

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
June 13, 2005
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, June 13, 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 Wayne Lewis 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, May 23, 2005 were approved as submitted.

Proclamation

Proclamation:

- A. Homeownership Month

Mayor Smith read the proclamation designating June 2005 as Homeownership Month.

Mr. Tom Friesen of the U.S. Department of Housing and Urban Development, accepted the proclamation and thanked the Commission.

Appointment

Appointment:

- A. Historic Preservation Commission

Mayor Smith asked for Commission concurrence on the following appointments:

Historic Preservation Commission – Reappointment of Raymond Read and Lori Hampa-Chamberlain to the Historic Preservation Commission.

Motion

Commissioner Pouliot moved approval of the reappointments to the Historic Preservation Commission. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Section 5311 operating contracts for the Helena Area Transit Service for FY 2006
- C. Montana Department of Transportation TransADE operating contracts for the Helena Area Transit Service for FY 2006

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 Oitzinger moved approval of items A through C on the consent agenda.** Commissioner Parriman seconded the motion. All voted aye, motion carried.
- Bid Award** BID AWARD
A. Exploration Works (Discovery Center) Building
- Staff Report Community Facilities Director Gery Carpenter reported bids were received on June 1, 2005 for the Exploration Works Building. Three bids were submitted: Yak & Abe Construction, Inc. Synergy Builders, Inc. and Dick Anderson Construction, Inc. Yak & Abe Construction submitted the lowest base bid of \$755,575. With the addition of alternate number 1 (\$6,843) the bid construction cost would be \$762,418. The total cost of the construction project with the bid items and the owner-supplied items using the lowest bid as provided by Yak and Abe Construction, Inc., and the architect's estimates for project costs not included in the bid, is \$1,466,060. When the 5% contingency (\$38,121), the architectural costs (\$201,237) and the value of the land donation (\$250,000) are added to the construction costs the total project cost is \$1,955,418. The total cost of the base bid and alternate number 1, with approximately a 2% (\$15,536) contingency is \$777,954, which is the amount of unencumbered TIF funds available for this project.
- The original project cost was \$1,834,665. Of that amount, the TIF award is \$979,500 with Community Works providing \$855,165 as a match with contributions, donated labor, materials and service. The current project cost as stated above is \$1,955,418 the TIF portion of this cost will be \$979,500. Community Works has contributions, donated labor, materials and service including the value of the donated land in the amount of \$975,918; which exceeds the original \$855,165 needed. Community Works match includes approximately a 2.9% (\$22,585) contingency to allow for a total of a 5% contingency on the bid portion of the construction project.
- Director Carpenter recommended awarding the bid to Yak & Abe Construction in the amount of \$762,418.00 and authorize the City Manager to sign the contract..
- Public comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Oitzinger moved to award the bid for the Exploration Works Building to Yak & Abe Construction, Inc. including Alternate Number 1, in the amount of \$762,418.00 and authorized the City Manager to sign the contract.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
- Commissioner Pouliot noted summer has arrived and invited the community to visit Memorial Park Pool.
- Commissioner Cartwright spoke of concerns regarding the proposition by Mr. Rick Hill to swap land; a portion of Diehl Park for property located above Gold Rush Avenue. He believes the city would benefit by acquiring the ten acres Mr. Hill is offering. City Manager Burton stated he would discuss the issue during his report.

Commissioner Parriman spoke of setting up a fund to help citizens bring their boulevard sidewalks up to code and stated he would like to discuss the issue at a future Administrative Meeting.

***Report of the City
Attorney***

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen referred to the Cedar Street name change and reported there was a 55.6% objection. Out of 27 property owners, 15 filed valid objections. City Attorney Nielsen stated he would bring an amended resolution forward at a future Commission meeting to clarify that North Main has been changed to Last Chance Gulch but Cedar Street will remain as is.

Commissioner Cartwright asked for confirmation that state statute drives the requirements of the name change, which is why the City Commission has to amend the resolution and cannot change the name. City Attorney Nielsen concurred.

Michelle Keeler, 2007 North Oakes, thanked the Commission and everyone involved with the process, for giving the residents of the area the opportunity to make the decision. She urged the Commission to install signage to alert motorists to Last Chance Gulch from Interstate-15.

Mayor Smith asked City Manager Burton to address the requested signage at a future Administrative Meeting.

***Report of the City
Manager***

REPORT OF THE CITY MANAGER

Police Chief Troy McGee spoke of City Manager Burton's recent taser training exercise and commended him on being willing to participate. Officers Hagan and Livesay presented City Manager Burton with a pin, which all officers get once they have received the training.

City Manager Burton spoke of the importance of providing tasers for the police department and stated discussion regarding funding for them would be coming forward at a future budget work session.

Fire Chief Steve Larson introduced counter-terrorism coordinator Brett Lloyd. Mr. Lloyd gave a power point presentation outlining the weapons of mass destruction exercise that will be held June 21-22, 2005 at the Helena Regional Airport.

Mayor Smith referred to communication problems during a disaster. Mr. Lloyd explained communications would be a major focus of the exercises. However, the new city/county radio system will not be used due to the fact that many of the other agencies attending the exercises do not have compatible equipment.

City Manager Burton stated discussion of setting up a fund for boulevard sidewalk compliance would be on the June 22, 2005 Administrative Meeting agenda.

Regarding the parkland trade, the proposition has been reviewed by the City/County Park Board, who recommended the Commission consider the proposal. All discussion held has been preliminary and at staff level. The Commission was briefed at a previous Administrative Meeting; staff desires to engage Mr. Hill on a buy-sell agreement or other options before bringing it forward for consideration.

Mayor Smith addressed the Commission and stated discussion for purposes of staff direction could be held at an Administrative Meeting, or with Commission consensus staff could proceed with forming an agreement and developing options.

Commissioner Pouliot stated he does not want staff to move forward and would like the issue to be brought forward at a future Administrative Meeting. Commissioner Oitzinger stated she would be comfortable moving forward and organizing a buy-sell agreement. Commissioner Parriman stated he is comfortable with authorizing the City Manager to move forward. Commissioner Cartwright stated he would like to see a buy sell agreement in draft form before taking any action. City Manager Burton stated the item could be discussed at the June 22, 2005 Administrative Meeting.

Commissioner Oitzinger reported she will be out of state June 24-July 24, 2005.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

There was no report given.

Ordinance

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 2-8-5(E) OF THE HELENA CITY CODE TO ALLOW COURT FEES TO BE ASSESSED AGAINST DEFENDANTS CONVICTED OF PARKING VIOLATIONS.

Staff Report

City Court Administrator Claudia Bagley reported Section 2-8-5 of the Helena City Code provides for assessment of court fees in criminal cases except for cases involving parking violations. Parking violations are misdemeanor criminal actions. Court fees are assessed against defendants convicted of all other misdemeanor criminal actions.

Staff is proposing to amend Section 2-8-5 of the Helena City Code to allow the City Court to assess court fees against defendants convicted of parking violations. This would make the assessment of court fees against defendants convicted of all misdemeanors uniform. Court staff expends the same time handling parking violation cases as in handling other misdemeanor cases, so it would be appropriate to allow assessment of the same court fees chargeable in all other misdemeanor cases. Ms. Bagley recommended approval for first passage of an ordinance amending Section 2-8-5 of the Helena City code to allow court fees to be assessed against defendants convicted of parking violations, and set a public hearing date of June 27, 2005.

Commission comment

Commissioner Pouliot asked what fund the \$5.00 charge would be deposited to? Ms. Bagley responded the general fund.

Commissioner Oitzinger asked if this charge is applied in other jurisdictions? Ms. Bagley concurred; the proposed amendment would standardize the City of Helena with other cities around the state.

Public comment

Mayor Smith called for public comment.

Hal Fossum, Director of the Helena Parking Commission (HPC), spoke in support of the ordinance.

Motion

Commissioner Pouliot moved approval for first passage of an ordinance amending Section 2-8-5 of the Helena City Code to allow court fees to be assessed against defendants convicted of parking violations, and set a public hearing date of June 27, 2005.

Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3031**

Lease

CONSIDER A LEASE AGREEMENT BETWEEN THE CITY OF HELENA AND THE HELENA PARKING COMMISSION FOR THE JACKSON STREET PARKING STRUCTURE.

Staff Report

Administrative Services Director Tim Magee reported in consideration of the City Commission entering into the Jackson Street Parking Garage construction contract on May 17, 2005, the Parking Commission formally agreed to lease the parking garage from the city.

The proposed lease agreement provides for:

- A twenty year lease
- Annual lease payments of \$100,000 starting June 30, 2006
- Operation and maintenance requirements

Director Magee stated the agreement would provide an affordable mechanism for the Parking Commission to meet its Jackson Street Parking Garage commitment and recommended approval of the lease.

Commission comment

Mayor Smith referred to discussions regarding modifying the structure to provide more secure parking in the future and asked if the proposed agreement allows for modification? Director Magee concurred.

Commissioner Pouliot asked if the Getchell Street parking garage has the same type of agreement? Director Magee replied no. City Attorney Nielsen added there is no agreement for the Getchell Street garage as the HPC is a part owner of the property whereas this garage they are not.

Public comment

Mayor Smith called for public comment.
Hal Fossum, Director of HPC, spoke in support of the agreement.

Discussion

Commissioner Oitzinger stated the lease requires payments still be made if there is destruction to the facility and asked if there is insurance to cover any damages that could occur? City Attorney Nielsen concurred. City Manager Burton added the insurance for the structure is at the replacement value.

Commissioner Cartwright referred to the possibility of adding secured parking and discussions regarding long-term leases with the Placer Center and asked Mr. Fossum if he anticipates pursuing these options? Mr. Fossum explained the garage has been designed with an eye for many options down the road. Nothing is on the drawing board but as they look at the contract, they read that it enables the HPC to do anything that has been already generally approved of, under the enabling resolutions by the city and state. The HPC does not interpret the contract as limiting their authority over the facility. Commissioner Cartwright noted the more the HPC can do to generate revenue the better for all parties involved.

Motion

Commissioner Parriman moved approval of the Jackson Street Parking Garage Lease to the Helena Parking Commission.

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

Final Plat

CONSIDER A FINAL PLAT CREATING 2 LOTS FROM LOT C OF THE DAHL-MARSHALL TRACTS, A 36,769 SQUARE FOOT LOT, IN A CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT; GENERALLY LOCATED NORTH OF MARSHALL LANE BETWEEN COOKE AND ROBERTS STREETS.

Staff Report

City Planner Belinda Waters reported the applicant is requesting approval of the final plat for the amended plat of the Dahl-Marshall Tracts creating two lots. On January 24, 2005, the City Commission gave preliminary plat approval subject to the conditions stated in the Findings of Fact. All of the conditions of the preliminary plat have been met or are financially guaranteed.

The 2001 Helena Growth Policy promotes more intense and efficient use of land and facilities. Streets, water and sanitary sewer are available to serve the proposed subdivision, which represents and efficient use of land, infrastructure, energy and other resources. The proposed subdivision appears to conform to the goals, objectives, and policies of the 2001 Growth Policy. Ms. Waters recommended final plat approval.

Public comment

Mayor Smith called for public comment.
Susan Bjerke, 535 S. Harris, owner of the subject property, spoke in support of the final plat.

Motion

Commissioner Parriman moved final plat approval for a minor subdivision creating Lot C-1 and Lot C-2 of the Dahl Marshall Tracts in a CLM (Commercial Light Manufacturing) District; generally located north of Marshall Lane between Cooke and Roberts Streets. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Resolutions of Intention to annex

CONSIDER A RESOLUTION OF INTENTION TO ANNEX TRACT F MCHUGH MINOR SUBDIVISION #2 COS# 555818-E, LEWIS AND CLARK COUNTY, MONTANA A 9.99 ACRE TRACT; GENERALLY LOCATED ON THE WEST SIDE OF MCHUGH LANE BETWEEN BENCHMARK DRIVE AND ROADRUNNER STREET, AND ESTABLISH CONDITIONS FOR ANNEXATION (COTTONWOOD WEST MAJOR SUBDIVISION).

Staff Report

City Planner Lucy Morell-Gengler reported when a proposed subdivision is also proposed to be annexed to a municipality, state subdivision laws (MCA §76-3-601, 605) direct the city government to coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible, including holding joint hearings on the preliminary plat and annexation. The annexation process is initiated by a resolution of intention to annex. The function of the resolution is to establish any conditions that must be met before annexation can be completed, and to coordinate the completion of annexation with the subdivision to minimize the duplication of requirements.

This annexation is proposed to be completed under the petition method which is detailed in state law under MCA §7-2-4601 et seq. In

this case, all affected property owners have requested annexation. MCA §7-2-4610 specifies that City services may be provided (a) according to a plan for extension of services, or (b) when otherwise mutually agreed upon by the municipality and the real property owners of the area to be annexed. Any plan for extension of services must also comply with MCA §7-2-4736, which concerns the extension of City garbage services to newly annexed areas. Annexation is linked to the subdivision process under City Codes (6-5-4), which require that properties be annexed before they can receive City utility services.

The owner of this property has applied for annexation to the City of Helena for Tract F McHugh Minor Subdivision #2 COS# 555818-E, Lewis and Clark County, Montana a 9.99 acre tract. The property is contiguous with existing City limits. No public hearing is required for this annexation. Commission review will satisfy all legal and procedural requirements and enable the City Commission to establish conditions of annexation.

Two adjacent property owners have requested joint review of their proposals for annexation, rezoning and subdivision. Although they may be reviewed simultaneously, separate evaluation and action must be taken on each application. This applicant is requesting:

- Annexation of 9.99 acres;
- Pre-zoning to B-2 (General Commercial) District for Lots 10 and 11 and the storm- water detention area; and to CLM (Commercial Light Manufacturing) District for Lots 1-9 of the Cottonwood West Major Subdivision; and
- Preliminary Plat approval for proposed Cottonwood West Major Subdivision creating 11 lots and a stormwater detention area.

Under this proposal, the entire 9.99 acres would be annexed to the City of Helena when the final plat for the proposed subdivision is filed with the Clerk and Recorder. City services called for in MCA §7-2-4610 will be provided either by a development agreement to be reached between the City and property owners, or by a plan for extension of services to be prepared by City staff.

The main elements of the provision of services involve infrastructure requirements, which are embodied in the conditions of the subdivision preliminary plat, and would be incorporated by reference into the service plan or development agreement. Other elements of services, such as police, fire, and garbage services, would also be identified in the service plan or development agreement and presented to the City Commission for its approval prior to annexation.

The following conditions to annexation are proposed:

1. Taxes and Assessments: Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.
2. Review of new construction: For all construction commenced prior to annexation, the property owners shall submit plans for review by the City of Helena to ensure compliance with infrastructure, zoning, and codes in effect for building 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 properties already in the City.

3. Final Plat: The property owner must meet the conditions of the preliminary plat approval prior to annexation. Annexation of the property is not effective until the final plat of the proposed subdivision has been filed with the Clerk and Recorder of Lewis and Clark County, Montana.

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

Ms. Morell-Gengler noted in cases of simultaneous subdivision and annexation, infrastructure requirements are ordinarily secured by the City through the subdivision process. Annexation is conditioned upon completion of requirements of the preliminary plat, and payment of any taxes owed at that time, and is subject to the time constraints specified in the preliminary plat.

CONSIDER A RESOLUTION OF INTENTION TO ANNEX HAHN, A 3.862 ACRE TRACT SHOWN ON COS #486624/T, LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED SOUTHWEST OF THE MCHUGH LANE AND BENCHMARK DRIVE INTERSECTION, HELENA, MONTANA, AND ESTABLISH CONDITIONS FOR ANNEXATION (COTTONWOOD BUSINESS PARK MINOR SUBDIVISION).

Staff Report

Ms. Morell Gengler reported this annexation is proposed to be completed under the petition method which is detailed in state law under MCA §7-2-4601 et seq. In this case, all affected property owners have requested annexation. MCA §7-2-4610 specifies that City services may be provided (a) according to a plan for extension of services, or (b) when otherwise mutually agreed upon by the municipality and the real property owners of the area to be annexed. Any plan for extension of services must also comply with MCA §7-2-4736, which concerns the extension of City garbage services to newly annexed areas. Annexation is linked to the subdivision process under City Codes (6-5-4), which requires that properties be annexed before they can receive City utility services.

The owner of this property has applied for annexation to the City of Helena for HAHN, a 3.862 acre tract shown on COS #486624/T, Lewis and Clark County, Montana. The property is contiguous with existing City limits. No public hearing is required for this annexation. Commission review will satisfy all legal and procedural requirements and enable the City Commission to establish conditions of annexation.

Two adjacent property owners have requested joint review of their proposals for annexation, rezoning and subdivision. Although they may be reviewed simultaneously, separate evaluations and actions must be taken for each application. This applicant is requesting:

- Annexation of 3.86 acres;
- Pre-zoning to B-1 (Neighborhood Business) District for Lots 1-5 of the Cottonwood Business Park; and

- Preliminary Plat approval for the proposed Cottonwood Business Park, a minor subdivision, creating 5 lots.

Under this proposal, the entire 3.86 acres would be annexed to the City of Helena when the final plat for the proposed subdivision is filed with the Clerk and Recorder. City services called for in MCA §7-2-4610 will be provided either by a development agreement to be reached between the City and property owners, or by a plan for extension of services to be prepared by City staff.

The main elements of the provision of services involve infrastructure requirements which are embodied in the conditions of the subdivision preliminary plat, and would be incorporated by reference into the service plan or development agreement. Other elements of services, such as police, fire, and garbage services, would also be identified in the service plan or development agreement and presented to the City Commission for its approval prior to annexation.

The following conditions for annexation are proposed:

1. Taxes and Assessments: Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.
2. Review of new construction: For all construction commenced prior to annexation, the property owners shall submit plans for review by the City of Helena to ensure compliance with infrastructure, zoning, and codes in effect for building 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 properties already in the City.
3. Final Plat: The property owner must meet the conditions of the preliminary plat approval prior to annexation. Annexation of the property is not effective until the final plat of the proposed subdivision has been filed with the Clerk and Recorder of Lewis and Clark County, Montana.
4. Completion of Conditions: The applicant must notify City Planning in writing upon completion of the conditions for approval of annexation, which must be on or before the date of completion of conditions for subdivision of this property and is subject to the same time limitations. If the conditions are not completed within that time frame, the City is under no obligation to annex the property and may discontinue any City services, including water and sewer.

In cases of simultaneous subdivision and annexation, infrastructure requirements are ordinarily secured by the City through the subdivision process. Annexation is conditioned upon completion of requirements of the preliminary plat and payment of any taxes owed at that time, and is subject to the time constraints specified in the preliminary plat.

Ms. Morell-Gengler stated annexation of these properties in conjunction with the proposed subdivisions would enable services to be extended to the area consistent with state and local laws and recommended approval of the resolutions of intention to annex.

Commission comment Commissioner Pouliot asked if the proposed annexation would create any wholly surrounded properties that are not in the city? Ms. Morell-Gengler replied no.
 Commissioner Parriman referred to the recent extension of McHugh Lane and the related SID and asked if this is the same area? Ms. Morell-Gengler concurred and stated the subject property owners did financially participate in the SID.

Public comment Mayor Smith called for public comment.
 Jeff Larson, Stahly Engineering, 3530 Centennial Drive, representing the property owners, spoke in support of the resolutions of intention to annex.

Motions **Commissioner Pouliot moved approval for a resolution of intention to annex Tract F McHugh Minor Subdivision #2 as shown on COS#555818-E, Lewis and Clark County, Montana, and establish conditions for annexation per the attached resolution.**

Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution #19219**

Commissioner Pouliot moved approval for a resolution of intention to annex HAHN, a 3.862 acre tract as shown on COS#4866245/T, Lewis and Clark County, Montana, and establish conditions for annexation per the attached resolution.

Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution #19220**

Final Plat CONSIDER A FINAL PLAT CREATING TWO TOWNHOUSE LOTS FROM ONE LOT AND AMENDING THE ANDERSON BUSINESS PARK SUBDIVISION PLAT, GENERALLY LOCATED SOUTH OF PTARMIGAN LANE ALONG BOTH SIDES OF EXPEDITION TRAIL AND IN THE R-3 DISTRICT.

Staff Report City Planner Kathy Macefield reported on May 23, 2005 the City Commission gave preliminary plat approval for a subdivision creating sixteen townhouse lots from eight lots located in the R-3 (Medium Density Residential) District. The amended plat represented a series of minor subdivision actions onto a single plat.

Jack Casteel owns original Lot 36 that he plans to develop with a duplex-style townhouse, so that one dwelling unit would be located on each new lot. He has requested to file his plat separately from the other owners' lots because the other lots had some utility easement issues. Separate water and sewer services have been installed; the existing 10-foot wide pedestrian easement is shown along the northern boundary of Lot 36A as required by the conditions; the digital format will be submitted when the plat is submitted for filing with the Clerk and Recorder.

Ms. Macefield recommended approval of a final plat creating Lots 36-A and 36-B and amending the Anderson Business Park subdivision plat; generally located south of Ptarmigan Lane along both sides of Expedition Trail.

Commission comment Commissioner Pouliot referred to public comment in opposition of the subdivision, and stated now that he sees the two conflicting

properties are not contiguous to each other he would support the final plat.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Parriman moved approval for a final plat creating Lots 36-A and 36-B and amending the Anderson Business Park subdivision plat; generally located south of Ptarmigan Lane along both sides of Expedition Trail. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Budget Resolutions of Intention

CONSIDER RESOLUTIONS OF INTENTION TO LEVY AND ASSESS THE FOLLOWING ANNUAL CHARGES FOR FISCAL YEAR 2006:

- A. STREET LIGHTING DISTRICTS
- B. STORM WATER UTILITY
- C. TREE PLANTING AND MAINTENANCE DISTRICT
- D. SPECIAL IMPROVEMENT DISTRICTS (SID'S)
- E. SIDEWALK IMPROVEMENT PROGRAM
- F. STREET MAINTENANCE DISTRICT #1

Staff Report

Budge Manager Robert Ricker reported each year the Commission must levy and assess annual charges on the above districts in order for them to be placed on the upcoming tax bills. The resolutions of intention will allow staff to place the required legal notices in the Independent Record.

The assessment budgets are as follows:

Street Lighting Districts: Street Lighting Districts assessments are based upon the anticipated cost of electric utility bills and administrative services.

Storm Water Utility: The Storm Water Utility resolution of intention anticipates no increase in the rate or change in the method of assessment.

Tree Planing and Maintenance District: Staff is proposing to keep the assessment rate the same at \$10.00 per geo code or parcel.

Special Improvement Districts (SID): The SID assessments are for outstanding debt. New SIDs or advance payments of assessments will automatically create related budget adjustments.

Sidewalk Improvement Program: The Sidewalk Improvement Program resolution of intention shows the total amount of annual assessments that will be placed on the tax bills for the 2004 and prior programs.

Street Maintenance District #1: Street Maintenance District #1 assessments are based on square footage rates and the type of property as classified in the resolution of intention. Staff is proposing to keep assessments the same as last year.

Mr. Ricker recommended approval of the above referenced resolutions of intention.

Commission comment Commissioner Parriman referred to the sidewalk improvement program and asked if it could be expanded to include boulevard compliance funding? Mr. Ricker explained the funding for the sidewalk program comes from a loan from the SID revolving fund; it would be possible to expand the program within the limits of borrowing against the fund.

City Manager Burton concurred with Mr. Ricker but stated to formalize the expansion of the program, the ordinance that authorized the sidewalk program would have to be amended, and added the loan rate is one point above prime.

Commissioner Parriman asked if there are currently any dust control districts and if so, are they included in the budget resolutions of intention? Mr. Ricker stated the last active district was about two years ago and there has not been a need for any new districts.

Commissioner Cartwright referred to street lighting districts and stated more energy efficient lighting is being studied by staff in order to slow the rise in cost.

Commissioner Oitzinger referred to the sidewalk improvement loan program and asked for an explanation of how the funds are reported. Mr. Ricker explained the process.

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

Motion **Commissioner Pouliot moved approval for a resolution of intention to levy and assess annual charges on the following districts for fiscal year 2006 and set a public hearing date of June 27, 2005:**

Street Lighting Districts - Resolution #19221

Storm Water Utility - Resolution #19222

Tree Planting and Maintenance District - Resolution #19223

Special Improvement Districts (SID's) - Resolution #19224

Sidewalk Improvement Program - Resolution #19225

Street Maintenance District #1- Resolution #19226

Commissioner Parriman seconded the motion. All voted aye, motion carried.

9-1-1 Fund CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE 9-1-1 FUND FOR FISCAL YEAR 2006.

Staff Report Mr. Ricker reported state law (7-6-4035 MCA) requires the City Commission approve the budget of any appointed board. The 9-1-1 funds fall under the direction of the Support Services Division Board, which has presented the proposed budget to the Commission for consideration.

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

Motion **Commissioner Parriman moved approval for a resolution of intention to approve the proposed budget of the 9-1-1 fund for fiscal year 2006 and set a public hearing date of June 27, 2005.**

Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19227**

**Support Services
Division**

CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE SUPPORT SERVICES DIVISION FOR FISCAL YEAR 2006.

Staff Report

Mr. Ricker reported state law (7-6-4035 MCA) requires the City Commission approve the budget of any appointed board. The Support Services Division has presented its proposed 2006 budget to the Commission for consideration.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Parriman moved approval of the resolution of intention to approve the proposed budget of the Support Services Division for fiscal year 2006 and set a public hearing date of June 27, 2005. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19228**

**Garbage & refuse
disposal**

CONSIDER A RESOLUTION OF INTENTION SETTING FEES CHARGED FOR DISPOSAL OF GARBAGE AND REFUSE AT THE CITY OF HELENA TRANSFER STATION FOR FISCAL YEAR 2006.

Staff Report

Mr. Ricker reported the City Commission passes a resolution annually establishing charges for the transfer station. The Public Works Department has not recommended any fee increase for fiscal year 2006.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Parriman moved approval for a resolution of intention to set fees charged for disposal of garbage and refuse at the City of Helena transfer station for fiscal year 2006 and set a public hearing date of June 27, 2005. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19229**

**Commercial garbage
collection & disposal**

CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH A RATE MATRIX FOR SERVICE CHARGES FOR COMMERCIAL COLLECTION AND DISPOSAL OF GARBAGE AND REFUSE IN THE CITY OF HELENA, MONTANA FOR FISCAL YEAR 2006.

Staff Report

Mr. Ricker reported the City Commission passes a resolution annually establishing charges for commercial sanitation. The proposed resolution includes all charges that are currently being utilized by commercial sanitation and includes them in one resolution. The Public Works Department has not recommended any increase in fiscal year 2006 charges.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Parriman moved approval for a resolution of intention to establish a rate matrix for service charges for commercial collection and disposal of garbage and refuse in the City of Helena, Montana, for fiscal year 2006 and set a public hearing date of June 27, 2005. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19230**

Residential garbage collection & disposal CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH CHARGES FOR COLLECTION AND DISPOSAL OF RESIDENTIAL GARBAGE AND REFUSE IN THE CITY OF HELENA, MONTANA FOR FISCAL YEAR 2006.

Staff Report Mr. Ricker reported the City Commission passes a resolution annually establishing charges for residential sanitation. The proposed resolution includes all charges that are currently being utilized by residential sanitation and includes them in one resolution. The Public Works Department has not recommended any increase in fiscal year 2006 charges.

Commission comment Commissioner Parriman asked for an explanation of the roll-off disposal charge. Assistant Public Works Director Phil Hauck stated the charge comes from the weight of the contents of the container, not the container itself.

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

Motion Commissioner Parriman moved approval for a resolution of intention to establish charges for collection and disposal of residential garbage and refuse in the City of Helena, Montana, for fiscal year 2006 and set a public hearing date of June 27, 2005. Commissioner Cartwright seconded the motion. All voted aye, motion carried. Resolution #19231

HPC Budget CONSIDER A RESOLUTION OF INTENTION TO APPROVE THE PROPOSED BUDGET OF THE HELENA PARKING COMMISSION FOR FISCAL YEAR 2006.

Staff Report Mr. Ricker reported state law (7-14-4615 MCA) requires the Helena Parking Commission (HPC) report transactions and financial affairs, and the City Commission approve the budgets of any appointed board. The HPC has presented its proposed 2006 budget to the Commission for consideration.

Public comment Mayor Smith called for public comment.
Hal Fossum, Director of the HPC and BID, spoke in support of the budget resolution of intention for the HPC.

Motion Commissioner Parriman moved approval for a resolution of intention to approve the proposed budget of the Helena Parking Commission for fiscal year 2006 and set a public hearing date of June 27, 2005. Commissioner Cartwright seconded the motion. All voted aye, motion carried. Resolution #19232

BID Budget CONSIDER A RESOLUTION OF INTENTION TO LEVY AN ASSESSMENT FOR THE CITY OF HELENA BUSINESS IMPROVEMENT DISTRICT (BID), AND APPROVE THE PROPOSED BUDGET AND WORK PLAN FOR FISCAL YEAR 2006.

Staff Report Mr. Ricker reported on July 24, 2000, the City Commission passed Resolution #11542 which recreated the Business Improvement District (BID) for an additional ten years. State law (7-12-1132 MCA)

requires the BID to submit its budget and work plan to the Commission for consideration and approval of the related assessment to support the district.

Public comment

Mayor Smith called for public comment.
Hal Fossum, Director of the HPC and BID, spoke in support of the budget resolution of intention for the BID.

Commissioner Parriman moved approval for a resolution of intention to levy an assessment for the City of Helena Business Improvement District (BID) and to approve the proposed work plan and budget of the Business Improvement District for fiscal year 2006 and set a public hearing date of June 27, 2005. Commissioner Cartwright seconded the motion. All voted aye, motion carried.
Resolution #19233

Property Tax Resolution of Intention

CONSIDER A RESOLUTION OF INTENTION TO LEVY ADDITIONAL PROPERTY TAX REVENUE FOR FISCAL YEAR 2006.

Staff Report

Administrative Services Director Tim Magee reported:

- ✓ 15-10-203 MCA requires the city hold a public hearing before passing a resolution to budget additional property tax revenue.
- ✓ 15-10-420 (1)(a) MCA authorizes a property tax levy increase of "one-half of the average rate of inflation for the prior three years". The Consumer Price Index showed a 2.51% average increase. Therefore, the city is allowed and is proposing a 1.25% property tax levy increase.
- ✓ 15-10-420 (1)(b) MCA allows the city to carry forward its levy authority, even if it did not levy the maximum levy authorized in a prior year.
- ✓ 15-10-420 (5)(b) and 2-9-212 MCA allow the city to levy for group benefit premium increases.
- ✓ 15-10-420 (7) MCA allows the city to levy for any decrease in reimbursements.

The proposed budget includes tax revenue increases for:

1. The CPI-U inflation factor of 1.25%, or \$54,124;
2. The tax revenue authorized but not levied in the prior year totaling \$-0-;
3. The increase in group benefit premiums of \$4,022; and,
4. The projected State Personal Property Tax Reimbursement decrease of \$10,842.

These increases total \$68,988, or 1.28% of the \$5,394,528 in property tax revenue levied in the prior year.

Commission comment

Commissioner Oitzinger asked for the status of the projected state personal property tax reimbursement decrease. Director Magee explained the schedule for it to disappear is over a ten-year period; there are three to four more years of decreases left.

Commissioner Parriman stated he may not support the increase in property taxes on June 27, 2005. He believes property taxes are high

enough currently; the community may be happy with a lesser level of service.

Motion

Commissioner Parriman moved approval for a resolution of intention to budget additional tax levy revenue for fiscal year 2006 and set a public hearing date of June 27, 2005. Commissioner Cartwright seconded the motion.

Commission comment

Commissioner Cartwright stated he does support the increase in property taxes; the level of service does need to increase as growth increases.

Commissioner Oitzinger stated she would also support an increase in property taxes as the need to make increases evolved from tax shifts and incidence that occurred at the legislative session.

Vote

All voted aye, motion carried. **Resolution #19234**

Water Use Agreement

CONSIDER AUTHORIZING THE CITY MANAGER TO BEGIN NEGOTIATIONS WITH THE RIMINI WATER AND SEWER DISTRICT FOR SUPPLY OF RAW WATER FROM THE CITY'S TENMILE CREEK DIVERSION.

Staff Report

City Attorney David Nielsen reported the property owners in the community of Rimini have an agreement with the City of Helena for water from the City's Tenmile Creek diversion. Although this agreement does not constitute a water right for the property owners, it does recognize the historic use of Tenmile Creek water by some Rimini residents. The agreement allows the use of up to 70 acre-feet per year of untreated stream water under the umbrella of the City of Helena's original water rights.

The community of Rimini has organized a water and sewer district to develop a safe water supply and wastewater treatment system. The USEPA is facilitating construction of a small water treatment plant and wastewater treatment plant under the Upper Tenmile Superfund project. The new district and the USEPA have asked that we consider allowing the agreement to be expanded to allow use of the 70 acre-feet for the domestic needs of all district property owners. The domestic needs are minimal and would not require that the 70 acre-foot limitation be increased. The USEPA would construct a water treatment facility to filter and treat the water to potable water standards.

Staff recommends that the water use agreement be expanded to include all district property owners with limitations and conditions. The limitations and conditions would be provided in a legal contract and brought forward to the City Commission for consideration. Limitations would include the 70 acre-foot annual withdrawal and the district boundary. Conditions would include requirements for fire hydrants and water storage for fire protection. Another provision would be for payment by new users for water at par with the City's cost for raw water purchased from Canyon Ferry.

An approved agreement would assure Rimini residents with a stable source of raw water for domestic and irrigation needs. The new water supply would be available to assist with fire suppression in the area in the event of a structural or forest fire.

City Manager Burton spoke of the importance of the superfund cleanup and stated he concurs with the staff recommendation to proceed with negotiations.

Commission comment Mayor Smith asked if the Rimini Water and Sewer District is a legal entity? City Attorney Nielsen agreed.

Public comment Mayor Smith called for public comment.
John Arrigo, 711 Red Letter and property owner in Rimini, spoke in support of the negotiations.
Dr. Katherine Maynard, 3494 Rimini Road, spoke in support of the negotiations.

Motion Commissioner Pouliot moved to direct the City Manager to begin negotiations with the Rimini Water and Sewer District for supply of raw water from the City's Tenmile Creek diversion.
Commissioner Cartwright seconded the motion.

Discussion Discussion was held on the form of the agreement, charges for new users and the EPA's role in the negotiations. Staff explained that there have been no concrete agreements worked out yet, just brainstorming.

Vote All voted aye, motion carried.

Public Hearings PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW PROFESSIONAL AND BUSINESS OFFICES ON PROPERTY LOCATED IN A R-3 (MEDIUM-DENSITY RESIDENTIAL) DISTRICT; GENERALLY LOCATED SOUTH OF THE RODNEY STREET, EWING STREET AND LYNDALE AVENUE INTERSECTION WITH A STREET ADDRESS OF 1065 NORTH EWING.

Staff Report City Planner Belinda Waters reported the subject property currently houses an existing residential structure that previously contained a beauty salon. The total property area is 16,312 square feet; the existing structure is 1,152 square feet in size with a garage consisting of 480 square feet.

On Thursday, May 12, 2005, the Helena Zoning Commission recommended approval (4:0) for the adoption of a resolution granting a Condition Use Permit (CUP) to allow a professional and business office in an R-3 District for property legally described as Lots 25 through 30, Block 38, Central Addition #2, Helena, Montana, subject to one condition: The hedge providing screening for the residence to the south must be maintained.

The proposed business would be an in-home care service use that would have two to three employees and would operate Monday-Friday, 8:00am – 5:00pm with no clientele coming to the location. Infrastructure to serve the proposed use is already in place, which represents an efficient use of land, infrastructure, energy and other resources; therefore, this project is consistent with the various goals, objectives and policies of the 2001 Growth Policy.

Public Testimony

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

Marsha Allen, applicant, 42 Whitetail Lane, Clancy, spoke in support of the CUP and stated she was agreeable to the hedge condition.

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

Motion

Commissioner Pouliot moved approval for a resolution granting a Condition Use Permit (CUP) for property legally described above to allow a professional business office in an R-3 (Medium Density Residential) District subject to one condition: The hedge providing screening to the residence to the south must be maintained. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19235**

B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW THE BUILDING HEIGHT FOR A SINGLE-FAMILY RESIDENCE IN AN R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT TO EXCEED THE 24 FEET BUILDING HEIGHT BY 3 ½ FEET; GENERALLY LOCATED SOUTH OF STIRRUP DRIVE AND EAST OF SOUTH HILLS DRIVE WITH A STREET ADDRESS OF 3023 EARLY BIRD DRIVE.

Staff Report

City Planner Belinda Waters reported the subject property is currently vacant and undeveloped. The total property area is 16,321 square feet. The applicant is proposing to construct a 3,193 square foot residence on the lot with a building height of 27 ½ feet.

On Thursday, May 12, 2005, the Helena Zoning Commission made no recommendation (2:2 vote) for the adoption of a resolution granting a Condition Use Permit (CUP) to exceed the 24-foot building height limit in an R-2 (Single Family Residential) District by 3 ½ feet for property legally described as Lot 9, Sunrise Loop subdivision, Helena, Montana.

Section 11-4-6 states the maximum building height in this zone is 24 feet. The structure will not exceed maximum lot coverage and will meet setback requirements for the R-2 District. The proposed residential use would be in-fill development with infrastructure to serve the proposed use is already in place, which represents an efficient use of land, infrastructure, energy and other resources; therefore, this project is consistent with the various goals, objectives and policies of the 2001 Growth Policy. Staff recommended approval of the CUP.

Commission comment

Commissioner Pouliot referred to the adjacent property owner and asked if they object to the height of the home? Ms. Waters explained she spoke with the owner by phone and he does not object.

Public Testimony

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

Brian Beason, 3023 Early Bird Drive, owner and builder of subject property; spoke in support of the CUP.

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

Discussion

Mayor Smith asked why the height requirement was brought forward as a CUP? Ms. Waters replied the Building Division determines if the applicant meets the building height by starting with the basement, then adding additional levels and the slope of the roof. Topography of the area is also included. In this case, the building height was measured at 3 ½ feet over the allowed height.

Commissioner Parriman stated by lowering the pitch, Mr. Beason could meet the height requirement. Mr. Beason replied that lessening the pitch would encroach on the walls and size of the rooms, making room size inadequate. Also, new energy codes have caused roofs to become a little higher due to the insulation value.

Mayor Smith asked Mr. Beason if he had considered lowering the first level 3-½ feet and creating a downhill driveway to the garages? Mr. Beason stated it would not be feasible.

Commissioner Cartwright spoke of the lack of development in the area stated the applicant doesn't have other houses to conflict with. He also referred to the zoning requirements of the area and explained there are many examples of neighborhoods with houses of varying heights around town.

Motion

Commissioner Cartwright moved approval for a resolution granting a Conditional Use Permit to exceed the 24-foot building height limit in an R-2 District by 3 ½ feet for property legally described above. Commissioner Pouliot seconded the motion.

Discussion

Commissioner Oitzinger asked since this is an undeveloped area, can the Commission expect future CUP applications for the same reason? Ms. Waters stated there are many different styles of homes in the area; the proposed CUP would not set a precedent. Commissioner Oitzinger stated she is uncomfortable voting against the Zoning Commission's recommendation.

Vote

Motion failed 3-2 with Mayor Smith and Commissioners Oitzinger and Parriman voting no.

Discussion

Commissioner Parriman reiterated he believes the pitch could be lowered without compromising the size of the rooms and only causing minor façade changes.

Mayor Smith stated he is concerned with establishing a precedent and overriding the Zoning Commission's recommendation. Commissioner Oitzinger concurred with Mayor Smith.

Commissioner Cartwright stated it is difficult to judge the height of a house and the area is still selling.

C. TWO ACTIONS FOR THE SAME PROPERTY:

A. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A BED AND BREAKFAST TO BE LOCATED IN A R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT; AND

B. CONSIDER A VARIANCE FROM SECTION 11-22-5 (EE) OF THE ZONING ORDINANCE TO ALLOW A MINIMUM OF 2 PARKING SPACES AND ONE ACCESSIBLE SPACE ON-SITE; FOR PROPERTY GENERALLY LOCATED ON THE SOUTHEAST CORNER OF DAKOTA

AND MISSOULA STREETS AND WITH A PROPERTY ADDRESS OF
1101 MISSOULA AVENUE, HELENA, MONTANA.

Staff Report

City Planner Lucy Morell-Gengler reported the applicant is requesting a Resolution granting a Conditional Use Permit (CUP) to convert the existing building into a 5-room B&B to be located in an R-2 (Single-Family Residential) District. The applicant has indicated he would be residing on-site and no employees would be required. According to the applicant, no modifications to the building are planned because the structure was previously used as a woman's shelter and has several separate living spaces. He has stated the building, with 29 rooms and 5 baths, is too large for a single-family use.

The proposed B&B and the owner's residential use require 7 parking spaces. Section 11-22-11 of the Helena Zoning Ordinance allows up to 50% of the required nonresidential parking to be located on-street. Therefore, 5 on-site parking spaces are required and 2 on-street spaces are permitted. The site plan shows space for 3 on-site parking spaces and room available for 11 on-street parking spaces. The applicant has requested a variance to allow 3 on-site and 4 on-street parking spaces.

On May 12, 2005 the Zoning Commission recommended (3:1 vote) approval for the adoption of a CUP for a five room B & B subject to one condition: To minimize the nonresidential appearance, the proposed freestanding sign must be set back 15 feet from the front and side lot lines. Also, the Zoning Commission unanimously recommended granting a variance from Section 11-22-5 (EE) of the Helena Zoning Ordinance to allow a minimum of two parking spaces and one accessible space on-site (4:0 vote).

The proposed B & B would provide an alternative but compatible use in proximity to services and transportation options. The location of this property, in relation to nearby city sewer and water mains, permits the new use to utilize city water and sewer thereby promoting good stewardship of the ground water and efficient use of energy and infrastructure.

Public Testimony

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

Noel Rosetta, Missoula Avenue, spoke in opposition to the CUP.

Paul Trombetta, subject property owner, spoke in support of the CUP.

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

Discussion

Mayor Smith asked Mr. Rosetta if parking is his primary concern with the CUP? Mr. Rosetta explained he is concerned with parking but also his neighborhood is a residential area and he would like it to stay that way and not be turned into an area for profit.

Motions

Commissioner Pouliot moved approval for a resolution granting a Conditional Use Permit (CUP) to allow a bed and breakfast to be located in an R-2 District for property legally described above. This approval is subject to the following condition: To minimize the nonresidential appearance, the proposed freestanding sign must be set back 15 feet from the front and side lot lines. Commissioner Parriman seconded the motion.

Discussion

Commissioner Cartwright asked what happens to property this large if it's not used as a shelter or business? Ms. Morell-Gengler stated in the past, the City Commission has recognized that large houses can be hard to keep inhabited by a family and has included language in the zoning ordinance to help provide other uses for the homes, such as bed and breakfasts or multi-family homes.

Mayor Smith stated he is comfortable with the CUP but the parking variance is troubling; the neighborhood should not have to apply for a residential parking district designation.

Commissioner Cartwright stated streets have a parking lane for a reason. This situation is less than ideal, but paving over the lawn would be worse.

Vote

Motion carried 3-2, with Mayor Smith and Commissioner Oitzinger voting no. **Resolution #19236**

Motion

Commissioner Pouliot moved approval for a variance from Section 11-22-5 (EE) of the Helena Zoning Ordinance to allow a minimum of two parking spaces and one accessible space on-site. Commissioner Cartwright seconded the motion. Motion carried 3-2, with Mayor Smith and Commissioner Oitzinger voting no.

D. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING PRIOR TO ANNEXATION TO B-1 (NEIGHBORHOOD BUSINESS) DISTRICT FOR LOTS 1-5 OF THE PROPOSED COTTONWOOD BUSINESS PARK MINOR SUBDIVISION; FOR PROPERTY GENERALLY LOCATED SOUTHWEST OF THE MCHUGH LANE AND BENCHMARK DRIVE INTERSECTION.

E. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING PRIOR TO ANNEXATION TO B-2 (GENERAL COMMERCIAL) DISTRICT FOR LOTS 10 AND 11 AND THE STORM WATER DETENTION AREA OF THE PROPOSED COTTONWOOD WEST MAJOR SUBDIVISION; AND TO CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT FOR LOTS 1-9 OF THE PROPOSED COTTONWOOD WEST MAJOR SUBDIVISION; GENERALLY LOCATED ON THE WEST SIDE OF MCHUGH LANE BETWEEN BENCHMARK DRIVE AND ROADRUNNER STREET.

Staff Report

City Planner Lucy Morell-Gengler reported two adjacent property owners have requested joint review of their proposals for annexation, rezoning and subdivision. Although they may be reviewed simultaneously, separate evaluation and action must be taken on each application.

The applicant for the proposed Cottonwood Business Park is requesting:

- Annexation of 3.86 acres;
- Pre-zoning to B-1 (Neighborhood Business) District for Lots 1-5 of the Cottonwood Business Park; and
- Preliminary Plat approval for the proposed Cottonwood Business Park, a minor subdivision, creating 5 lots.

On May 12, 2005 the Zoning Commission unanimously recommended (4:0 vote) the adoption of an ordinance rezoning prior to annexation into the City of Helena, Montana, to B-1 District for lots 1-5 as shown on the preliminary plat of the proposed Cottonwood Business Park Subdivision. The property is legally described as HAHN, a 3.862 acre tract shown on COS #486624/T, Lewis and Clark County, Montana; generally located southwest of McHugh Lane and Benchmark Drive intersection.

According to the applicant and the submitted traffic study, the B-1 zoning for 3.83 acres would allow a medical-dental office, single-tenant offices, a small restaurant or possibly townhouses in the Cottonwood Business Park. The zoning would allow annexation of the Cottonwood Business Park subdivision into the City of Helena and allow development consistent with city zoning.

The applicant for the proposed Cottonwood West Major Subdivision is requesting:

- Annexation of 9.99 acres;
- Pre-zoning to B-2 (General Commercial) District for Lots 10 and 11 and the storm- water detention area; and to CLM (Commercial Light Manufacturing) District for Lots 1-9 of the Cottonwood West Major Subdivision; and
- Preliminary Plat approval for proposed Cottonwood West Major Subdivision creating 11 lots and a stormwater detention area.

On May 12, 2005, the Zoning Commission unanimously recommended (4:0 vote) approval for the adoption of an ordinance rezoning prior to annexation into the City of Helena, Montana to B-2 (General Commercial) District for Lots 10 and 11 and the stormwater detention area; and to CLM (Commercial Light Manufacturing) District for Lots 1-9; all as shown on the preliminary plat of the proposed Cottonwood West Major Subdivision. The property is legally described as Tract F McHugh Minor Subdivision #2 COS# 555818-E, Lewis and Clark County, Montana; generally located on the west side of McHugh Lane between Benchmark Drive and Roadrunner Street.

Ms. Morell-Gengler stated the zoning would allow annexation of the Cottonwood West Subdivision into the City of Helena and allow development consistent with city zoning.

Public Testimony

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

Jeff Larson, Stahly Engineering, 3530 Centennial Drive, spoke in support of the pre-zoning for both subdivisions.

Dave Krofts, applicant, 2844 Spokane Creek Road, spoke in support of the pre-zoning.

Paul Dorrance, applicant, 150 Horseshoe Bend Road, spoke in support of the pre-zoning.

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

Public Testimony

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

Jeff Larson, Stahly Engineering, 3530 Centennial Drive, spoke in support of the major and minor subdivision/preliminary plat approval.

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

Motion

Commissioner Cartwright moved to conditionally approve the preliminary plat for the Cottonwood West Major Subdivision creating 11 lots and a stormwater detention area and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Motion

Commissioner Cartwright moved to conditionally approve the preliminary plat for the Cottonwood Business Park minor Subdivision creating 5 lots from 3.86 acres and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

H. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3028 AMENDING SECTION 6-2-6 OF THE HELENA CITY CODE TO CLARIFY THE FORMULA FOR REBATES FOR WATER MAIN EXTENSIONS.

Staff Report

Assistant Public Works Director Phil Hauck reported sometimes developers extend water mains from offsite when city mains are not adjacent to the development, and/or, are required to extend mains across the property frontage in compliance with the rules for main extensions. The city allows for compensation for main extensions that can serve others through rebate agreements. A rebate agreement requires that the city collect a proportional cost of the water main when others connect to the water main. This cost or fee is then distributed to the party named in the rebate agreement.

Helena City Code 6-2-6 currently requires that applicants for rebate agreements pay an administrative fee of 5% of the water main project cost. This can be a significant burden and deterrent to building water main extensions that benefit more than the development. Administration of rebate agreements is a relatively simple task and does not usually require the 5% fee to offset costs and there is no similar administrative fee required for sewer main extension rebates.

Staff is recommending elimination of the 5% fee currently in ordinance for water main extensions. Removing the 5% fee will bring the water ordinances in closer consistency with wastewater ordinances that do not require a similar fee. In addition, eliminating the rebate fee will remove a disincentive to construction to off-site and fronting main extensions.

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 Oitzinger moved approval for final passage of Ordinance No. 3028 amending Section 6-2-6 of the Helena City Code to clarify the formula for rebates for water main extensions.

Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Ordinance #3028**

Public Communications

PUBLIC COMMUNICATIONS

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is June 22, 2005 and the next Commission Meeting is June 27, 2005.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:47p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission