

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
October 16, 2006  
6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, October 16, 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 Mark McDonnell 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 25, 2006 were approved as submitted.

***Announcement***

Mayor Smith noted agenda items 18 and 19 would be tabled at the applicant's request.

***Proclamation***

PROCLAMATION:

A. Montana Cup Day

Mayor Smith read the proclamation designating Saturday, October 28, 2006 as Montana Cup Day. Commissioner Peura accepted the proclamation and spoke about the Montana Cup. He introduced team captain Patrick Judge who introduced members of the team in attendance.

***Appointments***

APPOINTMENTS:

- A. BOARD OF ADJUSTMENT
- B. BILL ROBERTS GOLF ADVISORY BOARD
- C. HISTORIC PRESERVATION COMMISSION
- D. CITY/COUNTY PARKS BOARD
- E. PUBLIC ART COMMITTEE

Mayor Smith asked for Commission concurrence on the following appointments:

**Board of Adjustment** – Reappointment of Patricia Burke as alternate member

**Bill Roberts Golf Advisory Board** – Reappointment of Alec Hansen and Jacalyn Grenfell

**Historic Preservation Commission** – Appointment of Pamela J. Attardo

**City/County Parks Board** – Appointment of Peter M. Brown

**Public Art Committee** – Appointment of Vivian Hayes

**Motion** Commissioner Oitzinger moved approval of the above listed board appointments. Commissioner Peura seconded the motion. All voted aye, motion carried.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Change Order for the 300 Block Last Chance Gulch Streetscape project, Project No. 06-17  
C. FY 2007 Section 5311 Operating Contract for Helena Area Transit Service  
D. Utility Bill Insert - Montana Shares  
E. Utility Bill Insert - The Foundation For Animals  
F. Final passage of Ordinance No. 3065 amending Chapter 2, Procedures, and Chapter 5, Minor Subdivisions, of Title 12, Subdivision Regulations of the Helena City Code  
Ordinance #3065

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

**Public Comment** Mayor Smith asked for public comment, none was received.

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

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Oitzinger spoke of attending the Fire Department Open House.

**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 Mark McDonnell reported the HCC has five vacancies, interested persons can contact Chairman Justin Trafton. The HCC sponsored, "Help Helena Shine Day" was a very successful project. Mr. McDonnell thanked Rocky Mountain Credit Union for their donation of drinks and cookies. He noted HCC member Rebecca Ridenour is working on compiling the results of the Quality of Life Survey; the preliminary report should be done soon.

Mayor Smith and the Commission members thanked the HCC for their work on the community cleanup project.

**Jefferson County Planning Board** CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 2-6-3 OF THE HELENA CITY CODE, BOARDS AND COMMISSIONS, ESTABLISHING A CITY PLANNING BOARD TO EXERCISE PLANNING JURISDICTION FOR CITY EXPANSION INTO JEFFERSON COUNTY.

**Staff Report** City Attorney David Nielsen reported Helena has been asked to annex property located in Jefferson County that is contiguous to the city.

Section 11-2-8D, Helena City Code, requires property to be pre-zoned before it may be annexed into the city. Zoning regulations must be consistent with the city's Growth Policy. The city's Growth Policy does not include consideration of property located in Jefferson County. Growth policies are adopted by the City Commission after a planning board has held public hearings and made recommendations to the Commission. The current Helena/Lewis & Clark County Consolidated Planning Board does not have jurisdiction for the amendment of Helena's Growth Policy to include Jefferson County. The city sent a letter to the Jefferson County Commissioners on June 6, 2006, advising them of the city's intent to form a planning board for areas into Jefferson County. The Jefferson County Commissioners did not timely request formation of a city/county planning board within 30 days form the receipt of the letter; therefore, the city is free to form a city planning board without participation from Jefferson County.

Attorney Nielsen recommended approval of the creation of a city planning board as it would provide essential city services and establish appropriate zoning for developments in Jefferson County that are adjacent to the city.

Commission comment                      Commissioner Cartwright asked if the property was annexed into the City of Helena would its county jurisdiction change? Attorney Nielsen stated no and explained annexation doesn't change county boundaries. Commissioner Throssell stated the proposed board's jurisdiction is open-ended according to the ordinance, and asked if a boundary should be named? Attorney Nielsen stated a boundary was not necessary and explained the city's Growth Policy relates to property three or four miles outside of the city limits but if an interlocal agreement were formed it could create a different boundary.

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

**Motion**    **Commissioner Peura moved approval for first passage of an ordinance establishing a city planning board to exercise planning jurisdiction for city expansion into Jefferson County and set a public hearing date for October 30, 2006.** Commissioner Throssell seconded the motion. All voted aye, motion carried. **Ordinance #3066**

***Surplus Real Property*** CONSIDER A RESOLUTION OF INTENTION TO AUTHORIZE THE DISPOSAL OF SURPLUS REAL PROPERTY OWNED BY THE CITY OF HELENA, LOT 24 IN BLOCK 1 OF THE ORIGINAL HELENA TOWNSITE.

Staff Report                                      City Engineer Ryan Leland reported in 1970, Lot 24 in Block 1 of the Original Helena Townsite was conveyed to the city. Since at least the mid-1950's, the property has been used as part of the parking lot of the Tatem House, a use that continues to this day. The Tatem House is located on Lots 22 and 23 just to the south of Lot 24. In 1989, Joe Hrella and David Brown, purchased the Tatem House and applied to the city for a conditional use permit (CUP) for a hair salon on the property. One of the conditions of the CUP required the paving and landscaping of the parking lot located on Lot 24, which Hrella and Brown did. They have maintained the parking lot and landscaping since that time. The parking lot improvements on Lot 24 are included in the tax assessment to Hrella and Brown. Part of the old foundry building that connected to the north

side of the Tatem house extended into Lot 24. Lot 24 can only be accessed by vehicles through the drive approach located on Lot 23. Lot 24 is a fairly small lot - 2684 square feet - and with the steep slope to the west that is retained by a wall, only about 50% of the lot is usable. The parking lot's dimensions are 33' by 42', or 1386 square feet. Hrella and Brown are interested in purchasing the property. They believed in good faith that it was part of the property they purchased in 1989 and neither the city nor Hrella and Brown realized until recently that the property was owned by the city. Because of the small amount of usable space in the lot and its lack of physical access for vehicles, its use as a stand-alone lot is very limited.

Mr. Leland recommended approval of the resolution of intention to dispose surplus real property and stated the property is currently used as a private parking lot. Currently, the city is responsible for maintaining the condition of the retaining wall on the west end of the property. Transferring the lot to private ownership would relieve the city of this maintenance obligation and liability. Selling the lot by a privately negotiated sale would allow Hrella and Brown to purchase the property that they have invested in and not lose the value of their improvements to the property.

Public comment

Mayor Smith called for public comment, none was received.

Motion

**Commissioner Oitzinger moved approval of a resolution of intention to dispose of Lot 24 in Block 1 of the Original Helena Townsite by either a privately negotiated sale or public bid, and set a public hearing date for October 30, 2006.** Commissioner Throssell seconded the motion. All voted aye, motion carried. **Resolution #19418**

**Building Codes**

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

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 3 OF THE HELENA CITY CODE AND ADOPTING THE 2005 EDITION OF THE NATIONAL ELECTRICAL CODE.

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

CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 3 OF THE HELENA CITY CODE, THE GAS CODE.

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

## Staff Report

Chief Building Official Brandt Salo reported periodically, revisions and amendments to the family of building codes are mandated by the state Department of Labor and Industry Building Codes Division in an effort to keep the codes current with available building technology or to address recurrent enforcement issues. Staff recommends the city adopt the proposed ordinances in order to make the most recent set of miscellaneous revisions and amendments to the codes and thereby assure the availability to builder, developer, and homeowner, of the most current building related regulations and information dealing with technological advances within the regulatory field.

Adoption of the proposed ordinances will fulfill the city's responsibility as a certified jurisdiction to adopt building codes in like manner as, and to be current with those adopted by the State of Montana. Also, approval will continue the use of a nationally recognized and "uniform" family of building codes authored by the International Code Council, Inc.

## Public comment

Mayor Smith called for public comment, none was received.

## Motions

**Commissioner Throssell moved approval for first passage of an ordinance amending Chapter 2 of Title 3 of the Helena City Code: including the International Building Code; the International Energy Conservation Code; the International Residential Code; and the International Existing Building Code and set a public hearing date for November 20, 2006.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance #3067**

**Commissioner Throssell moved approval for first passage of an ordinance amending Chapter 3 of Title 3 of the Helena City Code and adopting the 2005 Edition of the National Electrical Code and set a public hearing date for November 20, 2006.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance #3068**

**Commissioner Throssell moved approval for first passage of an ordinance amending Chapter 4 of Title 3 of the Helena City Code, the Mechanical Code and set a public hearing date for November 20, 2006.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance #3069**

**Commissioner Oitzinger moved approval for first passage of an ordinance amending Chapter 5 of Title 3 of the Helena City Code, the Gas Code and set a public hearing date for November 20, 2006.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3070**

**Commissioner Oitzinger moved approval for first passage of an ordinance amending Chapter 7 of Title 3 of the Helena City Code, the Plumbing Code and set a public hearing date for November 20, 2006.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3071**

**Summit Park**

CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA 19.566 ACRES TO BE KNOWN AS SUMMIT PARK WITH 38 RESIDENTIAL LOTS IN THE R-4 DISTRICT AND 9 COMMERCIAL LOTS IN THE B-2 DISTRICT AND THE ADJACENT RIGHTS-OF-WAY (ROW) IN LEWIS AND CLARK COUNTY; GENERALLY LOCATED WEST OF MONTANA AVENUE, NORTH OF PTARMIGAN LANE AND SOUTH OF WOLF ROAD.

CONSIDER A MAJOR SUBDIVISION/PRELIMINARY PLAT FOR SUMMIT PARK SUBDIVISION, CREATING 38 RESIDENTIAL LOTS IN THE R-4 DISTRICT AND 9 COMMERCIAL LOTS IN THE B-2 DISTRICT; GENERALLY LOCATED WEST OF MONTANA AVENUE, NORTH OF PTARMIGAN LANE AND SOUTH OF WOLF ROAD. (TABLED FROM SEPTEMBER 25, 2006)

Mayor Smith noted the applicant requested these items be tabled. City Manager Burton concurred and recommended the items be tabled to November 6, 2006.

**Motion**

**Commissioner Peura moved to table a resolution of intention to annex to the City of Helena 19.5673 acres to be known as Summit Park and the adjacent rights-of-way in Lewis & Clark County as legally described in the resolution to November 6, 2006.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Motion**

**Commissioner Peura moved to table consideration of the Summit Park Major Subdivision creating 9 lots located in the pre-zoned B-2 District and 38 lots in the pre-zoned R-4 District to November 6, 2006.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**MT Youth Homes**

CONSIDER A RESOLUTION OF INTENTION TO DONATE SURPLUS REAL PROPERTY OWNED BY THE CITY OF HELENA TO MONTANA YOUTH HOMES FOR THE PURPOSE OF BUILDING A NEW FACILITY TO REPLACE THE JAN SHAW YOUTH HOME.

**Staff Report**

Community Development Director Sharon Haugen reported when reviewing the original deed in the preparation of the resolution of intent staff found language in the original deed that needs further clarification. Community Development and City Attorney staff are recommending this item be tabled until that language is further clarified.

**Public comment**

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Oitzinger moved to table a resolution of intention to donate city property to Montana Youth Homes to the call of the Acting City Manager, Community Development Director Sharon Haugen.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Public Hearings**

**PUBLIC HEARINGS:**

A. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A PARKING LOT IN A R-O (RESIDENTIAL OFFICE) DISTRICT ON PROPERTY GENERALLY LOCATED ON THE SOUTHWEST CORNER OF BUTTE AVENUE AND SANDERS STREET.

**Staff Report**

City Planner Lucy Morell-Gengler reported on September 26, 2006 the Helena Zoning Commission unanimously recommended APPROVAL (3:0 vote) for a Resolution granting a CUP to allow a parking lot for not more than 21 spaces in a R-O District for property legally described as Lots 7 and 8 in Block 36 of the Northern Pacific Addition; Lot 7 and the east 1 ½ feet of the south 35 feet of Lot 6 in Block 24 of the Flowerree Addition; and the 10 foot wide portion of the vacated alley lying adjacent to said property, Helena, Montana; generally located on the southwest corner of Butte Avenue and Sanders Street. This recommendation is subject to the five conditions listed in the staff report.

The applicant is requesting a resolution granting a CUP to allow a parking lot with 21 spaces in a R-O District. The owner of the subject lots owns the adjacent lots to the south that are zoned B-2. According to the applicant, the CUP would allow the utilization of all of the property for a fast food restaurant with 21 of the 48 parking spaces located on the R-O zoned property. The entire block is currently zoned B-2 except for the subject property. The applicant has requested a variance from 7-4-2 (A) of the City Code to allow the installation of curb sidewalk instead of boulevard sidewalk for the west side of Sanders Street to accommodate a 3-foot high berm. The Public Works Department will process this variance request.

Ms. Morell-Gengler recommended approval of the CUP and noted this proposal will allow infill development for property that can receive city services. It is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and the impacts on surrounding land uses can be mitigated.

**Commission comment**

Commissioner Cartwright asked for the required amount of parking spaces for the proposal. Ms. Morell-Gengler explained the amount of parking required is based on the square footage of the building. This parking plan is one space over the requirement.

Commissioner Oitzinger referenced traffic mitigation issues in the area and asked for an update. City Manager Burton stated staff and the Helena College of Technology are moving forward on the mitigation plan as presented to the Commission. Commissioner Peura asked why an entrance and exit is proposed for Butte Avenue? Ms. Morell-Gengler explained staff looked at traffic patterns in the area. Because Prospect Avenue is a one-way, the logical route to access restaurants in the area is Butte Avenue. Utilizing the Butte Avenue access would marginally reduce the traffic using side streets. According to traffic patterns, eliminating this access would do little to reduce traffic in the area. Commissioner Peura asked if there would be any traffic impediment if there were not an entrance on Butte Avenue? Ms. Morell-Gengler responded the entrance is discretionary; the applicant has indicated that most of their business will use the drive-thru and exit onto Prospect Avenue. Commissioner Peura asked if the traffic impact study could contemplate whether not having an entrance and exit on Butte Avenue would be a problem. Ms. Morell-Gengler stated yes.

Public Testimony

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

Terry Zimmerman, American Federal Savings Bank Facility Manager; spoke in support of the development, but commented that the bank does not want restaurant patrons parking in their lot.

John Gillespie, Taco John's representative; spoke in support of the CUP.

George McCauley, 926 5th Avenue; spoke in opposition to the proposed entrance/exit on Butte Avenue.

Bill Hayden, Gray Companies Inc., representing the applicant; spoke in support of the CUP.

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

Discussion

Commissioner Cartwright asked if the Commission approves a CUP, is the site plan approved as is or could it be amended in the future? Ms. Morell-Gengler stated if the plan is not compliant with city code, the applicant would be asked to revise it and bring it back for consideration. Commissioner Cartwright referred to the proposed buffer and asked if the buffer width changed, would the proposal be brought back for Commission consideration? Ms. Morell-Gengler stated if the buffer met city codes, it would not be brought back unless it was felt that a larger width was necessary to mitigate the impact.

Commissioner Peura asked if it would be possible to make the access on Butte Avenue entrance only? Mr. Hayden stated it would be possible and would probably alleviate a lot of the concern with access. He added the applicant is willing to work with city to meet the requirements of the buffer zone. Mayor Smith indicated he would support the Butte Avenue access being "entrance only". Commissioner Peura asked if it would be possible to require that the Butte Avenue access is "entrance only" as a condition of approval. Ms. Morell-Gengler agreed the condition would be appropriate.

City Manager Burton noted the traffic study needs to be completed in order to assure that all entrances and exits would be safe, including the "entrance only" proposed tonight. Mayor Smith recommended tabling the proposal in order to await the results of the traffic study. Commissioner Oitzinger concurred with Mayor Smith. Mr. Hayden stated he was agreeable to tabling the proposal to November 6, 2006. Commissioner Cartwright urged the applicant to ensure the berm at the north edge of the property be sufficient to shield the neighborhood from the business.

Motion

**Commissioner Peura moved to table a resolution granting a Conditional Use Permit (CUP) to allow a parking lot for not more than 21 spaces in a R-O (Residential Office) District for property legally described in the staff report and subject to the five conditions listed in the City Commission Memo to November 6, 2006.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) FOR THE CONSTRUCTION OF A PARKING LOT IN THE R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT ON PROPERTY GENERALLY LOCATED SOUTH OF ASPEN STREET AND WEST OF COOKE STREET.

Staff Report

Ms. Morell-Gengler reported according to the application, the proposed parking lot will serve employees and customers of Mountain West Bank and the new parking lot "will alleviate the heavy on-street parking that currently congests Cooke and Aspen Streets". At the present time, the house on the property has been removed, but the garage will remain to be used for storage.

On Tuesday, September 26, 2006, the Helena Zoning Commission unanimously recommended approval (3:0) for the adoption of a resolution granting a Conditional Use Permit (CUP) to allow a 13-space parking lot to be located on Lot 8, Block 20, Flower Garden Addition, Helena, Montana, with a street address of 1237 Aspen.

Said approval is subject to the following conditions:

1. Parking

A. Paved onsite parking and related landscaping shall be installed in accordance with Chapter 22 of the Helena Zoning Ordinance and prior to its use.

B. If the garage is removed and the parking lot is extended in that area, screening must be installed along the south portion of the lot.

2. Financial Guarantee

All of the following improvements shall be installed, or the improvements shall be financially guaranteed in accordance with Section 11-21-3-G of the Helena Zoning Ordinance:

A. A storm water drainage plan must be reviewed and approved as specified in Section 6-6-9 of the Helena City Code,

B. Landscaping and lighting;

C. Paved on site parking.

3. Time Frame:

All conditions must be satisfied within one year.

Ms. Morell-Gengler recommended approval of the CUP, as the proposed use appears to lend support to the existing uses to the north, northwest, and west and mixed residential uses to the south and east. The proposed parking lot will provide efficient use of the property by utilizing an existing lot with infrastructure (water, sewer, streets and storm water drainage) to serve the proposed use already in place.

Commission comment

Commissioner Oitzinger asked if the proposed parking lot would be contiguous to the existing lot? Ms. Morell-Gengler concurred.

Public Testimony

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

Heather Winters, 1309 Aspen Street; spoke about parking conditions in the area.

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

Discussion

Commissioner Cartwright expressed concern that a house was torn down for the parking lot before the CUP application was placed on an agenda for Commission consideration.

Commissioner Peura asked Ms. Winters if she felt the proposed parking lot would help the parking situation in the area? Ms. Winters indicated she did not feel the proposed lot would be adequate enough. Commissioner Peura indicated he would support a traffic impact study for the area. City Manager Burton commented there is a parking problem in the area and the proposed parking lot would help a little bit. He stated city staff could look at the necessity of stop sign rather than the Commission conditioning a traffic study.

Commissioner Oitzinger expressed concern that the existing parking lot and the proposed lot will not be connected. If they were connected, it could provide more parking spaces. Commissioner Cartwright spoke in favor of requiring boulevard sidewalks around the lot.

Motion

**Commissioner Peura moved approval of a resolution granting a Conditional Use Permit to allow construction of a parking lot with 13 parking spaces in the R-3 District to serve Mountain West Bank customers and employees; as legally described in the staff report, subject to the conditions listed in the staff report.**

Commissioner Cartwright seconded the motion.

Comment

Commissioner Peura requested that staff look into the necessity of a stop sign at the corner of Aspen and Cooke Street. City Manager Burton confirmed Public Works staff would perform a study of the area.

Vote

All vote aye, motion carried. **Resolution #19419**

C. CONSIDER A RESOLUTION GRANTING A TAX ABATEMENT FOR PROPERTY LOCATED AT 337 NORTH LAST CHANCE GULCH.

Staff Report

Community Development Director Sharon Haugen reported Linda E. Reed, owner of the two story commercial space located at Lot 26 and the north 3.5 feet of lot 25, Block 37 of the original Helena Townsite Parcel number 05-1888-30-3-20-25-0000-01, is applying for tax abatement under provisions of state law for remodeling, reconstruction, or expansion of existing buildings or structures (MCA 15-24-1501 et seq.). This site is the former location of Carlson Appliance. Legally described as Helena Town Site Block 37 N 3.5 FT Lt 25 & all of 26.

Under these provisions of MCA 15-24-1502, applicants must add to an existing building or structure so as to increase its taxable value by at least 2.5 percent to qualify for this abatement. If approved, the property taxes abated are phased in over five years at 20 percent each year. Upon local approval of tax abatements, the Department of Revenue determines eligible improvements and applies the abatement to the property.

This property existed as a retail store. The interior of the space was demolished and the interior remodel was completed in March of 2005. The remodel included a residential use on the top floor and a continuation of commercial space on the Main Street level.

A public hearing has been advertised for 9:00 a.m. October 10, 2006, before the Board of County Commissioners (BoCC) and at 6:00 p.m. on October 16, 2006 before the City of Helena Commission. The BoCC approved the tax abatement at their October 10, 2006 meeting.

Nancy Everson, Lewis and Clark County Finance Director completed an analysis of the eligibility and criteria for this tax abatement. A copy of that analysis is attached to this memo. Staff has reviewed the memo and concurs with the analysis of the criteria and its conclusions.

Director Haugen noted the use of the tax abatement for renovations such as these may encourage the redevelopment of existing businesses and the surrounding areas and may encourage further mixed use developments in the downtown area.

Commission comment

Commissioner Peura stated the construction has already been done and paid for and asked why the applicant would apply for an incentive after the work was done. Director Haugen noted the applicant applied for the abatement last spring; construction was completed this past summer, and the increased property value will be on the October tax statement. It is not uncommon for some people to apply for tax abatements after construction because they are not aware of the program until after the work has been done. Commissioner Cartwright expressed concern for the city's tax abatement procedure and policy. Commissioner Oitzinger indicated she would support of the proposed tax abatement but concurred with Commissioner Cartwright's concern about the policy. Commissioner Throssell asked for clarification if tax abatements are allowed under state law or city ordinance? Ms. Haugen stated state statute.

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 for a resolution granting the tax benefits application of Linda E. Reed for the property located at 337 North Last Chance Gulch, in Helena Montana for the increase in taxable value to be assessed for tax years 2006 –2012 pursuant to the taxable value scheduled outlined in 15-24-1502 (1) MCA.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19420**

Discussion

Commissioners Cartwright, Oitzinger, and Peura requested discussion of tax abatement procedures be placed on a future Administrative Meeting agenda. City Manager Burton informed the Commission the city/county policy was set seven or eight years ago. The policy is an informal way to deal with tax abatements between both governing bodies. He confirmed the policy would be placed on an Administrative Meeting agenda for discussion.

D. CONSIDER AN EXTENSION OF THE CITY' S WASTEWATER SERVICE AREA TO INCLUDE LOT 15, COUNTRY CLUB PARK, GENERALLY LOCATED OFF OF HEAD LANE AND ENTER INTO AN AGREEMENT FOR THE ENLARGEMENT OF THE WASTEWATER SERVICE AREA IN ACCORDANCE WITH CITY ORDINANCE.

Staff Report

Director Haugen reported Brad and Maureen Drinville have made application to the City to extend its Wastewater Service area to include their property located off of Head Lane, legally described as Lot

15 Country Club Park, COS#393085 located in Section 14, T. 10 N, R 4 W, Lewis and Clark County, Montana. (See attached map). Their property is adjacent to the Fort Harrison Sewer line, which is currently in the City's Wastewater Service Area. The Drinviles currently own 10 acres of land. It is their intention to build a single-family residence on this property.

The property in question is located near the Mountain Meadow Inn, which is currently in the City's wastewater service area. If the City were to allow the extension of the wastewater service area, the Drinviles will not be installing a septic for their property. The city would have the advantage of further guaranteeing how land would develop in the proximity of its sewer line.

Section 6-5-4 of the Helena City Code set out the requirements for consideration of the enlargement of the water and/or wastewater service area. The conditions in the agreement will govern any further subdivision of the property, will ensure that further development will be built to the appropriate standards and will guarantee that the new system being added to the wastewater system will be constructed to the appropriate standard and plumbing codes. It is much more difficult to retrofit a system then to design and construct one to City standards.

Ms. Haugen recommended approval of extension of the wastewater service area and added this proposal allows the property to be developed without the need for a septic system. The conditions outlined in the agreement would prevent any further subdivision of the property without review and approval from the City Commission. City Manager Burton recommended approval of the extension as it prevents another septic system from being installed and requires any future land use changes to come before the purview of the Commission. He noted this property would remain open space until it comes back with limited development for Commission review. While it's not open space for public use, it will remain as a large lot, in its present use, with city services.

Public Testimony

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

Brad Drinville, 2177 Head Lane, applicant; urged the Commission to approve the extension.

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

Discussion

Commissioner Cartwright stated he likes the idea of this property remaining as open space in the view shed. He asked if the development agreement could be conditioned to include establishment of a building envelope? City Attorney Nielsen stated yes.

Motion

**Commissioner Cartwright moved approval for the extension of the City of Helena wastewater service area to include all of Lot 15 Country Club Park, COS#393085 located in Section 14, T. 10 N, R 4 W, Lewis and Clark County, Montana and to enter into an Agreement for the Enlargement of the Wastewater Service Area in accordance with City Ordinance.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Motion**

**Commissioner Cartwright directed staff to arrange for a condition that requires the house to be built next to one of the boundaries of the lot to facilitate further subdivision at an undetermined time in the future.** Commissioner Peura seconded the motion.

**Discussion**

Commissioner Oitzinger relayed her concern that the county would not require the same condition to regulate placement of the housing unit. Commissioner Throssell stated the Commission is trying to plan for the future and agreed with the motion that some thought should be given as to where to place the home on the parcel, but at this point it seems premature to include any more detail than that. Economics will drive development of the property and he does not want to preclude further development. City Manager Burton stated staff can work with Mr. Drinville related to the building envelope. Commissioner Cartwright noted he does not want to control specifics. He would like to ensure the applicant places the house in an area that would not be problematic or result in increased costs for future development. City Manager Burton reiterated this property would not receive any city services other than wastewater until it is reviewed and annexed by the City Commission.

**Vote**

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

**Comment**

City Manager Burton stated staff would add a footprint section to the agreement and consider Commission approval granted.

E. CONSIDER AN EXTENSION OF THE CITY'S WASTEWATER SERVICE AREA TO INCLUDE A TRACT OF LAND IN THE SW $\frac{1}{4}$ NE $\frac{1}{4}$  AND IN THE NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SECTION 13, T10N, R4W, LEWIS AND CLARK COUNTY, GENERALLY LOCATED WEST OF GREEN MEADOW DRIVE AND NORTH OF SILSBEE ROAD AND ENTER INTO AN AGREEMENT FOR THE ENLARGEMENT OF THE WASTEWATER SERVICE AREA IN ACCORDANCE WITH CITY ORDINANCE.

**Staff Report**

Director Haugen stated Gary and Carole Gilmore have made application to the City to extend its Wastewater Service area to include their property located off Green Meadow Drive, legally described as A tract of land in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  and in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of in Section 13, T 10 N, R 4 W, P.M.M., as described in Deed reference M Book 12 Page 3153, Lewis and Clark County, Montana. (See attached map). Their property is adjacent to the Fort Harrison Sewer line, which is currently in the City's Wastewater Service Area. The Gilmores own an existing house that is currently connected to a thirty-five (35) year old septic tank.

Section 6-5-4 of the Helena City Code set out the requirements for consideration of the enlargement of the water and/or wastewater service area. The conditions in the agreement will govern any further subdivision of the property, will ensure that further development will be built to the appropriate standards and will guarantee that the new system being added to the wastewater system will be constructed to the appropriate standard and plumbing codes.

Ms. Haugen recommended approval of the extension of the wastewater service area and stated this proposal will allow the removal of an old septic system in an area near the City limits. The conditions outlined in the agreement would prevent any further subdivision of the

property without review and approval from the City Commission and will promote the orderly development of the area of the City.

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 an extension of the City of Helena wastewater service area to include a tract of land in the SW1/4NE1/4 and in the NW1/4SE1/4 of in Section 13, T 10 N, R 4 W, P.M.M., as described in Deed reference M Book 12 Page 3153, Lewis and Clark County, Montana and to enter into an Agreement for the Enlargement of the Wastewater Service Area in accordance with City Ordinance.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

F. CONSIDER A RESOLUTION ESTABLISHING 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.

Director Lilje recommended approval of the resolution establishing fees to be charged for the Bill Roberts Golf Course for the 2007 season.

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 the resolution of intention to establish fees to be charged for the Bill Roberts Golf Course for the 2007 season.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19421**

**Public Communications**

PUBLIC COMMUNICATIONS

Terry Zimmerman, 357 Mill Road; asked that city staff contact him regarding the City's Zoning Ordinance update.

George McCauley, 926 5<sup>th</sup> Avenue; spoke of neighborhood projects on Rodney Street.

***Meetings of  
Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, October 25, 2006 and the next Commission Meeting is Monday, October 30, 2006. City Manager Burton stated the Jefferson County Commissioners have requested a meeting with the City Commission. He asked the Commission if they would be agreeable to hold the meeting at 3:00 p.m. before either the October 25, 2006 or November 1, 2006 Administrative Meeting. The Commission concurred.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 8:27p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission