

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
September 25, 2006  
6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, September 25, 2006 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, Peura, and Throssell were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Thom Warsinski 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 September 11, 2006 were approved as submitted.

***Proclamation***

Proclamation:

- A. Fire Prevention Week

Fire Marshall Craig Trapp gave an overview of events being held for Fire Prevention Week 2006. Mayor Smith read the proclamation designating October 8-14, 2006 as Fire Prevention Week and presented it to Fire Marshall Trapp.

***Appointments***

APPOINTMENTS:

- A. Board of Adjustment  
B. Helena Regional Airport Authority  
C. City/County Consolidated Planning Board  
D. Public Art Committee

Mayor Smith made the following recommendations for board appointments:

**Board of Adjustment-** Appointment of Robert Bean to a first term

**Helena Regional Airport-** Joint City/County appointment of Mark Eichler to a first term

**City/County Consolidated Planning Board-** Appointment of Rick Alton to an unexpired term

**Public Art Committee-** Appointment of Karen Sturm to an unexpired term

***Motion***

**Commissioner Cartwright moved approval of the board appointments as outlined above.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Consent Agenda**

CONSENT AGENDA:

- A. Claims
- B. Installation of parking meters on the east side of Jackson Street between 6<sup>th</sup> Avenue and Broadway

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 Peura moved approval of items A and B on the consent agenda.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Peura spoke of attending recent neighborhood watch meetings and commended the Police Department for their work with the program. He also passed along comments from citizens concerned with the amount of deer in Helena.

Commissioner Cartwright commented on parking problems at Carroll College football games. He also gave the following website: [www.lifelikecharm.com/helena\\_1](http://www.lifelikecharm.com/helena_1), as a good resource for historic pictures of Helena.

Commissioner Oitzinger noted the UWTF is preparing to enter into a contract to survey the deer herds in Helena.

Mayor Smith complemented the new trail signage at the base of Mount Ascension. He also spoke of attending the Montana Association of Counties convention and the upcoming League of Cities and Towns convention.

**Report of the City Attorney**

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen announced Attorney General Mike McGrath recently issued an opinion stating it is legal for a city to annex property from a second county.

**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 Thom Warsinski gave an overview of the cleanup projects scheduled for October 8, 2006. He announced there are five vacancies on the HCC, interested persons can contact HCC Chair Justin Trafton. The September 27, 2006 HCC meeting will include a presentation on the Fire Service Review and will be held at the Civic Center in the Fire Department conference room.

**Golf Course Fees**

CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES TO BE CHARGED FOR THE BILL ROBERTS MUNICIPAL GOLF COURSE FOR THE 2007 SEASON.

Staff Report

Parks & Recreation Director Randy Lilje reported the Golf Advisory Board has analyzed in detail the operations and capital needs of the golf course and developed a long-term plan for continued improvement. Based on its review, the Golf Advisory Board is now recommending the fee structure for the 2007 season. The changes

recommended will help continue the high level of maintenance and operation that the golfers have come to expect at Bill Roberts Golf Course, fund the debt-service for capital repairs, replacements, and improvements that have been done, and work toward funding proposed capital improvements and equipment needs.

The Board always considers the golfing market in the Helena area, as well as, the region so that golf at Bill Roberts Golf Course remains affordable to the golfing public while maintaining its high standards.

The resolution of intention would establish the fee schedule as recommended by the Advisory Board. Director Lilje recommended approval of the resolution of intention to establish fees to be charged for the Bill Roberts Golf Course for the 2007 season and set a public hearing date for October 16, 2006. Director Lilje noted the resolution would be amended for the public hearing to include a definition of "senior" as 65 and over. Also, season passes will now run from January through December instead of April through March.

Public comment

Mayor Smith called for public comment.

Robert Thompson, 1118 Cobblestone Road; asked if there are restricted dates to purchase season passes? Director Lilje stated no, passes can be purchased anytime during the year.

Motion

**Commissioner Throssell moved approval of the resolution of intention to establish fees to be charged for the Bill Roberts Golf Course for the 2007 season and to define "senior" as any person 65 or older, and set a public hearing date for October 16, 2006.**

Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19414**

Impact Fees

CONSIDER A RESOLUTION ESTABLISHING A JOINT CITY/COUNTY IMPACT FEE ADVISORY COMMITTEE

Staff Report

Administrative Services Director Tim Magee stated the city and county work together on community development efficiencies, and issue. One issue is equitable funding for the impact of new development on city and county systems and facilities. Impact fees have been identified as one of the funding consideration.

Both the city and county commissioners instructed staff to proceed with:

1. The establishment of a Joint Impact Fee Advisory Committee
2. Contracting for a joint Impact Fee Study

The objective is to use a joint approach to identifying the feasibility of specific impact fees and conducting a full impact fee study. This recognizes the overlapping interest of the city and county, and provides for the most efficient review of both our individual and mutual impact fee considerations.

The advantage would be a thorough review of equitable funding of the impact of new development on city and county systems and facilities. A disadvantage is an Impact Fee Study will be expensive.

Director Magee recommended approval of the resolution establishing a Joint City-County Impact Fee Advisory Committee.

- Commission comment            Commissioner Cartwright asked if the process for forming the committee is directed by state law? Director Magee concurred and stated staff is following procedure.
- Public comment                Mayor Smith called for public comment, none was received.
- Motion**                        **Commissioner Peura moved approval of the resolution establishing a Joint City-County Impact Fee Advisory Committee.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19415**
- Emineth Minor Subdivision***            CONSIDER A PRELIMINARY PLAT FOR THE EMINETH MINOR SUBDIVISION, CREATING FOUR RESIDENTIAL LOTS FROM ONE LOT, GENERALLY LOCATED SOUTH OF PROPOSED CABERNET DRIVE AND WEST OF PROPOSED DEERFIELD LANE WITH A PROPERTY ADDRESS OF 2212 DEERFIELD LANE.
- Staff Report                    City Planner Lucy Morell-Gengler reported the applicant is requesting Preliminary Plat review for proposed Emineth Minor Subdivision creating 4 lots from 1.26 acres. The original tract of record was created through a family transfer, which is exempt from subdivision review; thus, the proposed subdivision is a first minor subdivision from a tract of record. The property was included in the annexation and rezoning review for the Nob Hill subdivision and has been pre-zoned to R-2 (Single-Family Residential) District. Annexation is not anticipated until the conditions of the preliminary plat have been met and the subdivision is ready for final plat approval. No parkland is required for minor subdivisions, nor is review by the Planning Board required for the first minor subdivision from a tract of record.
- Ms. Morell-Gengler recommended approval of the preliminary plat as the subdivision would allow development of property adjacent to city services and would promote development contiguous to the city.
- Commission comment            Commissioner Cartwright referred to the proposed subdivision using infrastructure that was put in by another developer and asked if there is an agreement for the provision of services? Ms. Morell-Gengler stated an agreement between the developers for use of the services was submitted with the application.
- Commissioner Throssell asked if the southern-most lots would be accessed from Deerfield Lane? Ms. Morell-Gengler concurred.
- Public comment                Mayor Smith called for public comment, none was received.
- Motion**                        **Commissioner Throssell moved to conditionally approve the Emineth Minor Subdivision preliminary plat creating 4 lots from one lot – a first minor subdivision from a tract of record, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Fact.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.
- Ishak Minor Subdivision***            CONSIDER THE PRELIMINARY PLAT FOR THE ISHAK MINOR SUBDIVISION, A FIRST MINOR SUBDIVISION, CREATING TWO RESIDENTIAL LOTS FROM ONE LOT, GENERALLY LOCATED SOUTH OF PROPOSED CABERNET DRIVE AND WEST OF

PROPOSED DEERFIELD LANE WITH A PROPERTY ADDRESS OF  
2220 DEERFIELD LANE.

Staff Report

Ms. Morell-Gengler reported the applicant is requesting Preliminary Plat review for proposed Emineth Minor Subdivision creating 4 lots from 1.26 acres. The original tract of record was created through a family transfer, which is exempt from subdivision review; thus, the proposed subdivision is a first minor subdivision from a tract of record. The property was included in the annexation and pre-zoning review for the Nob Hill subdivision and has been pre-zoned to R-2 (Single-Family Residential) District. Annexation is not anticipated until the conditions of the preliminary plat have been met and the subdivision is ready for final plat approval. No parkland is required for minor subdivisions, nor is review by the Planning Board required for the first minor subdivision from a tract of record.

Ms. Morell-Gengler recommended approval of the preliminary plat as the subdivision would allow development of property adjacent to city services and would promote development contiguous to the city.

Commission comment

Commissioner Cartwright commented that due to the size of the lot and placement of the house, it will be difficult to build around in the future.

Public comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Oitzinger moved to conditionally approve the Ishak Minor Subdivision preliminary plat creating 2 lots from one lot – a first minor subdivision from a tract of record, and to adopt the Findings of Fact and the conditions contained therein for property legally described in the Findings of Facts.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Public Hearings**

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION TO ASSESS SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 213 ALONG THE STREETS AND AVENUE IN PARTS OF THE OVERLOOK ESTATES SUBDIVISION

Staff Report

Accounting Supervisor Brandi Pierson reported the City Commission must levy and assess an annual charge for Special Improvement Lighting District No. 213 in order for the charge to be placed on the upcoming tax bills. Lighting district assessments are based upon the anticipated cost of electric utility bills and administrative services.

Ms. Pierson recommended approval of the resolution.

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 Throssell moved approval of a resolution levying an assessment upon all property in Special Improvement Lighting District No. 213 to defray the cost of maintaining**

**improvements in said district for fiscal year 2007.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19416**

B. CONSIDER A RESOLUTION TO ASSESS SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 214 ALONG THE STREETS AND AVENUES IN PARTS OF THE NORTHGATE MEADOWS SUBDIVISION

Staff Report

Ms. Pierson reported the City Commission must levy and assess an annual charge for Special Improvement Lighting District No. 214 in order for the charge to be placed on the upcoming tax bills. Lighting district assessments are based upon the anticipated cost of electric utility bills and administrative services.

Ms. Pierson recommended approval of the resolution.

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 Peura moved approval of a resolution levying an assessment upon all property in Special Improvement Lighting District No. 214 to defray the cost of maintaining improvements in said district for fiscal year 2007.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19417**

C. CONSIDER THE PRELIMINARY PLAT FOR THE PROPOSED SUMMIT PARK SUBDIVISION CREATING 47 LOTS FROM 19.565 ACRES SITUATED IN THE SE ¼ NE ¼ OF SECTION 18, T10N, R3W, PMM, LEWIS AND CLARK COUNTY, MONTANA; GENERALLY LOCATED WEST OF MONTANA AVENUE, NORTH OF PTARMIGAN LANE AND SOUTH OF WOLF ROAD.

Staff Report

City Planner Kathy Macefield reported On August 29, 2006, the Consolidated Planning Board held a public hearing for a major subdivision/preliminary plat creating 9 lots located in the pre-zoned B-2 (General Commercial) District (Block 1) and 38 lots in the pre-zoned R-4 (High Density Residential) District (Block 2); a cash payment in lieu of parkland is proposed. A stormwater detention basin would be located at the north end of the residential lots in Block 2. The subdivision would connect to the sewer lift station in the adjacent Golden Estates IV subdivision. New right-of-way would be added to the existing 20-foot wide Wolf Road easement. The submitted traffic impact study does not identify any recommendations for this property although a signal will be needed at Wolf Road and Montana Avenue with full build-out by the year 2012.

The subdivision application is accompanied by a request for annexation to the City of Helena for the same property. The adjacent Wolf Road and Montana Avenue rights-of-way would also be annexed in accordance with 7-2-4211 MCA. The current pre-zoning designations were adopted in May 2005. The applicant plans to leave the existing mobile homes on the property until they can be relocated.

The Planning Board unanimously recommended preliminary plat approval (7:0 vote) for the Summit Park major subdivision creating 9 lots located in the pre-zoned B-2 (General Commercial) District (Block 1) and 38 lots in the pre-zoned R-4 (Residential-Office) District (Block 2), and to adopt the Findings of Fact and the conditions contained therein. Said property is legally described as a 19.566-acre tract of land as shown on COS #274489 and situated in the SE ¼ NE ¼ of Section 18, T10N, R3W, PMM, Lewis and Clark County, Montana; generally located west of Montana Avenue, north of Ptarmigan Lane and south of Wolf Road.

Ms. Macefield recommended approval of the preliminary plat and noted this proposal is adjacent to the city limits, represents a logical extension of the city, and is an efficient use of energy, infrastructure and resources. This proposed subdivision is consistent with the 2001 Helena Growth Policy, Subdivision Regulations and Zoning Ordinance, and is compatible with the surrounding land uses.

Commission comment

Commissioner Peura asked if the Parks Board thought the walking distance to the nearest park in Skelton Subdivision was appropriate? Ms. Macefield concurred. Commissioner Peura asked who would pay for the traffic signal that will be necessary in 2012? Ms. Macefield stated typically the property owner is responsible, but occasionally the Montana Department of Transportation (MDT) will work out a cost share agreement with developers because they own the road.

Commissioner Cartwright spoke of concerns with the lack of access at the southern end of the subdivision, adjacent to Skelton Subdivision. City Manager Burton commented that staff tries to provide stub-outs for future development when they can anticipate it will occur. He noted Wolf Road would connect Golden Estates and Summit Subdivision and Golden Estates Subdivision will be directly connected to Skelton Subdivision. Commissioner Cartwright stated both staff and the Commission need to be more vigilant in requiring connectivity.

Public Testimony

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

Robert Thompson, 1118 Cobblestone Road; expressed his concerns for topography, traffic and displacement of current residents of the property.

Barry McNerlan, Pebble Garden Mobile Home Park manager; spoke against displacing the current residents. He also expressed concern that the valley is not allowing new mobile home parks.

Robert Drakes, Pebble Gardens resident; spoke against displacing the current residents.

Jeff Larson, Stahly Engineering, representing the applicant; stated the applicant, Mr. Weaver, intends to relocate the residents and is currently looking at options.

Carolyn Ewing, 3571 Placer; spoke in opposition to the subdivision.

Debra and Terry Hoppy, 810 Breckenridge; expressed concern with relocation of the current residents.

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

Discussion

Mayor Smith asked Mr. Drakes if the applicant has been a good landlord? Mr. Drakes stated yes. Mayor Smith asked Mr. Larsen for the timeframe of the development. Mr. Larsen explained the applicant would

like to start development soon, but the timeframe is directly related to finding property for the residents to locate on.

Mayor Smith asked if the subdivision could be reviewed based on concern for the current residents? Ms. Macefield stated the review criteria does not apply to displacement of existing residents. City Attorney Nielsen stated there is nothing in subdivision review law that allows for consideration of the renters or lease interest.

Commissioner Cartwright asked whether action taken tonight would pre-judge any future annexation requests? City Attorney Nielsen stated no.

Commissioner Peura asked what amount of acreage would be required to be dedicated as parkland? Ms. Macefield stated a little less than one acre. Commissioner Peura asked if it is a requirement that subdivisions have grid connectivity for their roads? Ms. Macefield stated the subdivision regulations facilitate or encourage connectivity, but do not require a grid pattern. City Attorney Nielsen concurred. Commissioner Peura expressed his concern for lack of connectivity and parkland in the subdivision and asked if the subdivision can be denied for those reasons. City Attorney Nielsen referred to the parkland and explained the developer's wishes must be considered but are not binding; the Commission can require acreage instead of cash in lieu of parkland.

City Manager Burton referred to the staff report and asked if the septic tanks on the property are under Department of Environmental Quality order to be repaired? Ms. Macefield concurred. City Manager Burton referred to page 4 of the staff report, which reads "the applicant has stated that he would leave the 54 existing mobile homes on the property until they can be relocated" and asked if that statement was a commitment in fact. Ms. Macefield concurred. City Manager Burton asked if the statement regarding relocation could be required to be fulfilled as a condition of annexation? City Attorney Nielsen stated technically, yes. However, the relocation condition would be put under the same time limitations as the other conditions for approval of the preliminary plat. City Manager Burton recommended tabling the proposal in order to provide the Commission with further information.

#### Motion

**Commissioner Cartwright moved to table the preliminary plat for the proposed Summit Park Subdivision creating 47 lots from 19.565 acres situated in the SE ¼ NE ¼ of Section 18, T10N, R3W, PMM, Lewis and Clark County, Montana; generally located west of Montana Avenue, north of Ptarmigan Lane and south of Wolf Road to October 16, 2006.** Commissioner Peura seconded the motion. All voted aye, motion carried.

- D. CONSIDER THE PRELIMINARY PLAT FOR THE AMENDED PLAT OF THE NOB HILL SUBDIVISION, PHASE III, CREATING EIGHT RESIDENTIAL LOTS; GENERALLY LOCATED WEST OF I-15, NORTH OF NOB HILL DRIVE AND EAST OF THE NOB HILL WATER TANK.

#### Staff Report

City Planner Belinda Waters reported on August 29, 2006 the Consolidated Planning Board unanimously recommended conditional preliminary plat approval (7:0 vote) for the Amended Plat of the Nob Hill Subdivision, Phase III, Block 13, Lots 21A through 24A creating 8 residential lots from 1.28 acres located in a R-O (Residential-Office)

District, and to adopt the Findings of Fact and the conditions contained therein. The proposed subdivision is legally described as Lots 21A through 24A, Block 13, Nob Hill Major Subdivision, Phase III, Helena, Montana generally located west of I-15, north of Nob Hill Drive and east of the Nob Hill water tank.

Ms. Waters recommended approval of the preliminary plat as the proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposed subdivision is consistent with the 2001 Helena Growth Policy, Subdivision Regulations and Zoning Ordinance, and is compatible with the surrounding land uses

Commissioner comment        Commissioner Throssell asked for more information regarding cuts that would need to be made to the existing streets. Ms. Waters stated according to City Engineer Ryan Leland, because the street is so new it would not support patching to fix the cuts made in order to install water services. Therefore, the entire street curb to curb will need to be replaced.

Mayor Smith expressed concern that existing landowners will not be comfortable with the numerous zoning changes that have occurred in the Nob Hill Subdivision.

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 applicants; indicated he was available to answer questions.

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

Discussion                        Commissioner Cartwright asked Mr. Prothero if the applicants are agreeable to replace the entire street, not just patch the portions where water services are installed. Mr. Prothero stated yes.

**Motion**                                **Commissioner Peura moved approval of the preliminary plat for the amended plat of the Nob Hill Subdivision, Phase III, creating eight residential lots; generally located west of I-15, north of Nob Hill Drive and east of the Nob Hill water tank.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

E.        CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 2, PROCEDURES, AND CHAPTER 5, MINOR SUBDIVISIONS, OF TITLE 12, SUBDIVISION REGULATIONS OF THE HELENA CITY CODE.

Staff Report                        City Planner Lucy Morell-Gengler reported during the last legislative session SB 116 was passed that amended the Subdivision and Platting Act by mandating revisions to local subdivision regulations. State law requires these changes be adopted by October 1, 2006. The proposed changes to Chapters 2 and 5 primarily address the new requirements and clarify existing subdivision review procedures.

Community meetings were held to introduce changes to the City Subdivision Regulations on August 16 and 17, 2006. Comments from the public were primarily requests for clarification or were related to design issues not included within Chapters 2 and 5.

On August 29, 2006, the Consolidated Planning Board unanimously recommended approval (7:0 vote) for an Ordinance revising

the City of Helena Subdivision Regulations, City Code Title 12, Chapters 2 and 5 per the draft dated August 25, 2006.

Included in the Commission packet were the proposed changes recommended by the Planning Board for Chapters 2 and 5. The changes were highlighted with additions underlined and deletions identified with strikeouts. Some of the changes have a reference note indicating the state law or source for the proposed language.

Ms. Morell-Gengler noted a second set of revisions to Chapters 1, 4, and 7, coordinating the subdivision regulations with the newly adopted Engineering Standards, and other design changes will be presented at a later date.

Ms. Morell-Gengler recommended approval of the proposed ordinance as the changes will bring the city into compliance with state law and clarify review procedures, which will facilitate the subdivision process.

**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.

**Comment**

Commissioner Peura commended Ms. Morell-Gengler on her presentation and work on the regulations.

**Motion**

**Commissioner Peura moved approval of first passage of an ordinance amending Chapter 2, Procedures, and Chapter 5, Minor Subdivisions, of Title 12, Subdivision Regulations of the Helena City Code.** Commissioner Throssell seconded the motion. All voted aye, motion carried. **Ordinance #3065**

***Public Communications***

PUBLIC COMMUNICATIONS

***Meetings of Interest***

MEETINGS OF INTEREST

The next Administrative Meetings are September 27, 2006 and October 11, 2006, and the next Commission Meeting is October 16, 2006.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 8:22p.m.

\_\_\_\_\_  
Mayor James E. Smith

ATTEST:

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Clerk of the Commission