

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
February 14, 2005  
6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, February 14, 2005 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 Pitchette representing the Youth Advisory Council and Justin Trafton 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 January 24, 2004 were approved as amended.

***Proclamation***

PROCLAMATION

A. CARROLL COLLEGE SAINTS FOOTBALL TEAM

Mayor Smith read the proclamation designating February 14, 2005 as "Carroll College Fighting Saints Day" and congratulated the team on their third national title win.

Coach Van Diest thanked Mayor Smith for the proclamation and introduced the assistant coaches and team captains in the audience.

***Appointment***

APPOINTMENT

A. PUBLIC ART COMMITTEE

Mayor Smith asked for commission concurrence on the following appointment:

**Public Art Committee-** Appointment of George McCauley to the Public Art Committee.

***Public Comment***

Mayor Smith asked for public comment, none was received.

***Motion***

**Commissioner Parriman moved approval of the appointment of George McCauley to the Public Art Committee.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Second passage of Ordinance 3011 – Amending Section 8-1-2 and Chapter 21 of Title 8 to clarify impoundment of vehicles.
- C. Second passage of Ordinance 3012 – Amending Section 7-4-2A to clarify sidewalk requirements.

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

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

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

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Cartwright thanked Doug Mitchell and Q Communication for their work on an ad from the City and County Commissions that was placed in the Independent Record on Sunday, February 13, 2005 regarding the Westboro Baptist Church visiting Helena.

He then reminded downtown businesses that the bid opening for the walking mall reconstruction project is Friday, February 18, 2005 and stated if utility projects that require digging up the street or sidewalk need to be done on the 6<sup>th</sup> to Broadway portion of the mall, businesses could coordinate their needed work with the reconstruction project.

Commissioner Cartwright also discussed the proposed initiative regarding use on the walking mall recently submitted by Friends of Downtown Helena. He stated he is concerned that once the initiative is approved there will not be visioning and discussion between all concerned parties.

Commissioner Pouliot stated he believes the Commission should continue the visioning process while the proposed initiative is being approved because the discussions may make a difference in how citizens decide to vote. He hopes the Commission decisions and the vote of the community agree.

Commissioner Parriman stated the "ball is rolling" on the walking mall project and he is confident in the decision of the Commission. He believes everyone will be happy with the design and wished everyone a Happy Valentines Day.

Commissioner Oitzinger spoke of the State of the City address and the visit by the Westboro Baptist Church and thanked Mayor Smith for speaking on the issue.

She then referred to Commissioner Cartwright's comments regarding the visioning process and stated that although the Commission may disagree politically, the common goal is to provide a vibrant downtown and she believes that can be done without the initiative impairing the process.

Mayor Smith stated he believes that discussion of the use, initiative and upcoming election can occur simultaneously and the city will be better for it.

He then spoke of the visit by Westboro Baptist Church and attending a forum at Carroll College, the discussions at the capital, and the protests at various churches and stated they were inspirational. He is proud of the citizens of Helena and their actions. The Westboro Baptist Church now knows it can't intimidate or provoke Helena's citizens. He thanked Q Communications for their work on the ad and stated members of the business community will be making a donation to the Helena Education Foundation in gratitude to Q Communications, who did not charge the City of Helena for their work.

**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. CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN  
FINANCING REPORTING FOR FISCAL YEAR ENDED JUNE 30, 2003.

City Manager Burton invited Administrative Services Director Tim Magee to speak to the Commission to explain the City's award of the Certificate of Achievement for Excellence in Financing Reporting (CAFR) for fiscal year ended June 30, 2003.

Director Magee invited City Controller Glenn Jorgenson and Accounting Supervisor Brandi Pierson to accept the award and explained the CAFR is an award based on an accounting of 50 different funds, each with separate records, gathered into a complete document. He then praised Mr. Jorgenson and Ms. Pierson for their work.

Mr. Jorgenson thanked Director Magee for his comments and stated he is honored to be able to present this award to the citizens of Helena. Accounting Supervisor Brandi Pierson thanked the Commission and stated she is looking forward to receiving the award again next year.

Director Magee stated this is the 16<sup>th</sup> year in a row the city has received this award.

Commissioner Oitzinger thanked accounting staff for their work on the annual financial report.

Mayor Smith commended staff on their performance and spoke of the Audit Committee.

City Manager Burton asked Chief McGee to report on Detective Craig Campbell who was awarded Narcotics Officer of the Year. Chief McGee gave a history of Detective's Campbell's work and involvement with civic groups, various boards and task forces. He also cited a large methamphetamine conspiracy case Detective Campbell was involved with in March, 2004. He then thanked Detective Campbell for his work.

Commissioner Oitzinger stated the timing of this award is very meaningful due to the growing challenge of the methamphetamine problem in Montana and asked Chief McGee to convey her appreciation.

Mayor Smith asked Chief McGee to congratulate Detective Campbell on behalf of the Commission. He stated Detective Campbell and his association are leading some important public policy discussions at the legislature regarding methamphetamine.

Chief McGee stated the past weekend was busy for the Police Department with the Governor's Ball, protests by the Westboro Church, and Senator Baucus being in Helena. Other than a few comments from the protestors, both sides were civil and didn't require any police intervention.

City Manager Burton addressed citizens in the community that are involved with methamphetamine and warned them that the HPD will find and prosecute them.

**Report from the  
Helena Citizens  
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Justin Trafton reported at the January 26, 2005 HCC regular meeting internal elections were held and the results are available on the HCC website. City Project Manager Deborah LaFontaine attended the meeting to clarify the proposed annexation of

Westside property, and explained that the city is not currently involved in the process.

Mayor Smith asked Mr. Trafton to inform City Clerk Havens as to the date of the next HCC meeting so the Commission may attend.

**Ordinance**

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 9 (FIRE PREVENTION CODE) OF TITLE 3 OF THE HELENA CITY CODE.

**Staff Report**

Fire Marshal Craig Trapp reported the city is currently using the 1997 Edition of the Uniform Fire Code. This code is no longer being published. The State of Montana has adopted the 2003 Edition of NFPA 1- Uniform Fire Code and local jurisdictions are following suit.

Mr. Trapp stated adoption of these codes will allow the city to be consistent with what the State of Montana and other Montana cities enforce by using a more current code edition. He then recommended approval for first passage of an ordinance amending Chapter 9 of Title 3 (Fire Prevention) of the Helena City Code and to set a public hearing date of March 28, 2005.

**Commission comment**

Mayor Smith asked how often the fire codes are updated? Mr. Trapp responded they are usually updated on a 3-year basis but the city has not had an update in over 5 years. Mr. Trapp then stated staff reviewed the codes extensively and made them more user friendly.

**Public comment**

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Pouliot moved approval for first passage of an ordinance amending Chapter 9 of Title 3 (Fire Prevention) of the Helena City Code and to set a public hearing date of March 28, 2005.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3014**

**Ordinance**

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 3-11-4 OF THE HELENA CITY CODE TO CLARIFY USE OF AUTHORIZED WELLS.

**Staff Report**

Public Works Director John Rundquist reported the owners of Woody's Car Wash at 1201 Cedar Street have petitioned the city to allow drilling a well to provide water for commercial car washing. They claim that city water is too expensive and that potable water is not needed for their operation. Presently, Helena City Code (HCC) 3-11-4 allows wells only for irrigation or bona fide manufacturing purposes. Authorization of a well for a commercial car wash in the city is not presently allowed.

If City Code did allow non-potable wells for car washes, the drilling and use of ground water wells is also regulated by the Montana Department of Natural Resources and Conservation (DNRC) the use is expected to be greater than 35 gallons per minute or greater than 10 acre-feet annually, a Permit to Appropriate Water is required by DNRC prior to use of the water. Based upon historical water use, Woody's Car Wash would exceed the DNRC limits and therefore would require a DNRC permit in addition to a city well permit.

Director Rundquist stated accommodating private wells for car washes would be best accomplished by amending the ordinance to allow wells for both manufacturing and commercial uses not requiring potable

water. This may open the door for other commercial/non-potable uses such as laundromats, however, designating a specific commercial category for car washes may open the door for legal challenge.

Staff has drafted amendments to HCC 3-11-4 that would allow wells for non-potable commercial uses in addition to currently allowed manufacturing and irrigation uses. Of particular importance are the protection of the city's water supply from potential contamination and the metering of commercial and manufacturing wells for determining sanitary sewer charges. The draft amendment includes language that addresses these issues.

One advantage to the proposed ordinance is it may provide a cost advantage to the commercial user of city water whose use is strictly non-potable. If first passage is approved, public notice will be provided for a public hearing and Commission action on February 28, 2005.

Commission comment

Mayor Smith asked if the car wash is using potable water currently? Director Rundquist concurred and stated the owner would like to drill a well with non-potable water for use only in the car wash and would still keep a city service connection for their potable needs such as sinks and restrooms.

Commissioner Oitzinger asked about the allowable use of well water in manufactured goods, which is in the current ordinance. Director Rundquist stated he believes that part of the ordinance is meant for breweries.

Public comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Cartwright moved approval for first passage of an ordinance amending Section 3-11-4 of the Helena City Code to clarify use of authorized wells and set a public hearing date of February 28, 2005.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance # 3015**

Ordinance

CONSIDER FIRST PASSAGE OF AN ORDINANCE PRIORITIZING A PROJECT PREVIOUSLY DESIGNATED AND APPROVED AS A QUALIFIED URBAN RENEWAL PROJECT IN THE CONSOLIDATED CENTRAL HELENA URBAN RENEWAL AREA, AND AMENDING ORDINANCES NO. 2559 AND 2963.

Staff Report

Civic Center Manager Diane Stavnes reported the Civic Center Advisory Board has requested that the City Commission authorize a funding change for the \$20,000 appropriated to the Civic Center mezzanine railing project to the Civic Center ballroom main floor project.

The Board proposes to incur the total funding for the ballroom mezzanine railing project through their fundraising efforts and request that the City Commission transfer \$20,000 in funding for the Ballroom Mezzanine Railing project to the Ballroom Main Floor project at the existing \$20,000 level. It is anticipated the Ballroom Main floor project will be completed in the summer of 2005.

Replacement of the ballroom main floor will alleviate safety concerns of multi-level floor heights that currently exist in the Civic Center ballroom. This project will replace current floor coverings that have reached the end of their useful life and can no longer be maintained for the use they were intended.

Ms. Stavnes recommended approval for first passage of an ordinance prioritizing a project previously designated and approved as a qualified urban renewal project in the consolidated central Helena urban renewal area, and amending Ordinances No. 2559 and 2963.

Commission comment

Commissioner Pouliot stated the Civic Center Board has discussed this item at length and unanimously decided to replace the floor because the safety issues were more pressing. He then gave example of the recent inaugural ball held at the Civic Center and stated the stairs incorporated into the ballroom floor are dangerous and the proposed ballroom floor project will level the floor.

Public comment

Mayor Smith called for public comment; none was received.

Motion

**Commissioner Pouliot moved approval for first passage of an ordinance prioritizing a project previously designated and approved as a qualified urban renewal project in the consolidated central Helena urban renewal area, and amending Ordinances No. 2559 and 2963 and set a public hearing date of February 28, 2005.**

Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance # 3016**

**Ordinances**

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 3 OF THE HELENA CITY CODE, INCLUDING ADOPTION OF THE INTERNATIONAL BUILDING CODE, THE INTERNATIONAL ENERGY CONSERVATION CODE, THE INTERNATIONAL RESIDENTIAL CODE, AND THE INTERNATIONAL EXISTING BUILDING CODE, 2003 EDITIONS.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 3 (UNIFORM MECHANICAL CODE) OF THE HELENA CITY CODE.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 7 OF TITLE 3 (PLUMBING REGULATIONS) OF THE HELENA CITY CODE.

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 3 (GAS APPLIANCES AND FIXTURES) OF THE HELENA CITY CODE.

Staff Report

Chief Building Official Brandt Salo reported the current city ordinances reflect the adoption of the 2000 edition of the International Building Code and the International Residential Code, the 1997 Uniform Code for Building Conservation, the 1997 Uniform Mechanical Code, the 1993 Model Energy Code, and the 2000 Uniform Plumbing Code.

To comply with legislative directives through the state Department of Labor and Industry Building Codes Division, staff proposes the city adopt by ordinance these codes to assure the availability to builder, developer and homeowner, of the most current building-related regulations and technological data.

The proposed ordinance will assure that the city, as a certified jurisdiction empowered to enforce codes, is current with the codes in force and effect as adopted by the State of Montana. Adoption continues use of a nationally unified set of codes as assembled and periodically

revised by the International Code Council, Inc. which represents the integration of the former three national code bodies – the International Conference of Building Officials (ICBO), along with the Southern Building Code Congress International (SBCCI) and the Building Officials and Code Administrators International (BOCA). Use of automatic fire-sprinkler systems, in lieu of redundant fire resistive construction and rated assemblies allows the design of larger buildings based on their area and height. Energy conservation has achieved renewed stature with the adoption of the IECC.

Mr. Salo recommended approval of first passage of an ordinance amending Chapter 2 of Title 3 of the Helena City Code, including adoption of the International Building Code, the International Energy Conservation Code, the International Residential Code, and the International Existing Building Code, 2003 Editions; approval of first passage of an ordinance amending Chapter 4 of Title 3 (Uniform Mechanical Code) of the Helena City Code; approval of first passage of an ordinance amending Chapter 7 of Title 3 (Plumbing Regulations) of the Helena City Code; and approval of first passage of an ordinance amending Chapter 5 of Title 3 (Gas Appliances and Fixtures) of the Helena City Code.

Commission comment

Commissioner Cartwright asked for confirmation of the rules regarding adoption of State of Montana Building Codes. Mr. Salo stated certified jurisdictions within the State of Montana are mandated to adopt these codes. The state will adopt some provisions for local use that they don't apply to themselves.

Mayor Smith referred to the IECC, and asked if there were any changes that would give the city more latitude or ability toward its energy conservation program. Mr. Salo responded the code is very detailed, and staff will be attending additional training regarding the code on Thursday, February 17, 2005 at a Helena Building Industry Association meeting. The code requires more attention to be paid to provisions.

Mayor Smith requested that this agenda item be discussed at a future Administrative Meeting.

City Manager Burton stated he appreciates the outreach with the building community from the division. He then stated Community Facilities Director Gery Carpenter would be apprising the Commission of energy audits done with Northwestern Energy at a future Administrative Meeting. Also, during last year's budget discussion the Commission requested a review of the Building Division, which will be presented to the Commission in the next couple of weeks.

Public comment

Mayor Smith called for public comment; none was received.

Commission comment

Commissioner Parriman spoke of overlapping building codes and stated he believes the adoption of the most current codes will help staff and community builders.

Motion

**Commissioner Parriman moved approval for first passage of an ordinance amending Chapter 2 of Title 3 of the Helena City Code, including adoption of the International Building Code, the International Energy Conservation Code, the International Residential Code, and the International Existing Building Code, 2003 Editions and set a public hearing date of March 28, 2005.**

Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3017**

**Motion** **Commissioner Pouliot moved approval for first passage of an ordinance amending Chapter 4 of Title 3 (Uniform Mechanical Code) of the Helena City Code and set a public hearing date of March 28, 2005.** Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ordinance #3018**

**Motion** **Commissioner Pouliot moved approval for first passage of an ordinance amending Chapter 7 of Title 3 (Plumbing Regulations) of the Helena City Code and set a public hearing date of March 28, 2005.** Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ordinance #3019**

**Motion** **Commissioner Pouliot moved approval for first passage of an Ordinance amending Chapter 5 of Title 3 (Gas Appliances and Fixtures) of the Helena City Code and set a public hearing date of March 28, 2005.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3020**

**Public Hearings** PUBLIC HEARINGS:

A. CONSIDER SECOND PASSAGE OF ORDINANCE 3013, AMENDING CHAPTER 2 (EXCAVATIONS) OF TITLE 7 OF THE HELENA CITY CODE.

**Staff Report** Public Works Director John Rundquist reported currently, contractors are charged an additional fee for utility street openings to insure asphalt restoration by the Street Division. Contractors make necessary repairs to either a water or sewer service and backfill the street to the existing asphalt street surface. The Street Division follows at a later date and re-excavates the street opening and restores the asphalt surface.

Staff is proposing to allow contractors to restore the street opening including the asphalt restoration and only charge for the issuance and inspection fee for a permit. This would be a \$70.00 charge as opposed to the current \$220.00-\$250.00 fee. This allows the contractor to complete the street opening including asphalt restoration at a reduced fee. This also gives local contractors additional work, restoration occurs sooner and it eliminates an inefficient operation for the Street Division, freeing up time and manpower to dedicate to regular maintenance activities. Contractors working with the Street Division on various projects have communicated their support for this amendment noting that they can complete a job including the asphalt repair.

Director Rundquist recommended approval of second passage of Ordinance No. 3013 amending Chapter 2 of Title 7 of the Helena City Code.

**Commission comment** Commissioner Parriman asked what mechanism or recourse the city has to assure the contractors complete the repairs in a timely fashion? Director Rundquist stated a change in the ordinance would require that the standard permit given be for an 8-hour period. If more time is needed, the contractor must receive permission from the Public Works department.

Public Testimony

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

There being no persons wishing to address the commission, Mayor Smith closed the public hearing.

Motion

**Commissioner Parriman moved approval for second passage of Ordinance No. 3013 amending Chapter 2 of Title 7 of the Helena City Code (Excavations).** Commissioner seconded the motion. All voted aye, motion carried. **Ordinance #3013**

B1. CONSIDER A RESOLUTION VACATING A PORTION OF POPLAR STREET IN THE GRAND AVENUE ADDITION IN THE CITY OF HELENA, MONTANA.

B2. CONSIDER A RESOLUTION CLOSING A PORTION OF POPLAR STREET AND CLOSING A PORTION OF THE ALLEY BETWEEN CHESTNUT AND POPLAR STREET, ALL IN THE GRAND AVENUE ADDITION IN THE CITY OF HELENA, MONTANA.

Staff Report

City Engineer Ryan Leland reported the Poplar Street access to North Last Chance Gulch was closed as a result of the reconstruction of North Last Chance Gulch. Since that time Helena Trailer Sales has been using a portion of the Poplar Street ROW to store and advertise trailers. The rest of the Poplar Street ROW is used as an access road for Helena Paint and P & E Plumbing Supply. The north/south alley south of Poplar Street is currently used as an alley for P & E Plumbing Supply and Helena Trailer Sales. There is an 8" water main in the Poplar Street ROW. He included a vicinity map in the staff report.

The applicant is proposing to vacate the portion of Poplar Street ROW between North Last Chance Gulch and the alley. Also the applicant is proposing to close the north/south alley south of North Last Chance Gulch and the portion of Poplar Street ROW between the alley and National Avenue. In order to accommodate objections from the water department and fire department, the applicant is proposing a 20-foot wide easement on the center line of the 8" water main in Poplar Street, a 20-foot wide fire lane on the east portion of Poplar Street, will provide the Fire Department with a key to the gate on the alley, and keep the alley free of debris. Helena Trailer Sales will be able to consolidate their property with the vacation. The portion of Poplar Street that is proposed for closure will better reflect the current ROW use.

Mr. Leland recommended approval of a resolution to vacate portions of Poplar Street Right-Of-Way between North Last Chance Gulch and the north/south alley south of North Last Chance Gulch Right-Of-Way and a resolution to close a portion of Poplar Street between the alley and National Avenue, and the north/south alley between Chestnut and Poplar Street.

Commission comment

Commissioner Parriman asked if the vacated property would be deeded to the business owners. Mr. Leland concurred.

Mayor Smith asked for an explanation of vacation versus closure. Mr. Leland stated once vacation occurs, the property will be owned by Helena Trailer Sales; if the city would like the property back, it would have to be re-dedicated or re-purchased. When closure occurs,

the property stays under the ownership of the city and can be re-opened at any time.

Public Testimony

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

Don Knoll, owner of Helena Paint, asked if the vacation would increase his property taxes? Mr. Leland stated the closure would not increase taxes for Helena Paint or adjacent businesses, only Helena Trailer Sales.

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

Motion

**Commissioner Parriman moved approval of a resolution to vacate portions of Poplar Street Right-Of-Way between North Last Chance Gulch and the north/south alley south of North Last Chance Gulch Right-Of-Way.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19192**

Motion

**Commissioner Parriman moved approval of a resolution to close a portion of Poplar Street between the alley and National Avenue, and the north/south alley between Chestnut and Poplar Street.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19193**

C. CONSIDER A REQUEST TO BRESNAN COMMUNICATIONS TO PROVIDE THE FIFTH AND FINAL CAPITAL CONTRIBUTION IN THE AMOUNT OF \$25,000 FOR THE PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNEL (PEG).

Staff Report

Civic Center Manager Diane Stavnes reported in accordance with section 4.2 of the Franchise Agreement between the City of Helena and TCI Cablevision of Montana, Inc., now Bresnan Communications, the City of Helena may "commence proceedings, which afford public participation and open meetings for the purpose of determining if the Franchising Authority should request the Grantee to provide additional public, educational and governmental access capital support up to \$25,000". HCTV has an agreement with the City of Helena for the administration and management of a cable television public access channel. They have expended the initial \$100,000.00 capital contribution, the second capital contribution of \$25,000.00, the third capital contribution of \$25,000.00 and the fourth capital contribution of \$25,000.00 has been expended on the acquisition of equipment. HCTV's equipment acquisitions and facility remodel needs for the next year is \$30,000.00.

Staff proposes to request from TCI Cablevision of Montana, Inc., now Bresnan Communications, in accordance with section 4.2.E of the Franchise Agreement the fifth and final capital contribution of \$25,000.00. This contribution will continue the acquisition of equipment and the construction of facilities to allow HCTV to administer and manage a cable television public access channel.

Ms. Stavnes recommended approval to request that Bresnan Communications provide the fifth and final capital contribution for public, educational and governmental access of \$25,000.00.

Public Testimony

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

Nancy Lee, secretary of the HCTV Board, read a statement prepared by HCTV Director Stephen Maly supporting the contribution by Bresnan Communications.

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

Motion

**Commissioner Cartwright moved approval to request that Bresnan Communications provide the fifth and final capital contribution for public, educational and governmental access of \$25,000.00.** Commissioner Oitzinger seconded the motion.

Discussion

Mayor Smith asked Ms. Lee to thank Mr. Maly and the staff of HCTV for their work with the community.

Vote

All voted aye, motion carried.

D. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN AUTO REPAIR SHOP WITH 3 BAYS TO BE LOCATED ON TWO VACANT LOTS IN THE B-2 DISTRICT FOR PROPERTY GENERALLY LOCATED MID-BLOCK BETWEEN MONTANA AVENUE AND COOKE STREET, AND BETWEEN CHESTNUT STREET AND THE ALLEY.

Staff Report

City Planner Kathy Macefield reported on January 11, 2005 the Helena Zoning Commission unanimously (3:0 vote) recommended approval for a resolution granting a Conditional Use Permit (CUP) to allow an auto repair shop with 3 bays to be located in the B-2 District for property legally described as Lots 13-14, Block 11, Flower Garden Addition, Helena, Montana; generally located mid-block between Montana Avenue and Cooke Street, and between Chestnut Street and the alley subject to one condition: A building permit must be obtained within one year.

The applicant proposes a CUP to allow an auto repair shop with 3 bays to be located in the B-2 District for property generally located mid-block between Montana Avenue and Cooke Street, and between Chestnut Street and the alley. According to the applicant, the shop would have two employees; would typically operate from 7:30am – 6:00pm, Monday-Friday; cars would be repaired by appointment, and would typically be on the property for 2 days. Parking for customers, employees, and waiting vehicles would be located in the southeastern portion of the property; the entire property is fenced. Access would be provided by a single curb cut onto Chestnut Street. Landscaping is contemplated in several different areas of the property.

This proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses.

Commission comment

Commissioner Parriman referred to screening of the lot and asked what the city is requiring. Ms. Macefield stated if the property abuts a residential zoning district, it must be screened as required by ordinance. Commissioner Parriman asked if the city has the authority to

require screening to areas of the property that do not abut residential areas. Ms. Macefield stated the other uses in the area are similar so staff has not determined that screening is required.

Mayor Smith asked why this proposal is classified as a CUP if the other uses of the area are similar? Ms. Macefield stated when the Zoning Ordinance was set up in 1985, this use was a concern for properties close to residential areas and back then the city felt it appropriate to make it a CUP.

Public Testimony

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

Roy Maxted, owner of Baretta Audio and subject property, referred to a picture of the property and explained there will be privacy between residential and business properties. He then spoke in support of the CUP.

John Kromrich, owner of Kromrich Construction and builder for subject property, spoke in support of the CUP.

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

Commission comment

Commissioner Parriman commended the property owners on their cleanup of the area. He is concerned with congestion of the area but stated he would support the CUP.

Motion

**Commissioner Parriman moved approval for a resolution granting a Conditional Use Permit (CUP) to allow an auto repair shop with 3 bays to be located in the B-2 District for property legally described in the staff report, and subject to the condition that a building permit must be obtained within one year.** Commissioner Pouliot seconded the motion. All voted aye, motion carried.  
**Resolution #19194**

City Planner Lucy Morell-Gengler reported the applicant is requesting 3 simultaneous actions:

- 1) Annexation –Resolution of Intention (not a public hearing)
- 2) Pre-zoning to R-2 (Single Family Residential) for lots 1-187, 191-231, 236-267, 272-296, 300-317 (303 lots total) and parkland; and R-3 (Medium Density Residential) for Lots 188-190, 232-235, 268-271, 297-299, 318-328, the multi-family lot, the school lot (27 total lots) and parkland; and
- 3) Major Subdivision/Preliminary Plat for proposed Aspen Park at Mountain View Meadows creating 330 lots and parkland.

**Annexation**

CONSIDER A RESOLUTION OF INTENTION TO ANNEX ASPEN PARK AT MOUNTAIN VIEW MEADOWS SUBDIVISION, AND THE ADJACENT HIGHWAY 282 RIGHT-OF-WAY, LEWIS AND CLARK COUNTY, MONTANA, INTO THE CITY OF HELENA AND ESTABLISH CONDITIONS FOR ANNEXATION; PROPERTY IS GENERALLY LOCATED SOUTHWEST OF EAST HELENA, WEST OF HIGHWAY 282 AND NORTH OF THE JEFFERSON COUNTY LINE.

## Staff Report

City Planner Lucy Morell-Gengler reported the owner of the subject property, R and D partners, represented by Greg Dahl, has requested annexation into the City of Helena and proposes to subdivide the property into 330 lots and parkland. The property is not currently located adjacent to existing City limits and City services; the proposed annexation would not create any wholly surrounded property.

The proposed resolution of intention to annex allows the city to establish conditions for annexation as an intermediate step toward the finalization of annexation. The applicant is requesting R-2 (Single-Family Residential) pre-zoning for 303 lots and R-3 (Medium Density Residential) pre-zoning for 27 lots in a simultaneous action.

The following conditions for annexation are proposed:

**1. Annexation of Right-of-Way: Sufficient right-of-way between the City of Helena and the subject Aspen Park in Mountain View Meadows subdivision must be annexed into the City of Helena so that Aspen Park is contiguous to the City of Helena. This annexation must occur prior to or simultaneously with annexation of the first phase of the Aspen Park at Mountain View Meadows subdivision. This additional annexation must be of sufficient size to allow for adequate planning and provision for the extension of City services such as water, sanitary sewer, transportation, and emergency services to the proposed subdivision.**

The subject property is currently over a mile from the Helena city limits when measured in a straight line. For the City of Helena to consider annexation of property under Montana Code Annotated (MCA) Section 7-2-43, the subject property must be contiguous to the City of Helena and adjacent to the City's service area. Therefore, land between the City and the proposed Aspen Park at Mountain View Meadows subdivision must be annexed to provide a contiguous link with the City. The applicant has proposed annexing street right of way (ROW) to provide this link.

**2. Access: A street providing legal and physical access to the Aspen Park subdivision from Highway 12 or another City of Helena street must be provided. This street, at a minimum, must have adequate right-of-way width for a collector street and must be constructed to City of Helena standards for a collector street. The street construction and right-of-way annexation into the City of Helena must be completed prior to annexation of the first phase of the Aspen Park at Mountain View Meadows subdivision.**

Annexing unimproved ROW is not sufficient to provide a link to the City of Helena; the street must be constructed prior to annexing the first phase of the Aspen Park at Mountain View Meadows subdivision to establish a route between the proposed annexation and the City of Helena via a City street. A financial guarantee for construction of the street is not acceptable for meeting this condition. This street will serve not only the Aspen Park subdivision but also future development of the Mountain View Meadows property. Therefore, the street should be developed at a minimum to City collector standards. This street will facilitate the provision of City services and continuity with the City street network.

**3. Signalized Intersection Costs: The property owner must pay proportional costs, as determined by MDT and the City of Helena, of a signalized intersection on Highway 12 that will serve traffic generated from Aspen Park at Mountain View Meadows subdivision.**

MDT has indicated the anticipated build out of the Mountain View Meadows development and future development in the area may warrant a signalized intersection onto Highway 12. Aspen Park at Mountain View Meadows is the first phase of the Mountain View Meadows development and should be calculated in the cost sharing for the signalized intersection.

**4. Infrastructure Plan: The property owner must submit a revised infrastructure plan for review and approval by the City. This plan must include a comprehensive water, sanitary sewer, storm water drainage and transportation analysis. The plan must include an engineered analysis of infrastructure needs, including the sanitary water lift station capacity which would serve the entire Mountain View Meadows development, and the capacity of existing water mains to provide adequate area fire flows to the development. The plan should also consider the location of major streets and how the street network relates to the appropriate placement of the proposed fire station and school lots. This plan must include an engineered analysis of the City's capabilities to serve the proposed annexation and the anticipated development to be served by the proposed extension of City services and facilities.**

Current city infrastructure and facilities plans did not anticipate annexation of this area into the City of Helena, nor did they anticipate serving the size of the proposed development. There is a considerable amount of undeveloped land between the proposed Aspen Park at Mountain View Meadows annexation and the City of Helena that will be served by the proposed water and sanitary sewer main extensions, transportation network, stormwater drainage, and other public facilities associated with the Aspen Park at Mountain View Meadows phase of the development.

Approval of this plan by the City will assure the installation of infrastructure for the Aspen Park phase of the Mountain View Meadows development is adequately sized and logically placed to serve future expansion of the City in this area.

**5. Location of Mains: Water and sewer mains serving the subject property must be located in public right-of-way or within exclusive easements which provide for access and maintenance of the mains. The location and width of the rights-of-way and exclusive easements must be approved by the Public Works Department and must be provided to the City of Helena.**

The preliminary water and sanitary sewer plans indicate mains serving the subject property will be installed across property not owned by the applicant. The applicant must provide off-site exclusive easements to the City from those property owners allowing installation, access and maintenance of those mains.

**6. Wastewater Lift Station: The property owner must upgrade the existing Airport Road wastewater lift station to accommodate the Aspen Park phase and future phases of the Mountain View Meadows development.**

The existing Airport Road wastewater lift station is currently at capacity. The additional flow from the proposed Aspen Park phase of the Mountain View Meadows development would cause the lift station to overflow. Therefore, to serve the proposed annexation and the remainder of the Mountain View Meadows property the lift station must be upgraded.

**7. Future Main Extensions: Provisions for future water main and sanitary sewer main extensions must be provided in accordance with the Helena City Code to allow for extension of the mains to accommodate adjacent annexations and development.**

The preliminary water and sanitary sewer plans indicate mains would not be properly located to provide for future connections with adjacent properties that may be annexed into the city.

**8. Highway 282 Improvement: The portion of Highway 282 that will be annexed into the City with this subdivision must be improved, at a minimum, to City standards for a collector street including curb, gutter, and bike/pedestrian path, and turn lanes if required by the City Engineer. Access onto this portion of Highway 282 must be reviewed and approved by the City of Helena. MDT approval must be obtained for improvements to Highway 282.**

State law, MCA 7-2-4211, requires municipalities to annex the full width of any public street or road, including the ROW, which is adjacent to the property being annexed. Therefore the City must annex that portion of Highway 282 adjacent to the proposed Aspen Park at Mountain View Meadows annexation and may be responsible for the maintenance of that section of roadway. This section of Highway 282 does not currently meet City standards and could increase City maintenance cost if that section of roadway is not brought up to City standards. Because of the anticipated traffic volumes on that road, this section of Highway 282 must be constructed, at a minimum, to City standards for a collector street.

The traffic impact study for the Aspen Park phase of the Mountain View Meadows development presumes two access to the subdivision via Highway 282 which is MDT owned ROW. Access onto this portion of Highway 282 must be reviewed and approved by the City of Helena. If an access point is not approved revisions to the subdivision may be required. MDT review and approval will be required for any improvements to Highway 282.

**9. Infrastructure Installation: The property owner must install infrastructure improvements as required by the City, to City standards, including water, sewer, fire hydrants, street, curb, gutter, and sidewalks.**

All properties in the City are required to meet certain standards for infrastructure including sewer, water, storm drainage, fire hydrants, streets bike/pedestrian trails and sidewalks.

**10. Review of New Construction: The property owner must submit plans for review by the City of Helena for all construction commenced subsequent to the adoption of this resolution and prior to annexation of the property to ensure compliance with infrastructure, zoning, and all other Code requirements, including building and fire codes, and pay all fees for such reviews in the same manner and on the same basis as do owners of properties already in the City.**

This condition is included to ensure that any construction work associated with property requesting annexation is reviewed by the City for conformance with City Code requirements including zoning, building, fire and infrastructure.

**11. Yellowstone Pipeline: Construction activity in the area of the Yellowstone pipeline is prohibited until the Yellowstone Pipe Line Company has approved the construction plans that may impact the pipeline.**

The Yellowstone pipeline runs through the Mountain View Meadows development; improvements required by this annexation may parallel and cross this pipeline. No construction activity should be allowed until the Yellowstone Pipe Line Company has approved the plans in the area of their pipeline in order to assure safe placement of infrastructure.

**12. Amended Plat: An amended plat of Tracts A, C, and D, as shown on COS #3013399 in the records of Lewis and Clark County, Montana, must be filed prior to annexation of the Aspen Park at Mountain View Meadows subdivision. The amended plat must separate the proposed subdivision to be annexed into the City from the balance of property owner's tracts that will remain in the county.**

The proposed subdivision is a portion of Tracts A, C, and D as shown on COS #3013399 Lewis and Clark County, Montana. The preliminary plat does not show or identify the remainders of those tracts. Only the portions of the tracts to be subdivided into the Aspen Park at Mountain View Meadows subdivision will be annexed into the City. Therefore, the City will not have jurisdiction over the portions of those tracts remaining in the county. An amended plat of Tracts A, C, and D as shown on COS #3013399 Lewis and Clark County, Montana must be filed prior to annexation of the Aspen Park at Mountain View Meadows subdivision. The amended plat must separate the proposed subdivision to be annexed into the City from property to remain in the county.

**13. Fire Station Lot: The property owner must either provide a fire station lot or enter into an agreement with the City of Helena to provide a fire station lot with the location and size subject to approval by the City Fire Department.**

The Insurance Services Organization (ISO) rating for the development proposed for the subject property might be impacted due to excessive fire department response times. Average response time from Station #1 to the "Auto Mall" in the Sleeping Giant Subdivision is 6 minutes 11 seconds. The Aspen Park at Mountain View Meadows annexation is over a mile from that location. Response times to the proposed Aspen Park at Mountain View Meadows annexation will significantly increase due to longer distances. This distance from the station will necessitate the need for an additional fire station location to service the proposed annexation. This station should be sited to efficiently serve the future development of the entire Mountain View Meadows project. The appropriate site for a new fire station to address the anticipated emergency service needs of this development should be established prior to annexation of the Aspen Park phase of the Mountain View Meadows development.

**14. Final Plat: The property owner must submit the final plat of the subdivision to the City Commission for approval prior to filing the Resolution of Annexation. The conditions for final plat approval for the Aspen Park at Mountain View Meadows subdivision must be met prior to annexation. If annexed in phases, the conditions associated with each phase must be met prior to annexation of that phase.**

This condition assures the subdivision annexation processes are coordinated with each other.

**15. Completion of Conditions: The property owner must notify City Planning in writing upon completion of the conditions for approval of annexation which must occur on or before the date of completion of conditions for subdivision of the property and 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 service to the property.**

The recommended condition for timely notification and completion of conditions is intended to provide a reasonable time frame for completion of the annexation process.

Ms. Morell-Gengler then recommended approval of a resolution of intention to annex the Aspen Park at Mountain View Meadows subdivision and the entire width of the adjacent Highway 282 right-of-way as legally described in the attached Resolution of Intention to Annex into the City of Helena, and establish conditions for annexation as stated above.

E. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING ASPEN PARK AT MOUNTAIN VIEW MEADOWS SUBDIVISION TO R-2 (SINGLE-FAMILY RESIDENTIAL) AND R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICTS PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA; PROPERTY IS GENERALLY LOCATED IN LEWIS AND CLARK COUNTY, SOUTHWEST OF EAST HELENA, WEST OF HIGHWAY 282 AND NORTH OF THE JEFFERSON COUNTY LINE.

Staff Report

City Planner Lucy Morell-Gengler reported the proposed 192.39-acre subdivision is the first phase of a proposed multiphase, mixed use development containing approximately 673-acre. The first phase, the Aspen Park subdivision, is further divided into 4 additional subdivision phases.

On January 11, 2005 the Zoning commission unanimously recommended (3:0 vote) approval for the adoption of an ordinance pre-zoning prior to annexation into the City of Helena, Montana to:

R-2 (Single Family Residential) District for lots 1-187, 191-231, 236-267, 272-296, 300-317; (303 lots total), parkland identified as Parks A through E, and the 5.86 acre park; and

R-3 (Medium Density Residential) for Lots 188-190, 232-235, 268-271, 297-299, 318-328, the multi-family tract, the school lot (27 total lots), parkland identified as Parks 2, 3, and the 50-foot wide park adjacent to Parkway Road; these lots as shown on the preliminary plat of the proposed Aspen Park at Mountain View Meadows subdivision.

The applicant is requesting adoption of an ordinance pre-zoning to R-2 District for 303 lots and parkland; and R-3 District for 27 lots and parkland prior to annexation. The zoning would allow annexation of the Aspen Park at Mountain View Meadows subdivision into the City of Helena and allow development consistent with R-2 and R-3 zoning.

F. CONSIDER THE PRELIMINARY PLAT FOR THE PROPOSED ASPEN PARK AT MOUNTAIN VIEW MEADOWS MAJOR SUBDIVISION CREATING 330 LOTS AND PARKLAND FROM PROPERTY GENERALLY LOCATED IN LEWIS AND CLARK COUNTY, SOUTHWEST OF EAST HELENA, WEST OF HIGHWAY 282 AND NORTH OF THE JEFFERSON COUNTY LINE.

Staff Report

City Planner Lucy Moell-Gengler reported the applicant is requesting approval of a major subdivision/preliminary plat for proposed Aspen Park at Mountain View Meadows subdivision creating 330 lots and parkland.

The proposed 192.39-acre Aspen Park at Mountain View Meadows subdivision is the first phase of a multi-phase, mixed use development containing approximately 673-acre. The proposed first phase is further divided into 4 additional subdivision phases.

On Tuesday, January 18, 2005, the Consolidated Planning Board recommended conditional approval of the preliminary plat creating 330 Lots and Parkland from 192.39 acres, subject to conditions stated in the Findings of Fact. This action was based on the documents submitted by the applicant that included a preliminary plat and application, an environmental assessment, a traffic study and a preliminary stormwater plan. This proposed subdivision is legally described as Tracts A, C, and D as shown on COS #3013399 Lewis and Clark County, Montana; generally located southwest of East Helena, west of Highway 282 and north of the Jefferson County line.

The Planning Board also recommended adopting the Findings of Fact and conditions contained therein as amended.

The subdivision would allow development of property between Helena and East Helena, which is an area prime for urban density development. Development of the proposed subdivision would require extending infrastructure through a large area of undeveloped land, thus promoting urban development of that area. Development at the

proposed density could lower some of the pressure to develop property in the county and as a result reduce sprawl. The proposal would provide single-family detached housing, townhouses, condominiums and other multi-family uses, which would provide a variety of housing types within the city. The proposal will provide a school lot for the future educational needs of the subdivision.

Commission comment

Commissioner Parriman asked if the water tank shown on the map of the property is filled with city water and if so, how is it filled? Public Works Director Rundquist stated the tank on the map is the location of the 4 million gallon eastside reservoir, filled by the Missouri River Water Treatment Plant. Commissioner Parriman asked if there is currently infrastructure under the highway? Director Rundquist concurred.

Commissioner Cartwright spoke of the airport lift station and asked if the Padbury property would be using the same lift station? And if so, how does the city break out the cost of the improvement between the two different subdivisions? Ms. Morrell-Gengler concurred and stated if the applicant chooses to increase the size of the wastewater treatment plant to accommodate more than his subdivision there is a rebate program available so that when others connect to the lift station he will be rebated for that portion of excess capacity. Commissioner Cartwright stated it would make more sense to coordinate that improvement in one construction project. Ms. Morell-Gengler stated the parties involved are reviewing a number of options to deal with the situation.

Director Rundquist stated the airport lift station is almost at capacity. One option is to replace the lift station entirely; the second option is to eliminate the lift station entirely, in favor of an interceptor that would be gravity flow all the way to the treatment plant. This development accelerates the needed upgrades to the area and staff is working with the developer.

Commissioner Cartwright stated he wishes to discuss the coordination of cost for improvements to this area in the future. He also asked, because the Padbury property will be to the west of Aspen Park and there will be an arterial or minor arterial going from Aspen Park through Padbury to the south interchange; what is the timeframe for coordination? Ms. Morell-Gengler stated the Aspen Park phase will not connect in that method at this time. An idea being proposed is a connection from I-15 to some point on Highway 12 and the developers have been working with MDT to identify that point. When future phases of Mountain View Meadows Subdivision and/or the Padbury property are developed, it will warrant signalization on Highway 12 and an arterial will be developed. Because of the size of both subdivisions, staff anticipates a network system that would accommodate arterials, not just collectors, in a number of locations. Commissioner Cartwright asked if there is anything in this current proposal that might preclude the best connection if this was being designed as an entire unit, not two subdivisions? Ms. Morell-Gengler stated the applicant looked at the terrain of the area and anticipated connections based on the previous conceptual plan. The transportation plan provides guidance as to how the street network might connect.

Commissioner Cartwright referred to the meandering trails along collector streets, the trails are good for recreation but aren't very good for transportation purposes. Ms. Morell-Gengler stated the trails will be wide

enough to accommodate both bicyclers and pedestrians and the system would be designed similarly to Helena streets. Per the subdivision regulations, sidewalks will be provided throughout the subdivision on both sides of the street, or a 10-foot wide bike/pedestrian path will be located on one side of the street. All of the local streets will have boulevard sidewalks; all of the collector streets will have bike/pedestrian paths. Commissioner Cartwright stated he'd like to speak of this at a future Administrative Meeting.

Commissioner Pouliot referred to Highway 282 not being up to City Code and asked if the city has required that it be brought up to code if annexed? Ms. Morell-Gengler concurred.

Commissioner Pouliot stated he is concerned with fire safety, and asked for clarification of the fire service plan for the area. Ms. Morell-Gengler stated the annexation of the property would hinge upon it being contiguous to the city. The route being reviewed as contiguous access from the subdivision to the city is along Highway 12, along their access road to a collector, then to the subdivision. The roadway will have to be constructed before property is annexed in to provide for emergency services to the area.

Mayor Smith asked how the south interchange on I-15 ties into this development. Ms. Morell-Gengler stated transportation issues for the entire area are being discussed.

City Manager Burton stated the south interchange EIS will first start with access on the west side. The east side access will be permitted by MDT in the future and will include the integrated road network that ties into the eastside. This will need to be a formal permitting process to be in compliance with the EIS.

Mayor Smith asked if any major impediments are seen, regarding the permits being issued? Ms. Morell-Gengler stated the access has been focused on the Padbury property, since that is not a portion of this subdivision, staff did not look into the problem very closely.

City Manager Burton stated the city's challenge is to ensure that there is an integrated road network hooked in legally to the east side of the south interchange. City staff has been working with developers and MDT to keep this issue in the forefront. As land use changes are brought forward for Commission consideration, staff will be working through these issues.

Mayor Smith referred to the water study of the subject property. Lucy Morell-Gengler stated there has been preliminary water study done and there was concern that a 10-inch water main wasn't adequate for the whole Mountain View Meadows subdivision; therefore the conditions require a minimum of a 12-inch water main. Director Rundquist concurred. Mayor Smith asked if the applicant is in agreement with this condition. Ms. Morell-Gengler concurred.

Mayor Smith referred to the project being non-contiguous to the city and asked if there is outright prohibition in the annexation policy regarding this? Ms. Morell-Gengler concurred; part of the proposal is a connection to the city through right-of-way annexation. Mayor Smith asked if future development would make it contiguous to the city? Ms. Morell-Gengler concurred and stated when the Padbury property is developed it will provide a contiguous link. City Manager Burton then stated legally it will be contiguous with the road network. This business plan is different in that rather than building from the existing city boundaries out, the proposal will locate their infrastructure on the furthest corner of the property and move toward the city boundary. The

conditions as presented through the Community Development Department secure that the necessary improvements will take place.

Commissioner Parriman stated he is concerned with the city's ability to provide essential services to these newly annexed areas, especially fire services, without increasing rates or taxes.

Mayor Smith spoke of meeting the needs of a growing city.

#### Public Testimony

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

Greg Dahl, 110 Moonlight Ridge Road, managing partner of R & D Development, spoke in support of subdivision. He discussed traffic issues and spoke of working with MDT to gain access through Highway 12. He also spoke of the airport lift station and encouraged the city to consider the gravity flow interceptor. He referred to the parkland and meandering trail system stated the system is long and graceful, not tight with a 20-foot easement. In regard to the fire hall, it will be constructed wherever the city recommends and he would like to work with the local lumberyards and Helena College of Technology to construct it. He also stated he has concerns with the improvements needed to Highway 282 but is working with the Engineering Department on that issue.

Dave Johnson, 3655 Hwy 12 East, spoke of his concern that a traffic signal needs to be located on Highway 12 to accommodate this development.

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

#### Discussion

Commissioner Pouliot asked Mr. Dahl to speak to Mr. Johnson's concerns. Mr. Dahl stated there is a proposed loop road adjacent to the subdivision and the Padbury property and MDOT has considered installing a light off of that road.

Commissioner Pouliot spoke of the lots reserved for schools, and asked if the subject property is annexed, would the future schools still be in the East Helena School District? Ms. Morell-Gengler concurred, the elementary school would be within East Helena and the high school age students would attend Helena High School.

Commissioner Parriman asked about a cooperative effort between the Padbury property, Mountain View Meadows subdivision, and Helena College of Technology regarding a new fire hall, have all the property owners held discussions about the development of the hall? City Manager Burton stated many discussions have been held regarding the need for a third fire station. The issue exists is beyond the southeast, there has been tremendous growth on the westside of town, and there may be a need for four fire stations. It is too early in the fire service review to pinpoint the best location. He then stated the City of Helena is working with the City of East Helena on this issue.

Commissioner Oitzinger asked for clarification of the lead testing of the designated parkland to the west of the subdivision. Ms. Morell-Gengler stated the area is not currently part of the proposed subdivision, therefore the test results are not before the Commission now. The results will come in the future as part of an amended plat.

Commissioner Oitzinger asked for assurance that if this subdivision passes as proposed tonight, it can be revised in the future. Ms. Morell-Gengler concurred.

Commissioner Oitzinger asked if there are any issues of concern

relating to fire service that have to do with the grade of the property? Ms. Morell-Gengler stated the grade of the proposed streets meet city standards; most of the property is rolling hills and flatter land.

Commissioner Parriman asked if the cost of extending infrastructure relies solely on the developer. Ms. Morell-Gengler concurred.

**Motion** Commissioner Parriman moved approval of a resolution of intention to annex the Aspen Park at Mountain View Meadows subdivision and the entire width of the adjacent Highway 282 right-of-way, as legally described in the attached Resolution of Intention to Annex into the City of Helena, and establish conditions for annexation as stated in the resolution of intention. Commissioner Cartwright seconded the motion.

**Discussion** Mayor Smith stated the annexation of this property is a big step; it's difficult to think of development 25 years into the future. He then stated city staff is committed to do whatever necessary to meet the needs of Helena's growth.

**Vote** Motion carried 4-1, with Commissioner Pouliot voting no.  
Resolution #19191

**Motion** Commissioner Parriman moved approval for first passage of an ordinance pre-zoning to:  
R-2 (Single Family Residential) District for lots 1-187, 191-231, 236-267, 272-296, 300-317; (303 lots total), parkland identified as Parks A through E, and the 5.86 acre park; and  
R-3 (Medium Density Residential) for Lots 188-190, 232-235, 268-271, 297-299, 318-328, the multi-family tract, the school lot (27 total lots), parkland identified as Parks 2, 3, and the 50-foot wide park adjacent to Parkway Road.  
All as shown on the preliminary plat of the proposed Aspen Park at Mountain View Meadows subdivision, prior to annexation into the City of Helena, Montana as legally described in the attached ordinance. Commissioner Cartwright seconded the motion.

**Discussion** Commissioner Cartwright asked for clarification of the parkland requirements. Ms. Morell-Gengler stated the parkland will be identified as listed on the plat. It is anticipated that some of the property will remain as open space and be dedicated to the city; it just won't count toward the required parkland dedication.

Commissioner Cartwright then asked City Attorney Nielsen if there will there be a problem with second passage of this ordinance as the motion reflects parkland that will be different on the ultimate platting? City Attorney Nielsen stated the ordinance can be amended between first and second passage to show the corrected parkland.

**Vote** Motion carried, 4-1 with Commissioner Pouliot voting no.  
Ordinance #3021

**Motion** Commissioner Parriman moved to conditionally approve the preliminary plat for the Aspen Park at Mountain View Meadows major subdivision creating 330 lots and parkland from 192.39 acres proposed to be located in a R-2 (Single Family Residential) District

**and R-3 (Medium Density Residential) District, and to adopt the Findings of Fact as amended and the conditions contained therein for property legally described in the Findings of Fact.** Commissioner Oitzinger seconded the motion.

**Discussion**

Commissioner Oitziner noted the Planning Board unanimously recommended approval of this subdivision.

Commissioner Pouliot stated consistent with how he's voted, he does not feel comfortable taking this step and will not support the motion.

Commissioner Cartwright noted Plan Helena was generally favorable to this proposal and urged the community to speak on this issue.

Mayor Smith stated this proposal is consistent with the city's growth policy.

City Manager Burton stated the conditions of approval do comply with city ordinances and subdivision regulations. The final plat will demonstrate that all required conditions have been met.

**Vote**

Motion carried 4-1 with Commissioner Pouliot voting no.

**Public Communications**

PUBLIC COMMUNICATIONS

**Meetings of Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is February 22, 2005 and the next Commission Meeting is February 28, 2005.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 9:06p.m.

\_\_\_\_\_  
Mayor Smith

ATTEST:

\_\_\_\_\_  
Clerk of the Commission