

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
August 8, 2005
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, August 8, 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 Cartwright, Oitzinger, Parriman, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were 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, July 25, 2005 were approved as submitted.

Appointments

APPOINTMENTS:

- A. Historic Preservation Commission
- B. Helena International Affairs Council
- C. Helena Housing Authority

Mayor Smith asked for Commission concurrence on the following appointments:

Historic Preservation Commission- Appointment of Steve Bullock and Barda A. Allen as joint city/county representatives.

Helena International Affairs Council- Appointment of Will Garvin.

Helena Housing Authority- Appointment of Mary Lee Shepard as the Resident Representative.

Commissioner Pouliot moved approval of the appointments to the Historic Preservation Commission, Helena International Affairs Council and Helena Housing Authority. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Trolley bike rack grant award

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 and B on the consent agenda. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Cartwright reminded citizens to water their trees, as it has been a hot, dry month.

Commissioner Pouliot encouraged citizens to attend the Western Rendezvous of Art being held August 18-21, at the Civic Center.

Commissioner Oitzinger asked City Manager Burton to report on any wildfires located near the city.

City Manager Burton reported there have been numerous small fires, which have been handled quickly without a loss of control. He reminded citizens to be aware of fire danger and very careful when entering the forests.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

No report was given.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Justin Trafton reported the HCC met on July 27, 2005 and gave an overview of the meeting.

The HCC made the following recommendation: The HCC recommends the City Commission form an ad-hoc committee to review the Boulevard Ordinance in its entirety and to develop community standards for boulevard landscaping. The committee could be comprised of a City Commission member, any appropriate City staff, 1 HCC member and 1 citizen representative from each of the 7 HCC districts.

Commissioner Cartwright asked if the HCC members had toured the boulevard sidewalks around town? Mr. Trafton replied no.

Mayor Smith recommended organizing a tour for HCC members to view the various boulevard landscaping.

Buy/Sell Agreement

CONSIDER A BUY/SELL AGREEMENT WITH RICHARD & BETTI HILL FOR TWO (2) PARCELS OF LAND IN LEWIS AND CLARK COUNTY, BEING TRACT B1 IN THE RED LETTER MINOR SUBDIVISION, AND GOVERNMENT LOT 11 IN LEWIS & CLARK COUNTY, MONTANA.

Staff Report

Parks and Recreation Director Randy Lilje reported staff has been working with Mr. and Mrs. Hill to form an agreement to acquire two parcels of land from them totaling approximately 11 acres. The land would be acquired for the purpose of public open space.

The proposed buy/sell agreement outlines various options for the city to acquire one or both of the parcels and under what conditions the acquisition could occur. However, if the city cannot work out any of the described options, it is under no obligation to acquire the land.

The proposed agreement provides a flexible approach to acquiring the land for open space. The acquisition of the land is included

within one of the objectives of the City's Comprehensive Parks, Recreation, and Open Space Plan to create a natural green belt and trail system across the south hills. Mr. Lilje recommended approval of the buy/sell agreement.

Commission comment

Discussion was held regarding Section 2, item b, i., (b) which states the buyer may "Grant, with the locations agreed to by the parties, an access easement to Government Lot 11 across Tract B1 and either an easement for septic tank and drain field on Tract B1, or a right to City sewer service connection to be constructed by sellers with an appropriate easement for the service line."

City Attorney Nielsen stated these are simply options available; the County Health Department would still need to approve the septic tank and drain field if that option was chosen.

Commissioner Oitzinger stated in order to provide additional clarification she would like to add, by motion, that County Health Department regulations would need to be followed.

Commissioner Cartwright asked if the city or Mr. and Mrs. Hill formed the language of the agreement? City Attorney Nielsen explained following discussions with Mr. and Mrs. Hill, he drafted the agreement. Commissioner Cartwright stated he would support the motion proposed by Commissioner Oitzinger.

Commissioner Pouliot referred to the financing of the agreement and asked for an explanation. City Manager Burton explained he had been given direction from the Commission to proceed with the buy/sell agreement. There has been no formal allocation given by the Commission on how to fund the purchase; discussion needs to be held so the Commission can direct staff as to what funding source to use. Commissioner Pouliot stated he would not support the agreement as he is not comfortable approving it as a Buy/Sell Agreement. He thought an "Option to Purchase" would be a more accurate agreement.

Motion

Commissioner Oitzinger moved to amend the buy/sell agreement to reflect in Section 2, item b, i., (b) that either an easement for septic tank and drain field on Tract B1, or a right to City sewer service connection to be constructed by sellers with an appropriate easement for the service line, subject to existing regulations of Lewis & Clark County and the State of Montana.

Commissioner Cartwright seconded the motion. Motion carried 4-1 with Commissioner Pouliot voting no.

Motion

Commissioner Oitzinger moved approval to enter into a buy/sell agreement with Richard and Betti Hill for two (2) parcels of land in Lewis & Clark County, being Tract B1 in the Red Letter Minor Subdivision, as shown on COS#3051854, and Government Lot 11, shown on the document recorded in M Book 12, page 7786, in the records of the Clerk & Recorder of Lewis & Clark County, Montana, as amended. Commissioner Cartwright seconded the motion. Motion carried 4-1 with Commissioner Pouliot voting no.

General Fund Bonds CONSIDER A RESOLUTION AWARDING THE SALE OF GENERAL FUND BONDS, SERIES 2005; FIXING THEIR FORM AND SPECIFICATIONS; DIRECTING THEIR EXECUTION AND DELIVERY; AND PROVIDING FOR THEIR PAYMENT.

Staff Report

City Controller Glenn Jorgenson reported the City Commission approved the issuance of General Fund bonds on July 11th, 2005 to fund improvements in the downtown area. The bonds will be offered for sale to the public the morning of August 8, 2005. The results of that offering will be provided for Commission consideration at the regularly scheduled August 8, 2005 Commission meeting.

Mr. Jorgenson noted the resolution included in the Commission packet was preliminary without the sale information. The Commission was presented with the final version including the results of the bond sale at tonight's meeting.

By approving the proposed resolution, the city can fund approved downtown projects, as previously approved and recommended. Mr. Jorgenson recommended approval of the resolution awarding the sale of General Fund Bonds, Series 2005.

Commission comment

Commissioner Cartwright asked Mr. Jorgenson to explain the disadvantages of the loan. Mr. Jorgenson explained the structure of the loan and the laws governing the sale of General Fund bonds.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Pouliot moved approval for a resolution awarding the sale of the General Fund Bonds, Series 2005; fixing their form and specifications, directing their execution and delivery, and providing for their payment. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19264**

Skelton Second Addition Final Plat

CONSIDER THE FINAL PLAT FOR THE SKELTON SECOND ADDITION MAJOR SUBDIVISION CREATING 21 RESIDENTIAL LOTS AND TWO RESIDENTIAL/ OFFICE LOTS FROM PROPERTY GENERALLY LOCATED WEST OF BLACKHAWK STREET, NORTH OF ROAD RUNNER DRIVE, AND EAST OF MCHUGH LANE.

Staff Report

City Planner Lucy Morell-Gengler reported on January 10, 2005 the City Commission gave conditional preliminary plat approval for the Skelton Sequence V Major Subdivision. The name was later changed to Skelton Second Addition, which better reflects the sequencing of the Skelton development. The approval of the preliminary plat was subject to the conditions stated in the Findings of Fact and these conditions have been completed.

The applicant is requesting approval of a major subdivision/final plat creating 21 residential lots and two residential/office lots from approximately 9.25 acres to continue the Skelton Development to McHugh Drive. This proposed subdivision is legally described as Tract 1 of COS 495360/E and Lots 1 and 2 Block 8 of the Skelton Addition, Phase II Sequence III Subdivision; Helena, Montana; generally located west of Blackhawk Street, north of Road Runner Drive, and east of McHugh Lane.

Ms. Morell-Gengler stated approval of the final plat would allow the sale of the lots; would encourage the development of property in this

area; and would facilitate in-fill development and compliance with City regulations. Ms. Morell-Gengler recommended approval of the final plat.

Public comment

Mayor Smith called for public comment.

Alice Crofts, representing Skelton Village, LLP; spoke in support of the final plat and announced the Skelton partners would be making a donation of \$16,500 to the City to fund park improvements.

Motion

Commissioner Cartwright moved approval of the final plat for the Skelton Subdivision Second Addition Subdivision creating 23 lots and to accept the dedication to the City of Helena for public improvement designated thereon. Commissioner Oitzinger seconded the motion.

Commission comment

Mayor Smith thanked Ms. Crofts for her generous donation and stated the Commission is very impressed with the development of the subdivision. City Manager Burton explained the donation would be restricted to the development of the Skelton Park.

Vote

All voted aye, motion carried.

***Resolution of
Intention to annex-
Golden Estates IV***

CONSIDER A RESOLUTION OF INTENTION TO ANNEX 38.07 ACRES INTO THE CITY OF HELENA FOR PROPERTY GENERALLY LOCATED EAST OF MCHUGH LANE BETWEEN ROAD RUNNER DRIVE AND YUHAS AVENUE, AND TO ESTABLISH CONDITIONS FOR ANNEXATION; THE 64-FOOT WIDE WOLF ROAD RIGHT-OF-WAY AS SHOWN ON THE GOLDEN ESTATES IV SUBDIVISION PLAT; AND THE ADJACENT 100-FOOT WIDE DEDICATED RIGHT-OF-WAY OF MCHUGH LANE LOCATED BETWEEN THE NORTHERN SUBDIVISION BOUNDARY AND THE CITY LIMITS TO THE SOUTH.

Staff Report

City Planner Lucy Morell-Gengler reported on June 14, 2005 the Helena Zoning Commission unanimously (5:0 vote) recommended approval for pre-zoning prior to annexation for 38.07 acres to R-2 (Single-Family Residential) District (for 34.83 acres), and R-3 (Medium Density Residential) District (for 3.24 acres) in the northeast ¼ of Section 18, T10N, R3W, Lewis and Clark County, as legally described on the Personal Representative's Deed of Distribution recorded with the County Clerk of Recorder in Book M24 Page 1445; generally located east of McHugh Lane between Road Runner Drive and Yuhas Avenue.

On June 16, 2005 the Consolidated Planning Board unanimously (5:0 vote) recommended approval for a major subdivision/preliminary plat for Golden Estates IV, creating 115 residential lots (93 single-family and 22 townhouse lots) and 2 common areas from 38.07 acres, to be developed in 2 phases and located in the R-2 and R-3 Districts and to adopted the Findings of Fact and the conditions contained therein.

The subdivision conditions are related to the annexation conditions. Only a portion of the Wolf Road right-of-way (ROW) is currently located on the applicant's property. The dedicated Wolf Road ROW would also include part of an easement across the adjacent property located to the south. The subdivision conditions require the adjacent portion of Wolf Road be dedicated with a 64-foot wide with the final plat, and that the street is constructed to City standards to City standards, or be financially guaranteed prior to filing the final plat.

The applicant is requesting to annex into the City of Helena 38.07 acres and the adjacent 100-foot wide dedicated right-of-way of McHugh Lane located between the northern subdivision boundary and the City limits to the south. This proposal is accompanied by two simultaneous proposals affecting the same 38.07- acre property:

1) Prezone prior to annexation with R-3 (Medium Density Residential) District for 22 duplex-style townhouses lots (approximately 3.24 acres), and R-2 (Single-Family Residential) District for 93 single-family residential lots and two common area lots (approximately 34.83 acres); and

2) Major subdivision/preliminary plat for Golden Estates IV, creating 115 residential lots (93 single-family and 22 townhouse lots) and 2 common areas from 38.07 acres, to be developed in 2 phases and located in the R-2 and R-3 Districts. City water, sewer, and paved streets will be installed with this subdivision. The subdivision conditions for preliminary plat approval will be the same conditions for the annexation.

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 recommended approval of the resolution of intention to annex.

Commission comment

Mayor Smith asked if the portion of McHugh Lane adjacent to the subdivision would be improved to city standards? Ms. Morell-Gengler concurred.

Commissioner Parriman asked if the total length of Wolf Road would be improved to city standards? Ms. Morell-Gengler reported the Pebble Gardens trailer park property has been approved for pre-zoning but has not yet requested annexation into the city. Once they apply for annexation, Wolf Road improvements will be completed entirely.

Commissioner Parriman urged staff to identify funding sources for road improvements to annexed properties before bringing the proposals forward for Commission consideration.

Public comment

Mayor Smith called for public comment.

Laura Holmes, Yuhas, spoke of concerns with the density of the proposed development.

Carrie Grover, 3743 Yuhas, spoke of concerns with the density of the development and being annexed into the city.

Gary Curtis, 120 Sandpiper Loop, spoke of concerns with a gravel berm in the area and the grade of the streets in the area.

Tina Dawson, 3741 Yuhas, spoke of concerns with the stoplight at McHugh and Custer Avenue.

Motion

Commissioner Parriman moved approval for a resolution of intention to annex 38.07 acres into the City of Helena as shown and legally described on the attached annexation plat; and the adjacent 100-foot wide dedicated right-of-way of McHugh Lane located between the northern subdivision boundary and the City limits to the south, Lewis and Clark County, Montana and establish conditions for annexation per the attached resolution.

Commissioner Cartwright seconded the motion.

Discussion

Commissioner Parriman stated he too has concerns with the subdivision but believes they will be alleviated before final plat consideration.

Commissioner Cartwright referred to issues the Commission needs to address when holding growth discussions such as school overcrowding, density, parkland, water and sewer services, and road improvements; but stated he believes the proposed annexation is appropriate.

Mayor Smith concurred with Commissioner Cartwright's concerns.

Commissioner Oitzinger asked if there would be options for traffic calming, if needed, on Wolf Road? Ms. Morell-Gengler concurred, Wolf Road is designed to be a collector and there would be opportunities to incorporate traffic calming.

Commissioner Pouliot asked what kind of notification was given to the surrounding property owners? Ms. Morell-Gengler stated notice was given per state statute and city guidelines.

Mayor Smith addressed Ms. Dawson's comments and stated Custer Avenue will be discussed in the City/County Transportation Plan. He also stated the school district is looking at what the city is annexing very carefully in order to monitor overcrowding.

Commissioner Parriman explained when property annexes into the city there is no impact on valley water supply. He believes this annexation is a natural progression.

Vote

All voted aye, motion carried. **Resolution #19265**

Resolution of Intention to annex- Big Sky Estates

CONSIDER A RESOLUTION OF INTENTION TO ANNEX LOT 3, BLOCK 1 OF THE SLEEPING GIANT ADDITION AMENDMENT OF INDUSTRIAL PARK, DOCUMENT #310668, LEWIS AND CLARK COUNTY, MONTANA GENERALLY LOCATED WEST OF ELAINE STREET AND SOUTH OF TRICIA STREET, AND ESTABLISH CONDITIONS FOR ANNEXATION FOR THE BIG SKY ESTATES MAJOR SUBDIVISION.

Staff Report

City Planner Lucy Morell-Gengler reported on July 19, 2005, the Zoning Commission unanimously recommended approval (3:0 vote) for rezoning prior to annexation into the City of Helena, Montana to R-4 (High Density Residential) District for Lots 1-9 as shown on the preliminary plat of the proposed Big Sky Estates subdivision, prior to annexation into the City of Helena, Montana.

On July 21, 2005 Consolidated Planning Board recommended approval for a major subdivision/preliminary plat for Big Sky Estates, creating 9 residential lots from 2.23 acres, to be located in a R-4 District and to adopted the Findings of Fact and the conditions contained therein.

The property is legally described as Lot 3, Block 1 of the Sleeping Giant Addition Amendment of Industrial Park, Document #310668, Lewis and Clark County, Montana; generally located west of Elaine Street and south of Tricia Street.

The applicant is requesting annexation to the City of Helena of 2.23 acres. This proposal is accompanied by two simultaneous proposals affecting the same property:

1. Pre-zoning to R-4 (High Density Residential) District for Lots 1-9 of the proposed Big Sky Estates major subdivision, and;

2. Preliminary Plat approval for proposed Big Sky Estates major subdivision creating 9 lots. Under this proposal, the subject property would be annexed to the City of Helena when the final plat for the proposed subdivision is filed with the Clerk and Recorder.

The owner of this property has applied for annexation to the City of Helena and 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.

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.

When the property located east of the subject subdivision was annexed into the city, the property owner signed a Development Agreement with the City and was granted a time extension for the installation of Elaine Street. Although Elaine Street has been annexed into the City it has not been brought up to city standards for street construction, curb and gutter. Elaine Street is the primary access to the proposed annexation and subdivision; thus the owner of the Big Sky Estates Subdivision must pay a proportional share in the cost of the construction of Elaine Street to city standards.

The following conditions to annexation are proposed:

1. 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.

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

3. Elaine Street Improvements: Elaine Street, from the intersection with the frontage road (Tricia Street) to the southern most boundary of the subject property, must be installed to City standards or the improvements must be financially guaranteed prior to annexation of the subject property. The owner of the subject property must participate pro rata in

the expenses of the street improvement project for the construction of streets, curbs, and gutters for Elaine Street. If a special improvement district is formed to finance the initial construction of the street improvements, the owner of the subject property must agree to participate in the special improvement district.

4. 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.

5. 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.

Ms. Morell-Gengler recommended approval of the resolution of intention and stated annexation of this property in conjunction with the proposed subdivision would enable services to be extended to the area consistent with state and local laws. The proposal represents infill development, and efficient use of energy, infrastructure and resources.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Parriman moved approval for a resolution of intention to annex Lot 3, Block 1 of the Sleeping Giant Addition Amendment of Industrial Park, Document #310668, Lewis and Clark County, Montana, and establish conditions for annexation per the attached resolution. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19266**

Fee increase- discharge of hauled waste

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

Staff Report

Wastewater Superintendent Donald Clark reported the city currently charges septic hauler contractors \$35.04 per 1,000 gallons to cover the cost to treat waste at the Wastewater Treatment Plant. Lewis and Clark County is requesting the city increase the fee \$30.00 per 1,000 gallons to fund a County On-Site Wastewater Program.

The program will be implemented and administered by the Lewis & Clark County Health Department. A memorandum of understanding between the two entities will govern how funds will be transferred to the county to fund the program.

The county is seeking to increase awareness to residents about the importance of maintaining their septic systems to avoid contaminating the ground water. The city's Wastewater Treatment Facility will benefit, as more frequently pumped systems are easier to treat and have less odor than systems that have not been pumped on a regular basis. Mr. Clark recommended approval of the resolution of intention.

County Environmental Health Department representative Joan Bowsher spoke in support of the rate increase and urged the Commission to approve the resolution of intention.

Commission comments Commissioner Parriman stated the program seems very worthwhile but he believes this is a very large increase. Assistant Public Works Director Phil Hauck explained the increase amounts to \$50,000, which is the estimated amount needed to run the program.

Mayor Smith asked if increasing the fees would have a perverse reaction? Mr. Hauck stated although the septic haulers were not pleased with the rate increase, they do see the benefit of the program.

Commissioner Oitzinger referred to increased nitrates in the valley water supply and asked if horses and newborn babies are most susceptible to harm from the nitrates, and if education on this danger is the focus of the program? Ms. Bowsher concurred.

Public comment Mayor Smith called for public comment.

Justin Trafton, 1505 East Lyndale, HCC and Water Quality Protection District member, spoke in support of the fee increase.

Motion Commissioner Pouliot moved approval for a resolution of intention to increase the fee for discharge of hauled waste into the City of Helena's sewer system and set a public hearing date of August 22, 2005. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution#19267**

City Project No. 05-1 CONSIDER A CHANGE ORDER FOR ROCK EXCAVATION, WILDER AVENUE (CITY PROJECT 05-1).

Staff Report City Engineer Ryan Leland reported the City Commission awarded Mockel Precast and Excavation Inc. the Wilder Avenue Project (City Project 05-1) on March 28, 2005 for a contract amount of \$499,451. The city's budget for the project was \$737,000. Mockel Precast and Excavation Inc. (Mockel) started the project on May 16, 2005. They have encountered three types of extremely hard rock on the installation of the sewer main on Wilder Avenue. This rock has met the city's Rock Excavation Specification for rock excavation. Staff did not expect this amount of rock for this project. Fifty cubic yards of rock excavation was included as a bid item, in case miner rock was encountered. To date Mockel has removed 295 cubic yards of rock at \$35 per cubic yards for a total of \$10,325. Mockel still has to install two blocks of sewer main, four blocks of water, and three blocks of storm sewer. The ordinance requires Commission approval for any change order over 10% of the original bid. For the Wilder Avenue project, the change order limit would be \$49,945.

Staff is requesting Commission approval to exceed the city's change order ordinance, if needed, for the rock excavation on Wilder Street. Since the extent of the rock is unknown and if the change order limit is met then the project can continue without delay.

Commission comments Commissioner Cartwright asked if there is a way to map this sort of rock and create a database? Mr. Leland stated not at this time, staff relies on as-built drawings. They are including the rock in the subject projects' as-built drawing.

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

Motion Commissioner Parriman moved approval to allow the Public Works Department to exceed the change order ordinance for the excavation of rock on the Wilder Avenue water and sewer main replacement and new storm drain installation, City Project No. 05-1. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Public Hearings PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION AMENDING RESOLUTION NO. 19242 THAT LEVIED AND ASSESSED A TAX UPON ALL PROPERTY LOCATED IN A SPECIAL IMPROVEMENT DISTRICT.

Staff Report

City Controller Glenn Jorgenson reported each year the Commission must levy and assess annual charges on special water, sewer, and paving improvement districts in order for them to be placed on the upcoming tax bills.

On June 13, 2005, the City Commission adopted Resolution of Intention No. 19224 and on June 27, 2005 adopted Resolution No. 19242 that levied and assessed a tax upon all property in special water, sewer, and paving improvement districts.

The Special Improvement District (SID) assessments are for outstanding debt. On Resolution of Intention No. 19224 and Resolution No. 19242, the assessments for SID #413 and SID #418 were incorrectly stated. The intent of this proposed resolution is to correctly state those assessments. The fiscal year 2006 annual charges listed in the resolution, upon approval by the City Commission, will be placed on the tax year 2005 property tax bills.

Mr. Jorgenson recommended approval of the proposed resolution, as passage will ensure that all property located within a special improvement water, sewer, and paving improvement district will be assessed correctly.

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 of a resolution amending Resolution No. 19242 that levied and assessed a tax upon all property in special water, sewer, and paving improvement districts to defray the cost of maintaining improvements in said special improvement districts for FY2006. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution #19268**

B. THREE ACTIONS FOR THE SAME PROPERTY; GENERALLY LOCATED WEST OF ELAINE STREET AND SOUTH OF TRICIA STREET:

1. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING BIG SKY ESTATES SUBDIVISION TO R-4 (HIGH DENSITY RESIDENTIAL) DISTRICT PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA. ACTION: APPROVE, TABLE OR DENY FIRST PASSAGE OF AN ORDINANCE.

2. CONSIDER THE PRELIMINARY PLAT FOR THE PROPOSED BIG SKY ESTATES MAJOR SUBDIVISION CREATING 9 RESIDENTIAL LOTS FROM 2.23 ACRES. ACTION: APPROVE, TABLE OR DENY THE PRELIMINARY PLAT.

3. CONSIDER A REQUEST FOR A VARIANCE FROM SECTION 12-4-2 OF THE HELENA SUBDIVISION REGULATIONS TO ALLOW CURB SIDEWALKS ALONG PROPOSED SKY LOOP. ACTION: APPROVE, TABLE OR DENY A VARIANCE.

Staff Report

City Planner Lucy Morell-Gengler reported the applicant is requesting three actions for the same property: Annexation of Lot 3, Block 1, of the Sleeping Giant Addition containing 2.23 acres; Pre-zoning to R-4 (High Density Residential) District for Lots 1-9 of the proposed Big Sky Estates major subdivision, and; Preliminary Plat approval for proposed Big Sky Estates major subdivision creating 9 lots.

The applicant is requesting R-4 zoning to allow 36 multifamily units to be constructed in the development. The proposed R-4 zoning would help assure that the lots located on Sky Loop, a small local street, would be developed with compatible residential uses.

On July 19, 2005 the Zoning Commission unanimously recommended approval (3:0 vote) for the adoption of an ordinance pre-zoning prior to annexation into the City of Helena, Montana to R-4 (High Density Residential) District for the proposed Big Sky Estates Subdivision.

On July 21, 2005, the Planning Board unanimously (5:0 vote) recommended conditional preliminary plat approval for the Big Sky Estates Major Subdivision creating 9 lots from 2.23 acres and to adopt the Findings of Fact and the conditions contained therein. In addition, the Planning Board (3:2 vote) recommended denial for a variance from Sections 12-4-2 (A)(7) of the Helena Subdivision Regulations to allow curb sidewalks instead of boulevard sidewalks along Sky Loop.

This property is legally described as Lot 3, Block 1 of the Sleeping Giant Addition Amendment of Industrial Park, Document #310668, Lewis and Clark County, Montana; generally located west of Elaine Street and south of Tricia Street.

Ms. Morell-Gengler recommended approval of the pre-zoning and preliminary plat.

Commission comment

Commissioner Cartwright asked if there would be enough room to build the proposed development if the sidewalk variance is denied? Ms. Morell-Gengler stated there would still be adequate space.

Public Testimony

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

Tony Prothero, 3264 Harness Loop, representing the applicant, spoke in support of the pre-zoning, preliminary plat and variance.

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

Motion Commissioner Pouliot moved approval for first passage of an ordinance pre-zoning to R-4 (high Density Residential) District the proposed Big Sky Estates major Subdivision, prior to annexation into the City of Helena, Montana for property as legally described in the ordinance. Commissioner Parriman seconded the motion. All voted aye, motion carried. Ordinance #3036

Motion Commissioner Pouliot moved conditional approval of the preliminary plat for the Big Sky Estates Major Subdivision creating 9 lots and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Facts. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Motion Commissioner Pouliot moved denial for a variance from Section 12-4-2 (A)(7) of the Helena Subdivision Regulations to allow curb sidewalks instead of boulevard sidewalks along Sky Loop. Commissioner Oitzinger seconded the motion. All vote aye, motion carried.

C. TWO ACTIONS FOR THE SAME PROPERTY; GENERALLY LOCATED EAST OF MCHUGH LANE BETWEEN ROAD RUNNER DRIVE AND YUHAS AVENUE:

1. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO R-2 AND R-3 DISTRICTS PRIOR TO ANNEXATION FOR PROPERTY DESCRIBED AS A 38-ACRE TRACT OF LAND. ACTION: APPROVE, TABLE OR DENY FIRST PASSAGE OF AN ORDINANCE.

2. CONSIDER THE PRELIMINARY PLAT FOR THE GOLDEN ESTATES IV MAJOR SUBDIVISION, CREATING 115 RESIDENTIAL LOTS AND 2 "COMMON AREAS" FROM 38.07 ACRES. ACTION: APPROVE, TABLE OR DENY THE PRELIMINARY PLAT.

Staff Report

City Planner Lucy Morell-Gengler reported On June 14, 2005 the Helena Zoning Commission unanimously (5:0 vote) recommended approval for the adoption of an Ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map thereof in reference to a 38-acre property, for pre-zoning prior to annexation to R-2 (Single-Family Residential) District for 34.83 acres, and R-3 (Medium Density Residential) District for 3.24 acres in the northeast ¼ of Section 18, T10N, R3W, Lewis and Clark County, as legally described on the Personal Representative's Deed of Distribution recorded with the County Clerk of Recorder in Book M24 Page 1445; generally located east of McHugh Lane between Road Runner Drive and Yuhas Avenue.

The applicant is requesting pre-zone prior to annexation with R-3 (Medium Density Residential) District for 20 duplex-style townhouses lots (approximately 3.24 acres) and R-2 (Single-Family Residential) District for 94 single-family residential lots and two "common area" lots (approximately 34.83 acres). Lots 51A, 51B, 52A, 52B, 53A, 53B, 54A, 54B, 55A, 55B, 56A, 56B, 1A, 1B, 20A, 20B, 21A, 21B, 68A, 68B, 67A and 67B would be zoned R-3. The remaining lots (Lots 2-19, 22-50, 57-66, and 69-104, and the stormwater detention area which would be dedicated and deeded to the City) would be zoned R-2.

The applicant had originally proposed that the lot with the stormwater detention facility and the lot with the sewer lift station would

be "common area." Staff identified problems with locating facilities in common areas. Therefore, the property containing the lift station would become dedicated right-of-way; Section 11-2-8 (M) of the Helena Zoning Ordinance states streets and alleys are not zoned. The lot containing the stormwater detention facility would be dedicated and deeded to the City.

This proposal is accompanied by two simultaneous proposals affecting the same 38.07- acre property:

- 1) Annexation to the City of Helena, and
- 2) Major subdivision/preliminary plat for Golden Estates IV, creating 114 residential lots and 2 common areas, to be developed in 2 phases; the lots identified as "common area" would be used for a stormwater drainage detention facility (to be dedicated and deeded to the City) and a sewer lift station (to become dedicated City right-of-way).

On June 16, 2005 the Consolidated Planning Board unanimously (7:0 vote) recommended approval for a major subdivision/preliminary plat for Golden Estates IV, creating 115 residential lots (93 single-family and 22 townhouse lots) and 2 "common areas" from 38.07 acres, to be developed in 2 phases and located in the R-2 and R-3 Districts, and to adopt the attached Findings of Fact and the conditions contained therein. Said property is legally described as a tract of land situated in the northeast quarter of Section 18, T10N, R3W, PMM, Lewis and Clark County, Montana as legally described on the Personal Representative's Deed of Distribution recorded with the County Clerk of Recorder in Book M24 Page 1445; generally located east of McHugh Lane between Road Runner Drive and Yuhas Avenue.

Only a portion of the Wolf Road right-of-way (ROW) is currently located on the applicant's property. The dedicated Wolf Road ROW would also include part of an easement across the adjacent property located to the south. The subdivision conditions require the adjacent portion of Wolf Road be dedicated with a 64-foot wide with the final plat, and that the street is constructed to City standards to City standards, or be financially guaranteed prior to filing the final plat.

Some revisions have been made to the conditions for approval that were recommended by the Planning Board. These revisions clarify the required sewer easement, the access restriction onto McHugh Lane, the status of the lift station and stormwater drainage lots, and the dredged soils.

The sewer force main will from the lift station to connect to the City's infrastructure will cross the adjacent property to the south. An exclusive 20-foot wide easement will be required across the adjacent property for the force main. This easement must be recorded with plat

Lot 104 currently contains a single-family residence that has access onto McHugh Lane. The condition related to the access restriction onto McHugh Lane for the lots adjacent to that street should be revised to clarify that the existing access would be allowed to continue, but no new accesses would be permitted. This statement includes revising the condition related to the access restriction from its original language that had required lot to have sufficient width to turn vehicles around.

The applicant had originally proposed that the lot with the stormwater detention facility and the lot with the sewer lift station would be "common area." Staff identified problems with locating City facilities in common areas. Therefore, the property containing the lift station would become dedicated right-of-way; the lot containing the stormwater detention facility would be dedicated and deeded to the City; the plat must be revised accordingly.

Finally, The property is located on soils that were dredged for gold mining. A soils report should be submitted with building permits.

Ms. Morell-Gengler stated the proposals represent infill development, and efficient use of energy, infrastructure and resources. The proposed subdivision is consistent with the 2001 Helena Growth Policy, Subdivision Regulations and Zoning Ordinance, and is compatible with the surrounding land uses. Ms. Morell-Gengler recommended the pre-zoning and preliminary plat.

Commission comment

Commissioner Pouliot stated he is concerned with the lack of parkland included in the subdivision, he does not believe the park in Golden Estates III will be sufficient for both subdivisions to use.

Public Testimony

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

Laura Holmes, Yuhas, spoke of concerns with the parkland dedication and safety issues in the area.

Carrie Grover, 3743 Yuhas, spoke of concerns with the water detention pond and the timeframe of the development.

Ron Yuhas, 895 Lodestar Street, developer; spoke in support of the pre-zoning and preliminary plat.

Jerry Hamlin, 1625 University Street, spoke in support of the subdivision.

Jeff Larson, representing Stahly Engineering, spoke in support of the subdivision.

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

Discussion

Mayor Smith asked Mr. Leland to explain the conditions of the stormwater detention pond. Mr. Leland stated public safety would be ensured but typically a fence is not needed, the water in the pond will be shallow and water is absorbed into the ground quickly in the area.

Commissioner Parriman stated he is agreeable to the cash in lieu of parkland. He is concerned with the development of Wolf Road and wants to ensure it is developed to city standards.

Commissioner Cartwright asked where the funds given in lieu of parkland go to? City Manager Burton replied the cash goes to the city and is under the jurisdiction of the Commission. Commissioner Cartwright asked if the cash could be donated to the county since their parks would be used and asked to hold discussion on the idea in the future.

Commissioner Pouliot reiterated parkland is needed in this subdivision.

City Manager Burton stated all of the city and county dedicated parkland is available for use by both city and county residents. The commission can require parkland be incorporated into the design instead of accepting cash.

Motion

Commissioner Parriman moved approval for a major subdivision/preliminary plat for Golden Estates IV, creating 115 residential lots (93 single-family and 22 townhouse lots) and one lot for a stormwater drainage detention facility from 38.07 acres, to be developed in 2 phases and located in the R-2 and R-3 District, and to adopt the attached Findings of Fact and the conditions contained therein as legally described in the Findings of Fact.

Commissioner Oitzinger seconded the motion.

Commission comment

Commissioner Oitzinger spoke of parkland and stated she believes it would be fair to allot some of the cash in lieu to the neighboring county park. City Manager Burton stated he would research that option and report back to the Commission.

Vote

Motion carried 4-1, with Commissioner Pouliot voting no.

Motion

Commissioner Oitzinger moved approval for first passage of an ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map thereof in reference to a 38-acre property, for pre-zoning prior to annexation to R-2 (Single-Family Residential) District for 34.83 acres, and R-3 (Medium Density Residential) District for 3.24 acres as legally described in the ordinance. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ordinance #3037**

Amending Ord. 2359

D. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359 AND AMENDING THE OFFICIAL ZONING MAP THEREOF IN REFERENCE TO PROPERTY DESCRIBED AS LOTS 4 AND 1A OF BLOCK 4, HELENA INDUSTRIAL SITES, HELENA, MONTANA, FROM M-I (MANUFACTURING AND INDUSTRIAL) TO CLM (COMMERCIAL-LIGHT MANUFACTURING) DISTRICT FOR PROPERTY GENERALLY LOCATED NORTH OF BOZEMAN AVENUE AND EAST OF CARTER DRIVE, WITH A PROPERTY ADDRESS OF 3000 BOZEMAN AVENUE.

Staff Report

City Planner Lucy Morell-Gengler reported on July 19, 2005 the Helena Zoning Commission unanimously recommended approval for the adoption of an ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map thereof, for a zone change from M-I to a CLM District. Legally described as Lots 4 and 1A of Block 4, Helena Industrial Sites, Helena, Montana; generally located north of Bozeman Avenue and east of Carter Drive, with a property address of 3000 Bozeman Avenue.

The proposed auction service is currently not allowed in the M-I District but is a permitted use in the CLM District. The current warehousing aspect and accessory office associated with the auction service are permitted uses in both of these zoning districts.

Ms. Morell-Gengler recommended the zone change and noted the proposal represents the adaptive reuse of an existing building, and efficient use of energy, infrastructure and resources. Also, it is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, Montana zoning criteria and is compatible with the surrounding land uses.

Commission comment Mayor Smith asked the applicant to explain what type of material would be auctioned off.

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

Doug Buell, 500 W. Custer Avenue, applicant, spoke in support of the zone change. He explained his business auctions off estates, vehicles, tools, and antiques.

Doug Denler, 2 Starwood Drive, spoke in support of the proposed ordinance.

Jim Pierson, spoke in support of the zone change.

Bonita Buell, 500 W. Custer, applicant, spoke in support of the zone change.

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

Motion Commissioner Cartwright moved approval for first passage of an Ordinance amending City of Helena Ordinance No. 2359 and amending the official zoning map thereof in reference to property described as Lots 4 and 1A of Block 4, Helena Industrial Sites, Helena, Montana, from M-I (Manufacturing and Industrial) to CLM (Commercial-Light Manufacturing) District for property legally described in the ordinance. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance #3038**

Public Communications

PUBLIC COMMUNICATIONS

Mrs. Holmes urged the Commission to review the parkland requirement in the Golden Estates IV subdivision.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is August 17, 2005 in the Commission Chambers and the next Commission Meeting is August 22, 2005.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:52p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission