

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

Comment Commissioner Peura urged citizens to take note of the utility bill insert regarding the City of Helena's water quality.

Bid Award BID AWARD:
A. Leslie Avenue storm and water main replacement, City Project No. 05-20

Staff Report City Engineer Ryan Leland reported the neighborhood located north of Euclid Avenue and west of Benton Avenue experiences stormwater problems for the larger storm events because of the lack of stormwater infrastructure and uncontrolled runoff from Euclid Avenue. This project will install storm sewer main from Henderson to Garfield. This storm main will collect the stormwater runoff from Euclid Avenue and direct it to the city stormwater ponds located at the corner of Custer and Henderson. This project will also include upsizing the old undersized water main in Leslie Street.

The project was advertised and bids were opened on April 25, 2006. Two contractors submitted bids. Helena Sand & Gravel of Helena submitted the low bid of \$932,636.00.

Mr. Leland recommended awarding the base bid to the lowest responsible bidder, Helena Sand & Gravel, and noted 2,820 lineal feet of ductile iron water main will be replaced, 2,350 lineal feet of 36" storm main will be constructed, along with the reconstruction of Leslie Street from Garfield to Henderson.

Commission comment Mayor Smith asked if this project was included in the Capital Improvements Program? Mr. Leland concurred and noted it was included under both water and wastewater in the master plan.

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

Motion **Commissioner Peura moved to award the base bid for City Project No. 05-20 to the lowest, responsible bidder, Helena Sand & Gravel for \$932,636.00.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Peura encouraged citizens to attend the final City Government 101 session that will be held on May 15, 2006 at 7:00pm.

Commissioner Cartwright spoke of Trash For Trees, which was held on April 29, 2006. The event was very successful and the money raised was used to plant trees on Last Chance Gulch in front of Nickels Gaming and Steffanos.

Commissioner Oitzinger gave an overview of the first Urban Wildlife Task Force meeting.

Commissioner Pouliot spoke about a proposed resolution to Support U.S. Troops and End the Occupation of Iraq, and made the following motion:

Motion **Commissioner Pouliot moved the City Commission place the resolution on an upcoming Administrative Meeting agenda for**

Commission consideration. Commissioner Peura seconded the motion.

Commissioner Cartwright stated he feels the resolution would be much more powerful if it was a referendum for the citizens to vote on. Commissioner Oitzinger stated she would feel more comfortable with the resolution coming forward as a referendum but indicated she would support the motion to add it to an Administrative Meeting agenda. City Manager Burton indicated the proposed resolution could be discussed at the May 17, 2006 Administrative Meeting.

Public comment

George McCauley, 926 5th Avenue; encouraged the Commission to consider and approve the resolution as soon as possible.

Diane Carlson Evans, 526 South Harris; spoke in support of Commission consideration of the resolution.

John Mundinger, 1414 Hauser Boulevard; encouraged the Commission to support the resolution and also support putting the resolution to a vote of the community.

Amy Orser, 1019 Novis Road; urged the Commission to approve a resolution supporting the soldiers and their missions while in Iraq.

Discussion

Commissioner Oitzinger stated if the resolution were passed by referendum, the citizens of Helena would be acting as a legislature. She asked City Attorney Nielsen if the Commission members would have to register as lobbyists if the resolution was placed on the ballot. City Attorney Nielsen stated he would provide the requested information at the May 17, 2006 Administrative Meeting.

Mayor Smith indicated he would not support the motion. He stated he sought and obtained status as a conscientious objector in 1970 and served two years of civilian alternative service at St. John's Hospital. His feelings have changed over the last thirty years and he is currently a lot less willing to question the leadership of our government. He believes the public should express their opinion by voting for representatives to national government in the June and November elections. Mayor Smith commended the group Helenans Support for Troops and Military Withdrawal for their work on the resolution.

Vote

Motion carried 4-1, with Mayor Smith voting no.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY
No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER
City Manager Burton gave an overview of a recent meeting that was held to discuss the proposal to move the Montana State Fund to Miles City, Montana. After much discussion, the State Fund Board of Directors voted to keep the State Fund in Helena. City Manager Burton added the Montana State Fund Feasibility Study would be in the City Clerk's Office for review.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL
HCC member Jim Tucker, Jr. reminded citizens of the upcoming Meth Town Hall Meeting, Tuesday, May 9, 2006 at the Civic Center. He announced the Helena College of Technology would be holding another neighborhood meeting to discuss the 2nd draft of neighborhood plans on May 18th at 7:00pm at Bryant School. Also, there will be an ice cream

social and presentation regarding the Midtown revitalization process on May 30, 2006 at 7:00pm at the Helena College of Technology.

Mr. Tucker also gave an overview of the May HCC meeting agenda.

Anderson Business Park- Final Plat

CONSIDER FINAL PLAT APPROVAL FOR THE AMENDED SUBDIVISION OF LOT 38 OF THE ANDERSON BUSINESS PARK MAJOR SUBDIVISION CREATING TWO RESIDENTIAL LOTS FOR TOWNHOUSE DEVELOPMENT; GENERALLY LOCATED WEST OF HUMMINGBIRD COURT AND SOUTH OF PTARMIGAN LANE.

Staff Report

City Planner Belinda Waters reported the applicant is requesting final plat approval to subdivide a lot into two lots for townhouse development that are zoned R-3 (Medium Density Residential) District. On February 27, 2006 the City Commission gave preliminary plat approval subject to the conditions stated in the Findings of Fact. All of the conditions have been met or are financially guaranteed.

Lot 38 A will consist of 5,386 square feet and Lot 38 B will consist of 6,880 square feet. The property is legally described as Lot 38, Anderson Business Park Subdivision, Helena, Montana; generally located west of Hummingbird Court and south of Ptarmigan Lane.

Ms. Waters recommended final plat approval and noted the proposed minor subdivision would encourage more intense development of the property as well as facilitate in-fill development. The proposal also represents an efficient use of land due to existing infrastructure.

Public comment

Mayor Smith called for public comment.

Ray Brekke, applicant; spoke in support of the final plat.

Motion

Commissioner Cartwright moved approval for the final plat of the amended plat of Lot 38 of the Anderson Business Park Major Subdivision, creating two lots from one lot and to accept the dedication to the city of the property for public improvements designated thereon. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

HRAA-West Minor Subdivision- Preliminary Plat

CONSIDER A MINOR SUBDIVISION/PRELIMINARY PLAT CREATING FIVE LOTS FROM 107.19 ACRES CURRENTLY LOCATED IN A PLI (PUBLIC LANDS & INSTITUTIONS) DISTRICT; GENERALLY LOCATED SOUTH OF CUSTER AVENUE AND EAST OF WASHINGTON STREET.

Staff Report

City Planner Belinda Waters reported the applicant is requesting approval of the preliminary plat for the proposed HRAA-West Minor Subdivision, which is accompanied by simultaneous requests for a zone change and a Conditional Use Permit. At the present time, the majority of the property located in the proposed subdivision, 107.19 acres in size, is vacant and undeveloped except for the tennis court building located in the north portion along Washington Street. The applicant proposes that the tennis court be relocated to other Airport-owned property.

On April 11, 2006, the Helena Zoning Commission unanimously recommended approval (3 :0 vote) for the adoption of an Ordinance for a zone change from PLI (public Lands and Institutions) District to B-2 (General Commercial) District for approximately 58.85 acres of Parcel D and to Airport District for the remaining 48.34 acres. The Zoning Commission also unanimously recommended approval (3:0 vote) for a

Resolution granting a Conditional Use Permit (CUP) to allow for the relocation of the tennis facility to the Airport District situated north of the terminal building and east of the Forest Service building.

The applicant proposes that Parcel D be subdivided into five lots for lease. All five of the lots, minus the area noted on Lot 5-D for airport zoning, are designated for commercial development. Access to the lots will be from one of these three City streets: Washington Street, Custer Avenue, and Kelleher Drive. An existing private road, Skyway Drive, and a proposed street, running east to west from Kelleher Drive to Washington Street, will also provide access to Lots 1 through 4.

Ms. Waters noted Condition #2 has been amended as follows:

Effects on Local Services

~~D. Kelleher Lane, Skyway Drive, and the proposed Cromwell-Dixon Drive must be dedicated to the city and improved to city standards, including curb and gutter.~~

D. Kelleher Lane and Skyway Drive must be dedicated as public right-of-way or its equivalent to the city.

E. The proposed Cromwell-Dixon Drive must be dedicated as public right-of-way to the city and improved to city standards, including curb and gutters.

Ms. Waters recommended approval of the preliminary plat and noted the 2001 Helena Growth Policy promotes more intense and efficient use of land and facilities. The proposed commercial subdivision will provide efficient use of the property by utilizing vacant property in the City with in-fill development. Infrastructure (water, sewer, storm water drainage, and streets) to serve the proposed use is adjacent to the site.

Commission comment

Commissioner Cartwright for confirmation that the streets would have bike paths or sidewalks? Ms. Waters stated yes, the existing streets have a pedestrian-bicycle trail and the new street, Cromwell-Dixon Drive, would be built to full city standards.

Commissioner Peura asked if the plans include sufficient connectivity? Ms. Waters stated it has been discussed by staff and will be addressed during the building permit process. Commissioner Peura urged the applicant to provide adequate connectivity.

Public comment

Mayor Smith called for public comment.

Gary Davis, 816 Floweree, attorney for the applicant; spoke in support of the subdivision.

Motion

Commissioner Pouliot moved conditional approval of the preliminary plat for the HRAA- West Minor Subdivision creating five lots from Parcel D, COS #553573/E, and to adopt the Findings of Fact and the conditions, including amended conditions 2D and 2E, contained therein. Commissioner Oitzinger seconded the motion.

Discussion

Commissioner Cartwright asked for an explanation of the amended conditions, specifically the definition of "public rights-of-way or its equivalent". City Attorney Nielsen explained because this is airport property that was purchased with Federal Aviation Administration (FAA) funds, it may be difficult to do a right-of-way agreement without the airport having to remit funds back to the FAA. By using the right-of-way

equivalent, there is flexibility to use public access and utility easements in lieu of right-of-way.

Vote All voted aye, motion carried.

Nob Hill Land Transfer CONSIDER TRANSFER OF OWNERSHIP OF CITY-OWNED PROPERTY DESCRIBED AS LOTS 1 AND 2 IN BLOCK 4 OF THE NOB HILL SUBDIVISION, PHASE IV, IN THE CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA AS SHOWN ON THE CERTIFICATE OF SURVEY FILED UNDER DOCUMENT NO. 3100615 IN THE OFFICE OF THE CLERK AND RECORDER OF LEWIS AND CLARK COUNTY, MONTANA.

Staff Report Parks & Recreation Director Randy Lilje reported Nob Hill Properties, LLC gave over 15 acres in excess of its parkland requirement in exchange for 3.96 acres of parkland just south of the Nob Hill Subdivision. Of this, approximately 42% would be street right-of-way (ROW) and the rest would be a commercial lot within the subdivision.

The proposal was reviewed and recommended by the Parks Board, presented by the Planning Division to the City Commission, and approved by the City Commission for the preliminary plat and later by the City Commission for the final plat.

The city is now in ownership of the parkland contributed by NHP, however, the city-owned land has not been transferred to NHP in exchange. Although the City Commission approved the land trade through the approval of the conditions of the subdivision and final plat, a specific approval of the transfer of the property to NHP is now appropriate for it to go forward.

Director Lilje recommended approval of the land transfer and stated the city will be able to expand its open lands system onto a very visible natural feature of the landscape at little cost and also, the transfer allows for improved vehicular circulation within the subdivision.

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

Motion Commissioner Peura moved approval of the transfer of ownership of the city-owned property described as Lots 1 and 2 in Block 4 of the Nob Hill Subdivision, Phase IV, in the City of Helena, Lewis and Clark County, Montana, as shown on Certificate of Survey filed under Document No. 3100615 in the office of the Clerk and Recorder, Lewis and Clark County, Montana, to Nob Hill Properties, LLC, 825 Custer Avenue, Helena, Montana. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

HATS rates CONSIDER A RESOLUTION OF INTENTION TO INCREASE FEES FOR CHARTERING OF AND ADVERTISING SIGNS ON THE HELENA AREA TRANSIT SERVICE BUSES AND TROLLEY.

Staff Report Fleet Superintendent Ed Robinson reported the Helena Area Transit Service (HATS) presently provides limited charters and advertising on its buses. Charter rates are currently \$35.00 per hour for buses and \$75.00 per hour for the trolley. Advertising rates are \$50.00 per month for the largest signs at the rear of the bus and \$35.00 per month for any other signs. The current rates have been effective for five years.

Staff is recommending authorization to increase charter and advertising rates. In addition, staff is recommending the implementation of a new interior bus advertising program. The purpose of this proposal is to increase revenues, improving the financial position of the bus service. All increases would begin July 1, 2006.

Commission comment Commissioner Peura asked for the ridership trend over the past five years? Mr. Robinson stated ridership has more than doubled over the past five years.

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

Motion **Commissioner Oitzinger moved approval for a resolution of intention revising HATS charter and advertising rates effective July 1, 2006, and set a public hearing date for May 22, 2008.**
Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19334**

Federal Transit Administration CONSIDER A RESOLUTION AUTHORIZING THE CITY OF HELENA TO FILE APPLICATIONS WITH THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FOR FEDERAL TRANSPORTATION ASSISTANCE AUTHORIZED BY 49 U.S.C., CHAPTER 53, TITLE 23, UNITED STATES CODE, AND OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION.

Staff Report Fleet Superintendent Ed Robinson reported the City of Helena has been appropriated two congressional earmarks for the acquisition of land and construction of a new transit facility. In compliance with Federal regulations, the city must approve a resolution, designating an official and authorizing that official to execute and file an application for federal assistance and execute and file with the application annual certifications, assurances and other documents the Federal Transit Administration (FTA) requires before awarding a federal assistance grant.
Mr. Robinson recommended approval of the resolution as it allows for access to the congressional earmark appropriations for acquisition of land and construction of a new transit facility for HATS.

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

Motion **Commissioner Oitzinger moved approval for a resolution authorizing the City Manager to be designated as the authorizing official to execute and file for federal assistance with the Federal Transit Administration on behalf of the City of Helena.**
Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19335**

Main Street ROW CONSIDER A RESOLUTION OF INTENTION TO VACATE A PORTION OF WEST MAIN STREET RIGHT-OF-WAY.

Staff Report City Engineer Ryan Leland reported Drew T. and Vicki A. Holliday have applied to vacate a portion of the West Main Street right-of-way (ROW) located just north of the Reeder's Village Drive intersection. The property was recently sold and the new property owners discovered the encroachment.

There are old rock walls, porches, and a portion of a house constructed in the ROW. No utilities have been identified in the portion of the ROW proposed to be vacated. The applicants will pay the established fee of \$2,015.86 for the vacated ROW they receive.

Mr. Leland recommended approval of the vacation as it will clean up the encroachments that have existed for years on West Main Street.

Commission comment Mayor Smith asked how long the rock walls have been in place? Mr. Leland stated his guess would be 50+ years.

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

Motion Commissioner Oitzinger moved approval for a resolution of intention to vacate a portion of the West Main Street ROW, and set a public hearing date for May 22, 2006. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19336**

Humane Society Land Lease CONSIDER AN OPTION TO LEASE APPROXIMATELY 10 ACRES TO LEWIS & CLARK HUMANE SOCIETY FOR CONSTRUCTION OF NEW ANIMAL SHELTER.

Staff Report Assistant Public Works Director Phil Hauck reported space is becoming severely limited at the existing Humane Society facility on Custer Avenue. A new organization, Pads for Paws, has been formed to lead a funding drive for a larger new facility. Pads for Paws has worked with staff to identify potential sites in or near Helena. The preferred site for a new facility is on the south side of 40 acres of city property along the I-15 Frontage Road north of Custer Avenue.

The history of this site is vague but it is believed to have been used many years ago for gravel excavation, for landfilling sewage sludge and for landfilling construction debris. It is not a regulated or licensed landfill site. The gravel excavation area in the center of the property is planned for a future stormwater detention facility, but south of this, there appears to be ample property for a new animal shelter and dog walking area as currently proposed by Pads for Paws.

There is easy access to the property from the Frontage Road and the future Custer Interchange and extension of Washington Street to the Frontage Road will allow easy access for City and County residents. There are no City utilities to the property but there is a reasonable likelihood that utilities may be extended near to the site with future development activity. Staff supports the relocation, as there is little room to expand the existing facility where it is now next to the Wastewater Treatment Plant.

Pads for Paws would like a commitment from the city for a lease of 10 acres within and along the south side of the larger 40-acre parcel. Once this commitment is obtained, Pads for Paws will begin a fund raising effort to support construction of the new facility. It is anticipated that the fund raising will be a multi-year effort. Assistant Director Hauck recommended approval of the Option to Lease Agreement.

Commission comment Mayor Smith referred to the extension of Washington Street and asked if it would have an adverse effect on the property. Director Hauck stated he believes the extension will help the property in the future, as it will provide better access.

Public comment

Mayor Smith called for public comment.

Gary Pistoria, 2820 Baxendale Drive; spoke in support of the Option to Lease and gave an overview of the new Humane Society facility.

Gina Weist, 1503 Ohio Avenue; urged the Commission to approve the Option to Lease.

Debbie Irby, 515 Coventry Court; spoke in support of the Option to Lease.

Motion

Commissioner Pouliot moved approval for an Option to Lease for 10 acres located in the southern portion of 40 acres of city property located along the I-15 Frontage Road north of Custer Avenue. Commissioner Peura seconded the motion.

Comment

Commissioner Peura thanked Pad for Paws for their work on the project. He also thanked city staff for including the property on the recent bus tour.

Mayor Smith commended the Humane Society and Pad for Paws for their effort. He asked if the lease would ultimately be with Pad for Paws or the Humane Society? City Attorney Nielsen clarified the Humane Society.

Vote

All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION SUPERSEDING RESOLUTION NO. 12075, RETAINING PROCEDURES, AND REVISING THE INTEREST RATE FOR SIDEWALKS, CURBS, GUTTERS, AND ALLEY APPROACHES IN THE CITY OF HELENA, MONTANA.

Staff Report

Administrative Services Director Tim Magee reported on November 5, 1990, through Resolution #10259, the City of Helena established the first year of the current sidewalk program. The program's administrative policies and procedures evolved as the program was continued from year to year. The original 8% interest rate for the program was never adjusted, and has become a detraction from the program.

On January 26, 2004, through resolution #12075, the city formally established the procedures for the improvement program for sidewalks, curbs, gutters and alley approaches and set the interest rate at prime + 1%. Prime + 1% has equated to 5% for 2004, 6.25% for 2005, and 8.25% for 2006. An 8.25% interest rate for the program will again discourage program participation.

Staff is proposing to increase the programs annual budget from \$35,000 to \$70,000, and to amend the program resolution to establish a 0% interest rate. Staff would continue authorizing the ongoing program under the existing policies and procedures. Approval of the proposed resolution would fully document the Sidewalk Program policies and procedures, and establish an interest rate that would encourage people to participate in the program resulting in faster and greater improvement of sidewalks in the city.

Commission comment

Mayor Smith asked if the proposed Fiscal Year 2007 budget can be changed to include the amended sidewalk program? Director Magee stated yes and noted staff hopes more people will sign up due to the 0% interest rate. City Manager Burton stated the sidewalk program only

applies to existing neighborhoods that lack sidewalks; the 0% interest rate will not apply to new developments.

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 Cartwright moved approval for a resolution superseding Resolution No. 12075, retaining procedures, and revising the interest rate for sidewalks, curbs, gutters, and alley approaches in the City of Helena, Montana. Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19337**

B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3055 AMENDING CHAPTER 5 OF TITLE 6 OF THE HELENA CITY CODE REGARDING THE WATER AND WASTEWATER SERVICE AREAS.

Staff Report

City Attorney David Nielsen reported under §6-5-2, Helena City Code, the water and wastewater service areas are the areas within the boundaries of the city that are currently served by city water and sewer, and areas presently served outside the city limits. If an owner of property outside the city desires to connect to city water or wastewater, the owner must apply for enlargement of the service area. The water and wastewater service areas are only enlarged by either annexation to the city or Commission approval after a denial of an annexation request. Under this requirement, an owner must apply for annexation and be denied annexation before the service areas can be enlarged to provide the services.

The draft ordinance changes the process for request of enlargement of service areas by eliminating the requirement that an owner must first apply for and be denied annexation before the Commission can consider enlargement of the service areas outside the city's boundaries. As an alternative process, it allows consideration of enlargement of the service areas when there is an annexation district created as provided in §7-2-4625, MCA, or by agreement for deferral of annexation. The owner can apply for enlargement of the service areas by applying in the alternative for annexation or deferral of annexation. If the property is contiguous to the service area boundaries for both water and wastewater, the property must be annexed. If the property is not contiguous, then the City Commission can determine whether to annex or agree to defer annexation. The ordinance eliminates the requirement that only property contiguous to the applicable service area can be included in that service area. It provides minimum provisions that an agreement must have for annexation deferral or inclusion in an annexation district. Under this ordinance proposal, the city manager has the authority to initially screen applications and determine whether they have merit and should be submitted to the Commission for consideration.

City Attorney Nielsen noted the amendment simplifies the process of application for owners of property outside the city who want either city water or wastewater services by allowing for the application to be in the alternative, rather than the current two-step process. It clarifies the city manager's role in placing requests for service area enlargement on the Commission's agenda. It standardizes and sets minimum provisions for deferral agreements. He added that he has no

recommendation of either approval or disapproval for the adoption of the ordinance.

Commission comment

Commissioner Peura asked if the fourteen provisions listed in the ordinance need to be included in order to enforce the requirements? City Attorney Nielsen stated by making the process law, all of the provisions would have to be considered. Commissioner Peura referred to disadvantages listed in the staff report and asked if processes are in place to monitor annexation deferral agreements? City Manager Burton stated yes, staff is prepared for the increased workload and the processes are in place. He explained that he does not think passage of the ordinance will create an abundance of property owners wanting to hook into the city system but not annex into the city. More likely there may be new and existing developments located in very close proximity to city services, that with the conditions in the ordinance, will be able to hook into city services and at the same time set aside the opportunity to engage future Commissions if there are any land use change requirements.

Commissioner Cartwright stated he likes the ordinance; it is the kind of ordinance that should be in place if there were a comprehensive plan for the entire metropolitan area. However, he is concerned that now is too soon to approve it. He does believe annexation will be easier for property owners. The Woodlawn-Dunbar area can be dealt with under the existing statute. The city needs to convince the entire community that the intent of allowing city services to properties with wastewater problems is to form a partnership. He recommended the proposed ordinance be tabled until a partnership can be formed with Lewis and Clark County.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission. The following persons gave testimony regarding the proposed ordinance:

John Ramirez, 2245 Head Lane; Brad Drinville, 2183 Head Lane; Fred Jensen, 720 Blue Grouse Road; and Mary Lynn Donnelly, 823 Gilbert.

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

Discussion

Commissioner Peura referred to the public comment given and asked if approval of the ordinance would extend to citizens any rights to hook into city services? City Manager Burton explained the proposed ordinance is streamlining the process and making it more clear for everyone to have discussions regarding using city services without annexation. The property owners that gave public testimony are in proximity of the sewer line, the area is rural in nature and for the foreseeable future, urban density will not occur in the Head Lane area. If a development agreement was formed the property owners would have to give away the right to protest annexation and any future subdivision of the property would be under the purview of the City Commission. He reiterated that the Commission's authority is the same but the process is cleaned up with the ordinance, and noted the conditions included in development agreements codify conditions for city service use.

Commissioner Peura stated if we are not annexing properties into the city but are providing services, people using the services will not be paying toward an upgrade of the city system in the future. He asked if the city is giving up rate and fee issues with passage of the ordinance

and also, can the city look at charging differential rates or fees to help pay for capital expansion in the future? City Manager Burton stated yes, the Commission would not be anymore constrained than the authority they hold today, as expressed in Montana law. In theory, the hook up fee is for increased capacity to the plant. He noted there could be other situations, such as some property owners needing water but not sewer, etc. He added passage of the ordinance would also give the Commission the ability to look at land use patterns in areas that are close to the city limits.

Commissioner Cartwright referred to the public comment given and stated this ordinance is part of sustainable development and the first consequence will be bringing 40-acre sections into the city. He spoke of Artisan Park Subdivision and commented it will leave city services right next to the Head Lane area. Politically, he is concerned that passage of the ordinance will deter property owners from demanding proper zoning at the county level. He reiterated that he is not ready to pass the ordinance before the county debate is over.

Motion

Commissioner Oitzinger moved approval for final passage of Ordinance No. 3055 amending Chapter 5 of Title 6 of the Helena City Code regarding enlargement of water and wastewater service areas. Commissioner Pouliot seconded the motion.

Comment

Commissioner Pouliot stated his first inclination would be to vote no when property owners ask to hook into city services. He agrees with City Manager Burton that this is an ordinance of exception; also, he agrees with Commissioner Cartwright that county is moving slowly through their debate and planning process. Because the county process could take months or even a year he believes the right thing to do for the city and staff is to approve the proposed ordinance. He further explained that he would be inclined to vote no to property owners applying to hook into city services because of concerns with the capacity of the Wastewater Treatment Plant; the capacity should be conserved as long as possible.

Mayor Smith indicated he would support the proposed ordinance and stated he does not believe passage of the ordinance will make it easier for people to hook into city services, he trusts the Commission will do right thing.

Commissioner Oitzinger commented use of sewer treatment capacity is better than using up the capacity of the land.

Vote

Motion carried 4-1 with Commissioner Cartwright voting no.
Ordinance #3055

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359, AND AMENDING THE OFFICIAL ZONING MAP THEREOF, FOR A ZONE CHANGE FROM R-O (RESIDENTIAL OFFICE) AND R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICTS TO PLI (PUBLIC LANDS AND INSTITUTIONS) DISTRICT FOR PROPERTY GENERALLY LOCATED NORTH OF BROADWAY AND WEST OF COLONIAL DRIVE.

Staff Report

City Planner Lucy Morell-Gengler reported on April 11, 2006 the Helena Zoning Commission unanimously recommended approval (3:0 vote) for the adoption of an Ordinance for a zone change from R-3 (Medium Density Residential) and R-O (Residential Office) Districts to

PLI (Public Lands and Institutions) District for the "9 acres Occasional Sale" as shown on COS # 410395/0 and Lots 2 and 3, Block 1, of the East Park Number One Addition respectively; Helena, Montana; generally located north of Broadway and west of Colonial Drive.

The applicant's objective is to obtain approval for a zone change from R-3 (Medium Density Residential) and R-O (Residential Office) Districts to PLI (Public Lands and Institutions) District to allow for future expansion of St. Peter's Hospital. Ms. Morell-Gengler recommended approval of first passage of the proposed ordinance as this proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses. No public comment has been received about this proposal.

Commission comment

Commissioner Cartwright referred to PLI zoning and asked if other non-profit organizations or related medical facilities for mental and physical problems would be allowed in the district also? Ms. Morell-Gengler stated yes, the zoning designation is intended for occupation by non-profit organizations or government agencies, such as hospitals or nursing homes.

Public Testimony

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

Mike Munck, Executive Vice-President of St. Peter's Hospital Foundation; 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 for a zone change from R-3 (Medium Density Residential) and R-O (Residential Office) Districts to PLI (Public Lands and Institutions) District for property legally described in the ordinance. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ordinance #3056**

D. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO EXCEED THE 24-FOOT HEIGHT LIMITATION IN AN R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT FOR PROPERTY THAT IS GENERALLY LOCATED ON THE SOUTH SIDE OF CLARKE STREET WITH A PROPERTY ADDRESS OF 433 CLARKE STREET.

Staff Report

City Planner Lucy Morell-Gengler reported on April 11, 2006 the Helena Zoning Commission unanimously recommended APPROVAL (3:0 vote) for a Resolution granting a Conditional Use Permit (CUP) to exceed the 24-foot building height limit in an R-3 (Medium Density Residential) District by 5.5 feet for property legally described as Lot 10A, Block 55, of the Original Townsite of Helena; Helena, Montana; generally located on the south side of Clarke Street with a property address of 433 Clarke Street.

The applicant is requesting a resolution granting a Conditional Use Permit (CUP) to allow a 28-foot high addition and a 29.5-foot high mansard reconstruction, to be constructed onto an existing 29.5-foot high home for property located in an R-3 (Medium Density Residential) District. The proposal would replace a rear entry and sun porch with a new mudroom, stairs, laundry and bath. A mansard roof on the existing

corner tower would also be constructed to better conform to the historic character of the existing home.

Ms. Morell-Gengler recommended approval of the CUP as the proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses. No public comment has been received about this proposal.

Commission comment

Mayor Smith noted the home is already taller than the allowable building height and asked when the subject property was grandfathered into the current zoning? Ms. Morell-Gengler explained city zoning was adopted in the 1960's. Mayor Smith referred to proposed changes to the Master Zoning Ordinance regarding residential district allowable height. Community Development Director Sharon Haugen confirmed staff is looking at raising the allowable height to 30-32 feet. Ms. Haugen noted the update of the Master Zoning Ordinance may be discussed at the May 17 or June 14, 2006, Administrative Meeting.

Commissioner Oitzinger added it is not uncommon for capital cities to restrict their allowable building height to respect the differential between, housing, commercial buildings, and the capital building.

Public Testimony

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

Pam Attardo, applicant; spoke in support of the CUP.

Susan Bjerke, architect for the project; spoke in support of the CUP.

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

Discussion

Commissioner Pouliot asked Ms. Attardo if their neighbors are agreeable to the height change? Ms. Attardo stated she has spoken to the adjacent properties owners and they are supportive; she has not received any negative comments. Commissioner Peura complimented the applicants on their commitment to the historic integrity of the home.

Motion

Commissioner Peura moved approval of a resolution granting a Conditional Use Permit (CUP) to exceed the 24-foot building height limit in an R-3 (Medium Density Residential) District by 5.5 feet for property located at 433 Clarke Street. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.
Resolution #19338

E. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359, AND AMENDING THE OFFICIAL ZONING MAP THEREOF FOR A ZONE CHANGE FROM PLI (PUBLIC LANDS & INSTITUTIONS) TO B-2 (GENERAL COMMERCIAL) DISTRICT FOR APPROXIMATELY 58.85 ACRES AND FROM PLI (PUBLIC LANDS & INSTITUTIONS) TO AIRPORT ZONING DISTRICT FOR APPROXIMATELY 48.282 ACRES FOR PROPERTY GENERALLY LOCATED SOUTH OF CUSTER AVENUE AND EAST OF WASHINGTON STREET.

Staff Report

City Planner Belinda Waters reported on April 11, 2006, the Helena Zoning Commission unanimously recommended approval (3:0 vote) for the adoption of an Ordinance for a zone change from PLI (Public Lands and Institutions) District to B-2 (General Commercial) District for approximately 58.85 acres and from PLI (Public Lands and

Institutions) to Airport District for approximately 48.34 acres as shown as Parcel D on Certificate of Survey No. 553573-E and more particularly described on the attached Exhibit A, and generally located south of Custer Avenue, east of Washington Street, and west of Kelleher Drive.

The applicant is proposing a zone change to B-2 (General Commercial) District for approximately 58.85 acres and to Airport District for approximately 48.34 acres. The submitted traffic study indicates future development could include a major retail store with gas pumps, a drive-in bank and a fast food drive-through restaurant.

Ms. Waters recommended approval of the proposed ordinance and noted this proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses.

Commission comment

Commissioner Pouliot asked if the property south of Skyway Drive, Lot 5, is available for development? Ms. Waters stated it is zoned B-2 and can be developed; however, the middle of the lot will be zoned Airport District which does not allow development.

Commissioner Cartwright asked if Lot 5 would need to be subdivided before the parcels could be developed? Ms. Waters stated not necessarily; the property could be leased as one whole piece, or in smaller portions which would require Commission consideration. Commissioner Cartwright asked for the difference between subdivision for lease and subdivision for sale? Ms. Waters explained in subdivision for lease, no final plat is required; subdivision for sale does require a final plat be filed.

Commissioner Peura asked that all recommended transportation improvements be built into the conditions for approval. Ms. Waters explained that conditions cannot be attached to zone changes; the conditions relating to transportation enhancements are listed in the Findings of Fact for the subdivision. City Engineer Leland stated staff is requiring all improvements recommended in the transportation plan. These improvements will hopefully alleviate traffic problems until the Custer Interchange is in effect.

Public Testimony

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

Gary Davis, attorney for the applicant; spoke in support of the zone change.

George McCauley, 926 5th Avenue; referred to the Airport property being tax-exempt and asked how the property will be taxed?

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

Discussion

City Attorney Nielsen explained Montana has a Beneficial Use Tax; when tax-exempt property, exempt because it is owned by an exempt entity, is used by private individuals, it can be taxed. Mayor Smith asked under what terms would the Beneficial Use Tax be imposed and by what level of government? City Attorney Nielsen stated once the Montana Department of Revenue discovers the use, they impose the tax.

Ron Mercer, 4272 Country View Drive; explained the Helena Regional Airport reports any private use to the Department of Revenue; all private hangers and private ownership is taxed on both the buildings and property.

Commissioner Peura asked for the timeframe of the interchange? City Manager Burton stated three to five years. Commissioner Peura asked for the definition of "Level of Service D", which was noted throughout the traffic study. City Engineer Leland stated he believes it is 30 seconds of time delay to be able to get through an intersection or light cycle; intersections are the controlling factors in traffic study grades. Commissioner Peura asked for the goal Level of Service? City Engineer stated Level of Service C, which is the industry standard. Commissioner Peura asked if it is conceivable that there will be slow traffic in the area until Custer Interchange is completed. City Engineer Leland concurred and explained until the Interchange is completed, there would be a lower Level of Service because of the capacity issues on Custer. Commissioner Cartwright added in urban areas, Level of Service D is considered light to moderate.

Motion

Commissioner Pouliot 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 zone change from PLI (Public Lands and Institutions) District to B-2 (General Commercial) District and from PLI (Public Lands and Institutions) to Airport District for property legally described in the attached Ordinance. Commissioner Cartwright seconded the motion.

Comment

Commissioner Peura indicated he would support the motion and stated for the record that the Commission is aware there will be some traffic issues in the area but hopefully the Interchange will alleviate the problems.

Vote

All voted aye, motion carried. **Ordinance #3057**

F. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A TENNIS FACILITY TO BE LOCATED IN THE AIRPORT ZONING DISTRICT ON A TRACT OF LAND GENERALLY LOCATED NORTH OF THE AIRPORT TERMINAL BUILDING AND EAST OF THE FOREST SERVICE BUILDING.

Staff Report

City Planner Belinda Waters reported on April 11, 2006, the Helena Zoning Commission unanimously recommended approval (3:0 vote) for a resolution granting a Conditional Use Permit (CUP) to allow a tennis facility to be located in the Airport District situated north of the terminal building and east of the Forest Service building.

The applicant proposes to obtain a resolution granting a Conditional Use Permit (CUP) to allow a tennis facility to be located in the Airport Zoning District. The existing 15,000-square foot tennis facility consists of two courts with the understanding that the facility may expand by approximately 14,364 square feet to allow an additional two courts in the future. The building is currently located in a PLI District and would be relocated to a site in the Airport District.

Ms. Waters recommended approval of the CUP and added the proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses. No public comment has been received about this proposal.

Public Testimony

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

Tim Chamberlain, 1922 Goldrush Avenue, Project Manager for Last Chance Tennis Association; spoke in support of the CUP.

Gary Davis, attorney for the applicant; spoke in support of the CUP.

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

Motion

Commissioner Cartwright moved approval for a resolution granting a Conditional Use Permit (CUP) to allow the existing 15,000-square foot tennis facility, plus an approximately 14,364-square foot building expansion, to be located north of the terminal building and east of the Forest Service building in the Airport Zoning District; as legally described in the staff report and subject to the 5 conditions stated in the staff report. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19339**

Public Communications

PUBLIC COMMUNICATIONS

Commissioner Cartwright noted the Helena Zoning Commission and City/County Consolidated Planning Board would be added to the minute distribution list so they can stay updated on Commission decisions.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, May 17, 2006 and the next Commission Meeting is Monday, May 22, 2006. Commission Budget work sessions will be held on Wednesday, May 10, 2006 and Monday, May 15, 2006.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:10p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission