdale Street. However, a gravel road has been established on private property by regular public use. The public uses this road to travel between Raleigh and Shiland streets, and for parking. An area map was attached to the staff report.

Bill Darcy and Gail Moser agree to dedicate a forty-five by one hundred foot portion of their property to the City for ROW to extend Hillsdale Street. The extension of this portion of Hillsdale is part of the proposed Special Improvement District (SID #410) will be considered by the Commission in 2005. Mr. Leland stated the dedication would provide

partial ROW for the extension of Hillsdale Street between Shiland and Raleigh streets, which is currently being used as a public road.

Mr. Leland recommended accepting the dedication of right-of-way for the extension of Hillsdale Street.

Commission comment            Commissioner Parriman asked for clarification, is this a dedication or donation of property? Engineer Leland replied it is being dedicated to the city as right-of-way.

Mayor Smith asked if there would be an impact on the value of their property from this dedication? City Engineer Leland stated they would receive a tax break for their donation. The city approached the property owners regarding the right-of-way and they were willing to dedicate it.

Commissioner Pouliot, will the street be built in the future? City Engineer Leland stated the street is part of the South Broadway SID, which was brought before the Commission last spring. If an SID passes, this property will be included in it.

Mayor Smith spoke of discussions regarding the proposed SID.

Public comment                 Mayor Smith called for public comment.

City Manager Burton stated Stahly and Associates are working on the feasibility of the proposed SID.

**Motion**                            **Commissioner Pouliot moved acceptance of the dedication of right-of-way for the extension of Hillsdale Street.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

***Right-of-Way***                    **CONSIDER RIGHT-OF-WAY (ROW) USE AGREEMENT FOR THE EAST/WEST ALLEY BETWEEN THE 200 BLOCK OF RODNEY STREET AND EWING STREET TO PROVIDE THE LOCATE SERVICE FOR FIBER OPTIC CABLE.**

Staff Report                      City Engineer Ryan Leland reported Jackson, Murdo, Grant & McFarland, P.C. have recently purchased the old Finstad Flooring building to expand their law practice. They have proposed to connect their current office and the newly acquired Finstad Flooring building with a fiber optic cable. The fiber optic cable will allow the firm to grow and occupy two different buildings, while still conducting business without delay. The firm has contacted a one-call service to provide the located service for this fiber optic cable.

City Engineer Leland recommended approval of the right-of-way use agreement for the east/west alley between the 200 block of Rodney and Ewing streets.

Commission comment            Mayor Smith asked if the law firm will be conducting business out of two locations? City Engineer Leland concurred.

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

**Motion**                            **Commissioner Oitzinger moved approval of the right-of-way use agreement for the east/west alley between the 200 block of Rodney and Ewing streets.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Water Contract  
Renewal**

CONSIDER A 40-YEAR CONTRACT WITH THE US BUREAU OF RECLAMATION FOR SUPPLY OF MUNICIPAL WATER FROM THE CANYON FERRY RESERVOIR VIA THE HELENA VALLEY REGULATING RESERVOIR.

## Staff Report

Public Works Assistant Director Phil Hauck reported Helena's existing 40-year contract with the US Bureau of Reclamation expires on December 31, 2004. The current contract specifically provides for renewal at the end of the term with renegotiation of water rates. Early this year, city staff began working with Reclamation and the Helena Valley irrigation District (HVID) to develop projections for future Helena water demand. Staff also provided assistance with development of an Environmental Assessment.

Negotiations of contract terms between staff and Reclamation began in earnest this fall and have resulted in a Reclamation proposal for a new 40-year contract supported by the staff negotiating team. Reclamation requirements for the new contract include payment for maintenance of the dam, capital recovery of construction costs, and market value of the water resource. In addition, Reclamation has asked that Helena participate with the Helena Valley irrigation District in regular maintenance of the regulating reservoir, pumping facilities and transmission from Canyon Ferry to the regulating reservoir. The HVID contract would be negotiated following approval of the Reclamation contract.

Under the existing contract, Helena pays Reclamation \$16.17 per acre-foot (AF) for the first 600 AF and \$14.00 per AF for the remainder up to a maximum of 5,680 AF. In recent years Helena has used about 1,8000 AF/year resulting in an average payment of about \$16,800. At this use rate the average cost per customer is about \$0.23/month inclusive of all maintenance costs.

Under the proposed contract, the City would pay Reclamation in accordance with the schedule of prices included in the contract. To reserve the full 11,300 AF for future needs, the initial payment would be for the full reservation in 2005. In each subsequent year, the City would be billed for the 11,300 AF less a credit for the unused amount in the prior year.

A base rate plus a use rate equate to the Reclamation's loss of power generation revenue due to Helena's use. The contract rate in 2005 will be \$13.23/AF exclusive of O&M. This rate will grow yearly to \$37.58/af in 2044. Total water use from the Missouri River in year 2044 may increase to as much as 11,300 AF. However, the price of water is only applied to the amount used. The average cost per customer for Missouri River water in 2044 would be about \$1.88 per month exclusive of maintenance costs paid to HVID.

Although the increase in unit water prices is substantial over the term of the contract the actual increase in unit cost of the resource will average only about 2.4% per year. In retrospective, the average inflation rate in the prior 40 years has been 5.1%.

Assistant Director Hauck noted two minor revisions, on the bottom of page 10 and ending on the bottom of page 11, the section titled Emergency Reserve Fund has been removed at the request of city. On page 12, the section titled Confirmation of Contract has been removed by providing evidence of being a legally constituted entity. Assistant Director Hauck recommended approval of the 40-year water

supply contract with the US Department of Interior, Bureau of Reclamation.

Commission comment City Manager Burton stated he believes this is one of the most strategic and important issues to be addressed by the Commission for some time. He thanked Congressman Rehberg and Senators Burns and Baucus for their assistance. Also, the negotiating team of Public Works Director John Rundquist, Assistant Public Works Director Phil Hauck, City Attorney Nielsen and Administrative Services Director Tim Magee did very well. Using the statutory and regulatory laws that govern the Bureau of Reclamation (BOR), the team formed a formula and methodology that the BOR will be operating on all other contracts all over the United States.

Commissioner Oitzinger referred to the required initial payment; it is not yet budgeted but expected. Will the city have to borrow from any local government accounts to make the payment? Assistant Director Hauck stated an increase in this contract was anticipated during the budget process. There will be no impact to the water budget and the department did have savings from the grant funded water filter program.

Mayor Smith stated he was pleased with the contract, it enables the City to continue it's assertive effort to shift from the 10-mile Creek supply source to the Missouri River, which will help to rehabilitate 10-mile Creek.

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

**Motion** Commissioner Oitzinger moved approval of the 40-year water supply contract with the US Department of Interior, Bureau of Reclamation. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

***Walking Mall Design*** CONSIDER FINAL DESIGN FOR THE BROADWAY TO 6TH AVENUE AREA OF THE TIF WALKING MALL PROJECT.

Staff Report Community Facilities Director Gery Carpenter reported a series of five public meeting have been held beginning December 16, 2003. More than ten other public meetings have also been held which have included presentations to community organizations including: Downtown Helena, Inc., The Rotary Club, Gateway Economic Development, HUD, the Parks Board, the Historic Preservation Commission, Hometown Helena and the Women's Leadership Network. A public hearing was held on June 28, 2004. The City Commission provided direction through their decision on the reconstruction concept during the meeting on July 15, 2004. Preliminary design has been presented to City Commission at previous Administrative meetings on August 25, 2004, October 13, 2004 and December 1, 2004 with the final design submitted at the December 15, 2004 Administrative meeting. Director Carpenter gave a power point presentation of the proposed design.

Director Carpenter recommended approval of the final design for the Broadway to 6<sup>th</sup> Avenue area of the TIF Walking Mall Project and authorize the City Manager to let the project to bid.

Commission comment Commissioner Pouliot spoke regarding the center of the open plazas, are they raised in addition to being stamped? Director Carpenter

replied that area is not raised, though there are three different raised areas throughout the design, at the height of the sidewalk.

Commissioner Pouliot spoke of signage. Director Carpenter explained the signage will be like directories that show what offices, stores and features are in each block.

Commissioner Parriman asked about the timing of the project, in order to have it completed by June 1, 2005 when does it need to be let out to bid? Director Carpenter stated the project is under a guideline to ensure there is not active construction between June and September. In order to be done by June 1, 2005 the City has to advertise the bid by January 1, 2005 and construction must start by the middle of February. He then stated staff will work at the pleasure of the Commission and may have to phase this project.

Commissioner Cartwright asked what is the height of the curb and what does it consists of? Director Carpenter stated the curb height is 4 inches, they are made of concrete and shaped like the curbs on the 100 block south of Last Chance Gulch.

Commissioner Cartwright referred to the stream location. Director Carpenter stated the stream follows along the areas of the mall with the highest historic value.

Commissioner Cartwright spoke about the entrances to Broadway and 6<sup>th</sup> Avenue. Director Carpenter stated the entrances are raised at Broadway and 6<sup>th</sup> Avenue. Commissioner Cartwright asked if the proposed raised areas are similar to the raised section in the Great Northern? Director Carpenter concurred and also explained the proposed design won't need handicap ramps. The renovation of Performance Park will be done using the same funding but will be completed separately and at a later date. Commissioner Cartwright asked for confirmation of the playground area.

Commissioner Cartwright stated he has some changes to the design he'd like to add. Commissioner Cartwright stated he would be making a motion to table the design until January. He asked City Manager Burton for confirmation on the term "1<sup>st</sup> of the year", does it mean January 1<sup>st</sup> or the first part of January? City Manager Burton replied it depends on the action of the Commission, staff will make it work whether the design is approved tonight or in January. The critical point is to be under contract and to be able to perform within the statutory requirements of the TIF funds.

Commissioner Cartwright asked the audience to comment on four questions when giving public comment- 1. Do we want more people to come to the 6<sup>th</sup> and Broadway area? 2. What obligation do we have to the historical nature of the block? 3. If you have specific suggestions for the design, do you have an example of another city or town? 4. What are the long-term implications of the design?

#### Public comment

Mayor Smith called for public comment.

The following persons addressed the Commission: William McCausland, 14 N Jackson, Brian Kahn, 33 S Last Chance Gulch, Ken Toole, Senator- District 41, Steve Gilbert, 604 S 2<sup>nd</sup> Street, Joe Kiely, 102 S Benton Ave, Eric Pritchard, 416 S California, Mary Joe Olson, 312 Holter Street, John Hart, 2007 University Street, Shatara, 420 Last Chance Gulch, Katherine Brown, Helena, Jerry Hutch, 1111 E State Street, Cher Justeau, 2064 Oro Fino Gulch, Jessica Lawrence, 660 Stadler, Paul Pacini, 303 State Street, Pete Brown, 423 5<sup>th</sup> Ave, Julie Mitchell, 506 S Oaks, Ellen Baumler, 729 11<sup>th</sup> Ave, John

Axline, 448 Parriman, Sandra Murray, 909 Breckenridge, Steve Johnson, 418 Holter Street, Emily Trapp, 555 South Roberts, Lynn Boone, 638 1<sup>st</sup> Street, Norm Mullen, 7 Harrison, Autumn Lee, 814 9<sup>th</sup> Avenue, Metta Gilbert, 721 2<sup>nd</sup> Street, Will Selser, 728 North Warren, Gene Allen, Alpine Drive, Rob Friestad, 501 1<sup>st</sup> Street, Rachel Peurra, 1100 Highland Street, Amy Glasscock, 11 S. Benton, Ken Saunders, 1 N Last Chance Gulch, Craig Allen, 320 N Last Chance Gulch, Maureen Redfield, Clancy, Rockey Whipkey, Missoula Avenue, Dave Barnes, 1423 Broadway, Dan Stinson, 1002 9<sup>th</sup> Ave, Teresa Hastings, 923 Missoula Ave, and Colonel Joe Goldes. Those persons who spoke addressed the mall design, the use of the mall, and their concern over the lack of public input on the design.

David Duensing, 42 N. Main, Toni Broadbent, and Hal Fossum, Director of Business Improvement District, spoke in favor of the proposed design.

#### Commission comment

Commissioner Cartwright commented on the public testimony and stated traffic on the mall is not necessary right away. The use has been pushed out until 2006 for a visioning process. He admitted he would be very pleased to do nothing with this plan. If the design was not acted on now he suspects in two or three years the community would be asking for this design again. Commissioner Cartwright then gave a power point presentation regarding population by age in the community, showing a large aging population and world oil discoveries, which have been declining for years. He argued the need for a flexible design to accommodate situations we haven't even thought of. He then stated that fire regulations require a minimum street width of 20 feet, whether the street allows traffic or not. He spoke of design suggestions made by Downtown Helena and stated that although the Friends of Downtown wrote a letter detailing their ideas for the mall, they seem to have changed their minds regarding a serpentine roadway versus straight. To bring in tourism, a straight street shape makes sense. He spoke of lifestyle centers which do not allow traffic or parking but do include a street. He reiterated his opinion that if the subject design is never acted on, the public will for something similar in the future.

Commission Oitzinger spoke of the subsurface on Brady Street. She asked exactly what traffic is currently permitted on the mall? City Manager Burton stated that some businesses require delivery from the mall, and also the downtown trolley and fire trucks. Commissioner Oitzinger asked if there is any element of over design if it were to stay pedestrian only? Director Carpenter stated the 22-foot access way needs to be built strong enough for emergency vehicles, that is a minimum requirement even if there is never a car on it.

Commissioner Parriman asked why the tour train is not going to travel on the walking mall when it is remodeled? City Manager Burton responded the tour train is a private business and that was their own decision. Commissioner Parriman stated he did not hear much new testimony or information on the design tonight, but he did hear a lot of testimony against traffic on the walking mall. He believes this is a good design that allows flexibility into the future and is both pedestrian friendly and ready for traffic. He is comfortable with the design and would like to recommend some changes but has been assured this is a work in progress. Commissioner Parriman stated he would like brick pavers in the roadbed, similar to those in front of Haps and would like the curbs to

look more like old style granite. His desire is to make the mall look as historic as possible. He concurs that a serpentine roadway is not safe.

In the interest of having the project completed by June 1, 2005 he stated he would not support tabling the design.

Discussion was held on the status of the tour train traveling on the walking mall. According to Rocky Whipkey, the owners of the train have decided not to drive on the mall again.

Commissioner Pouliot referred to tour train travel on the walking mall. One of the reasons he supported the street is to be able to have tour train travel, which increases patronage to the area. Commissioner Pouliot stated he would support postponing action on the mall but not beyond the next Commission meeting on January 10, 2005. His preference is for seasonal traffic being allowed on the mall and he believes businesses would benefit from it this year, not in 2006.

Commissioner Cartwright referred to an email he wrote regarding his desire for brushed concrete on the sidewalk and a brick street or brick stamp. Lighting the buildings is important and must reflect historic fixtures. Regarding the symbols at 6<sup>th</sup> and Broadway he suggested geometric patterns instead of a graphic because the geometric will not show wear as much as a graphic design.

Mr. Kahn, stated a letter regarding the tour train status was sent to the commission months ago.

Mr. Barnes stated Phil Byrd composed a letter stating he would allow the tour train to travel on the mall again if they made the necessary improvements. The tour train owners have decided not to make these improvements as it would detract from the appearance of the train.

Mayor Smith asked if revisions to the design can be made after the final design is approved? Director Carpenter stated any revisions can be entered as additive alternates in the bid requests.

Mayor Smith stated he is an advocate of traffic on the mall. He has been walking up and down mall, twice a day for 18 years. Half to two-thirds of the storefronts are empty and have been empty for some time. Mayor Smith thanked citizens of Helena for weighing in on the issue, it has had an effect on the Commission. He then spoke of meetings with Friends of Downtown Helena and the Montana Consensus Council. He thought a flexible design had been agreed to and was acceptable to all parties. Unfortunately, that is not the case. He stated he feels as though he's listened to a great deal of people on this issue and wishes he could agree with all of the opinions he's been given. He believes that if the proposed design is approved, the city will have a better mall than what currently exists and the issue of use can be set aside for a period of time and re-engage the community on the ultimate use.

**Motion**

**Commissioner Cartwright moved to table the final design for the Broadway to 6<sup>th</sup> Avenue area until the next City Commission meeting on January 10, 2005.** Commissioner Oitzinger seconded the motion. Motion passed 3-2, with Mayor Smith and Commissioner Parriman voting no.

**Discussion**

City Manager Burton stated he would obtain clarification on the issue of the tour train on the mall. Commissioner Oitzinger stated the public record should be kept open for submission of written comment

until the January 10, 2005 Commission meeting. Mayor Smith concurred.

**Jackson Street  
Parking Structure**

CONSIDER FINAL DESIGN OF THE JACKSON STREET PARKING STRUCTURE.

Staff Report

Community Facilities Director Gery Carpenter reported the project architect, Kahru-Cullen Architects P.C., have finished plans and design specifications. Review and approval has been given by the Parking Commission/BID board and is being presented to the City Commission for final approval.

Director Carpenter recommended approval of the final design for the Jackson Street Parking Structure and authorize the City Manager to let the project to bid.

Commission comment

Commissioner Cartwright asked for clarification of the cost per net parking space. Mr. Carpenter stated it is almost \$24,000.00 per space. The Getchell Street parking structure was \$11,000.00 per space because it had the advantage of not covering an existing lot, all of the spaces were gained.

Public comment

Mayor Smith called for public comment.

Hal Fossum, Director of Helena Parking Commission and Business Improvement District, spoke in support of the design.

William McCausland, 14 N. Jackson, stated he supports the parking garage design but has concerns about where the dumpster in the current lot will lie during construction.

Discussion

Commissioner Pouliot referred to Administrative meetings in which they have discussed the garage.

Motion

**Commissioner Pouliot moved approval of the final design for the Jackson Street Parking Structure and authorized the City Manager to let the project to bid.** Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Annexation**

CONSIDER A RESOLUTION ANNEXING LOTS 1, 2, 3 AND 4, BLOCK 13; LOT 1, BLOCK 14; AND ALL OF BLOCK 22 OF PHASE 1, NOB HILL MAJOR SUBDIVISION, IN LEWIS AND CLARK COUNTY, MONTANA, INTO THE CITY OF HELENA, MONTANA; GENERALLY LOCATED NORTH OF STIRRUP DRIVE AND EAST OF SADDLE DRIVE.

Staff Report

City Planner Belinda Waters reported Nob Hill Properties, LLC is proposing to complete the annexation for Phase 1 of the Nob Hill Major Subdivision. Completing this annexation is a prerequisite to enabling the city to approve the final plat of Nob Hill subdivision- Phase 1.

On August 16, 2004, the City Commission established conditions to annexation of the Nob Hill Subdivision (Resolution #19154), and established pre-zoning designations for the properties (Ordinance #2999). On that same date, the Commission conditionally approved the Nob Hill major subdivision preliminary plat creating 153 commercial and residential lots.

Conditions for annexation included the following:

**Taxes and Assessments:** Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.

**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 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 property 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.

**Final Plat:** Present subdivision of final plat for Commission approval.

**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.

The conditions of annexation have been fulfilled and all procedural and due process requirements have been completed. Annexation has been requested by the applicant and is recommended by staff.

Effective October 1, 2003, in all instances of annexation, the municipality must include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed.

Therefore, the resolution of annexation includes that portion of the right-of-way adjacent to Lots 3 and 4 in Block 13 along Stirrup Drive.

Ms. Waters recommended approval of a resolution annexing Lots 1, 2, 3 and 4, Block 13; Lot 1, Block 14; and all of Block 22 of Phase 1, Nob Hill Major Subdivision, and that portion of the right-of-way adjacent to lots 3 and 4 in block 13, in Lewis and Clark County, Montana, into the City of Helena, Montana; generally located north of Stirrup Drive and east of Saddle Drive.

Public Comment

Mayor Smith called for public comment.

Robert Peccia, Engineer for the Nob Hill Subdivision, thanked city staff for their help and hard work.

Motion

**Commissioner Cartwright moved approval of a resolution annexing the Nob Hill Major Subdivision- Phase 1, and that portion of the right-of-way adjacent to Lots 3 and 4 in Block 13, in Lewis and Clark County, Montana, into the City of Helena, Montana; for property generally located north of Stirrup Drive and east of Saddle Drive.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19184**

**Final Plat** CONSIDER FINAL PLAT APPROVAL FOR THE LOTS 1, 2, 3 AND 4, BLOCK 13; LOT 1, BLOCK 14; AND ALL OF BLOCK 22 OF PHASE 1, NOB HILL MAJOR SUBDIVISION; GENERALLY LOCATED NORTH OF STIRRUP DRIVE AND EAST OF SADDLE DRIVE.

Staff Report City Planner Belinda Waters reported the applicant is requesting approval of the final plat and simultaneous final annexation for Phase 1 of the Nob Hill Major Subdivision. On August 16, 2004, the City Commission gave preliminary plat approval subject to the conditions stated in the Findings of Fact and listed on pages 2 and 3 of the memo included in the Commission packet. Phase 1 will consist of one lot designated as a city park and five lots designated as residential multi-family lots from a 29.435-acre parcel.

The 2001 Growth Policy land use map identifies this property in three classifications: "Open Space", "Residential – Low Density", and "Residential – Medium/High Density". The proposed subdivision would provide mixed in-fill residential development, is adjacent to other similar types of city developments, and will give almost 26 acres of parkland for the City. Therefore, the proposed subdivision appears to be generally consistent with the goals and objectives and policies stated in the Growth Policy. The conditions of preliminary plat approval have been satisfied.

Ms. Waters recommended approval for the Nob Hill Major Subdivision- Phase 1, creating Lots 1, 2, 3 and 54 in Block 13; Lot 1 in Block 14; and all of Block 22 from 29.435 acres; generally located north of Stirrup Drive and east of Saddle Drive.

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

**Motion** Commissioner Cartwright moved approval for the Nob Hill Major Subdivision- Phase 1, creating Lots 1, 2, 3 and 54 in Block 13; Lot 1 in Block 14; and all of Block 22 from 29.435 acres; generally located north of Stirrup Drive and east of Saddle Drive.  
Commissioner Pouliot seconded the motion. All voted aye, motion carried.

**Public Communications** PUBLIC COMMUNICATIONS

**Meetings of Interest** MEETINGS OF INTEREST  
The next Administrative Meeting is January 5, 2004 and the next Commission Meeting is January 10, 2004. The monthly City/County Joint Work Session is January 6, 2005.

Commission comment Commissioner Pouliot wished everyone Merry Christmas.

**Adjournment** There being no further business to come before the Commission, the meeting was adjourned at 10:40p.m.

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Mayor Smith

ATTEST:

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Clerk of the Commission