

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

***Time & Place***

A regular City Commission meeting was held on Monday, November 6, 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.

***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 minutes of October 30, 2006 will be considered at the November 20, 2006 meeting.

***Appointments***

APPOINTMENTS:

- A. Helena Regional Airport Authority
- B. Business Improvement/Helena Parking Commission
- C. Helena International Affairs Council
- D. Zoning Commission

Mayor Smith asked for Commission concurrence on the following appointments:

**Helena Regional Airport Authority** - Appointment of Phillip B. Johnson

**Business Improvement District** - Appointment of Mike Dowling and reappointment of David Lemm

**Helena International Affairs** - Reappointment of Will Garvin and appointment of Elaine Dahl, Gabriel Furshong and Matthew J. Kuntz

**Zoning Commission** - Appointment of Bill Rule and reappointment of David Hansen

***Public Comment***

Mayor Smith asked for public comment, none was received.

***Motion***

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

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Resolution declaring certain personal property to be abandoned and unclaimed (bicycles) **Resolution #19425**
- C. Utility bill insert - United Way
- D. Utility bill insert - Holter Museum
- E. Amended plat for the northward extension of the Benton Avenue right-of-way (ROW), generally located north of Custer Avenue

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 E on the consent agenda.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Communications**

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Peura reminded everyone to vote on Tuesday, November 7, 2006.

Commissioner Cartwright announced SAVE will hold a plastics recycling event December 1-8, 2006 behind the old National Guard armory.

Mayor Smith and the Commission members commented on the addition of the Beauchamp's murals to the Commission Chambers and thanked everyone involved with the project.

**Report of the City Attorney**

REPORT OF THE CITY ATTORNEY

City Attorney David Nielsen introduced the new Deputy City Attorney, Thomas Joden. Mr. Joden gave his education and work history and expressed his excitement to be in Helena.

A. Transfer of USS Helena property

City Attorney Nielsen explained the Montana Military Museum and the Fort William Henry Harrison Museum Foundation have requested that certain items from the U.S.S. Helena currently on loan to the City of Helena be transferred to the Montana Military Museum for display. He recommended approval of the proposed transfer.

Motion

**Commissioner Peura moved to approve signing and sending the letter to transfer U.S.S. Helena historical property as drafted, on November 7, 2006.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

Motion

**Commissioner Peura moved approval to transfer the model of the Cruiser U.S.S. Helena as requested in the letter received October 25, 2006 from the Fort Harrison Museum Foundation.** Commissioner Throssell seconded the motion. All voted aye, motion carried.

**Report of the City Manager**

REPORT OF THE CITY MANAGER

City Manager Burton referred to a letter dated October 16, 2006 from the Montana Independent Living Project (MILP) expressing concern for handicapped parking in the Great Northern Towncenter. Manager Burton and staff met with the MILP Board of Directors and Alan Nicholson today and the outcome was very positive. He reported he agreed to form an ADA compliance committee that will provide comment and recommendations about subdivision regulations and land use issues. Also, an existing Community Development staff member will be assigned ADA responsibilities.

**Report from the  
Helena Citizens  
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL  
No report was given.

**Sidewalk Variance**

CONSIDER A SIDEWALK VARIANCE FOR CURBSIDE SIDEWALKS  
AT 1237 ASPEN STREET.

Staff Report

City Engineer Ryan Leland reported the applicant, Mountain West Bank, has applied for a variance for curbside sidewalks along Aspen and Cooke Streets. The variance is being requested in order to install a berm for screening instead of a fence. He noted staff does not have a recommendation on this proposal.

Commission comment

Commissioner Cartwright asked if the existing crosswalk sign would remain in place? Mr. Leland stated it would remain in conformance with MUTCD, but would need to be relocated to accommodate the sidewalk. Commissioner Cartwright stated because there is already an existing curbside sidewalk on Aspen Street he would support curbside sidewalks on the north side of the parking lot. However, he does not support the variance for Cooke Street unless the applicant installs boulevard size trees.

Commissioner Peura asked if the landscaping plan included in the packet is the final draft? Mr. Leland explained the final landscaping plan needs to be approved by Parks & Recreation Director Lilje. This site plan has not received final approval because of the sidewalk variance application. Commissioner Peura asked if the Commission could condition the applicant to install boulevard size trees. City Manager Burton agreed but noted that any conditions need to comply with the current ordinance.

Commissioner Cartwright asked City Attorney Nielsen if the Commission could request taller trees than the kind proposed? Attorney Nielsen stated yes.

Public comment

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Cartwright moved approval for a variance for curbside sidewalks at 1237 Aspen Street on the North and East side, with the condition that taller trees are planted on a boulevard scale next to the curbside sidewalk.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Sidewalk Variance**

CONSIDER A SIDEWALK VARIANCE FOR CURBSIDE SIDEWALKS  
ON THE SOUTH SIDE OF TOWNSEND AVENUE BETWEEN  
SANDERS AND HARRIS STREETS FOR THE HELENA COLLEGE OF  
TECHNOLOGY.

Staff Report

Mr. Leland reported the Helena College of Technology (HCT) is requesting a variance to install curb type sidewalks along the south side of Townsend Avenue. This request is due to the topographic constraints caused by the berm on the north side of the Helena High School practice field. City staff is recommending that a seven-foot sidewalk be installed instead of the standard five-foot sidewalk because this will be the major pedestrian access from the college and the new parking lot. City staff will bring this project forward for Commission consideration as a CTEP project for the additional two-feet of the seven-foot sidewalk.

Commission comment                    Commissioner Peura asked for the cost of the additional two feet of sidewalk? Mr. Leland estimated \$10,000-\$13,000. Commissioner Throssell asked if this is Helena School District property? Mr. Leland stated yes. Commissioner Throssell asked if there are any landscaping intentions for the berm? Mr. Leland stated the berm would remain as is, as it is a vantage point for watching football games.

Commissioner Peura asked if the city could leverage funding for the project from the school district? City Manager Burton stated the school district has given their consent and approval of the project, but to date funding discussions have only been held between the city and the Helena College of Technology (HCT). A prior Commission gave staff direction to focus CTEP funding on city property and whenever possible, improve pedestrian access around schools. He noted the Commission may want to revisit that direction.

Commissioner Peura asked if the variance were approved tonight but the CTEP funding were not approved in the future, would HCT be required to pay for the full cost of the sidewalk installation? City Manager Burton stated if the variance was granted and the CTEP funding denied, staff would provide the applicant the chance to revise their site plan. City Attorney Nielsen noted the Commission could approve the variance for curb-style sidewalks at five foot and based on future approval of CTEP funding, the city could choose to partner with the applicant to fund the additional two feet. The variance could also be granted for a minimum of five feet.

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

**Motion**                                    **Commissioner Throssell moved approval for a seven-foot curb-style sidewalk variance for the south side of Townsend Avenue between Harris Street and Sanders Street.** Commissioner Oitzinger seconded the motion.

Discussion                                Commissioner Oitzinger indicated she would support funding the sidewalks using the CTEP Program. Commissioner Cartwright expressed concern that developers will try to use the CTEP funding to support enhancements to new developments. He indicated he would like CTEP funding to be used for enhancements, not basic transportation needs.

**Vote**                                        All voted aye, motion carried.

**Summit Park**                            CONSIDER TWO SIMULTANEOUS PROPOSALS FOR THE SAME PROPERTY GENERALLY LOCATED WEST OF MONTANA AVENUE, NORTH OF PTARMIGAN LANE AND SOUTH OF WOLF ROAD:

A) A RESOLUTION OF INTENTION TO ANNEX THE SAME PROPERTY **(TABLED FROM OCT. 16, 2006)**.

B) MAJOR SUBDIVISION/PRELIMINARY PLAT FOR THE SUMMIT PARK SUBDIVISION, CREATING 38 RESIDENTIAL LOTS IN THE R-4 DISTRICT AND 9 COMMERCIAL LOTS IN THE B-2 DISTRICT **(TABLED FROM OCT. 16, 2006)**.

## Staff Report

City Planner Kathy Macefield reported the public hearing for the Summit Park Subdivision and accompanying annexation request were considered by the City Commission on September 25, 2006. The Commission tabled action on both proposals until October 16, 2006. At that time the applicant requested additional time to resolve issues related to relocating the current mobile home park residents. As a result, the City Commission tabled action until November 6, 2006.

On October 19, 2006 the applicant's engineer submitted a written request to extend the timeframe for a City Commission decision until July 1, 2007 (attached). The letter states additional time is needed "to present a plan on the serious issue of relocating the existing trailer park residents. ...The search for these properties is ongoing, but has been unsuccessful to date. It is still my client's intention to purchase or develop another trailer park and relocate as many residents as possible to this park. We are requesting a more realistic time extension to address this issue..."

Section 12-2-6 (F)(5) of the Helena Subdivision Regulations allows subdivision action to be delayed up to one year, if so agreed by the subdivider and the reviewing agency agree to such an extension. Therefore, the applicant's request to delay action on the subdivision would be consistent with this provision if approved by the City Commission.

However, if the City Commission determines that allowing eight months for the applicant to develop a viable relocation program is too long a time frame, denying the annexation request would be an option. If the Commission chooses to deny the resolution of intention to annex, the subdivision would become moot because the Commission would be indicating it does not intend to annex this property at this time and therefore would not have jurisdiction to act on a subdivision that is not located inside the city limits. Ms. Macefield recommended denial of the proposed resolution.

## Commission comment

Commissioner Peura asked if denial of the application would prejudice any future land use proposals by the applicant? Ms. Macefield replied no, but noted the applicant would probably have to go through the subdivision review process again when he is ready to move forward with the proposal. Mayor Smith asked if the proposal were tabled, would it have to be reviewed again by the Planning Board? Ms. Macefield stated no. City Manager Burton stated the applicant's request is in good faith but a timeframe of eight months is too long and recommended denial. It is too hard to keep communication open for such a long time period and this proposal affects a lot of neighborhoods. If the applicant is ready to move forward with the proposal in July, the Commission and staff could discuss waiving the application fees.

## Public comment

Mayor Smith called for public comment.

Jeff Larson, Stahly Engineering, 3530 Centennial Drive; stated the applicant is still looking for property to relocate the existing mobile home park. He noted he understood staff's concern with the requested eight month tabling period.

Norm Slead; spoke in support of denial of the annexation until the current mobile home residents can be relocated.

**Motion** **Commissioner Peura moved denial of a resolution of intention to annex the 19.99-acre property generally located west of Montana Avenue, north of Ptarmigan Lane and south of Wolf Road.**  
Commissioner Cartwright seconded the motion.

**Discussion** Commissioner Peura stated he was uncomfortable tabling the resolution for eight months and indicated he would support the fees charged for the original application be applied to the applicant's future application. Commissioner Cartwright concurred with Commissioner Peura and commended the developer for trying to relocate the current residents. Mayor Smith indicated he would support tabling the resolution for a shorter time period than the applicant requested and would not support the motion. City Manager Burton reiterated the Commission could waive Mr. Weaver's application fees in the future. Commissioner Oitzinger indicated she would support tabling the proposal for four months but has concerns with denying the proposal. Commissioner Throssell concurred with staff's recommendation to deny the proposal to let Mr. Weaver proceed with finding an alternate location for the current mobile home residents. Commissioner Cartwright asked staff to work with Mr. Weaver to relocate the existing trailer park residents.

**Vote** Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

**Sidewalk Variance** CONSIDER A SIDEWALK VARIANCE FOR CURBSIDE SIDEWALKS AT 1450 PROSPECT AVENUE.

**Staff Report** Mr. Leland announced the developer, Gray Companies, Inc., is requesting a variance for curbside sidewalks along Sanders Street. The variance would allow the developer to install a berm for screening instead of a fence. He noted staff does not have a recommendation on this proposal.

**Commission comment** Commissioner Peura stated traffic related to the proposal is a big concern. He asked if it would be possible to condition the variance to require construction of a bulb-out on Butte Avenue? Mr. Leland stated yes. Commissioner Peura asked for the height of the proposed berm? Mr. Leland stated the height was not included in the site plan. Commissioner Peura commended the applicant on their desire to use a berm instead of a fence to screen the lot from the residential neighborhood and urged them to ensure it is built to a sufficient height. City Manager Burton stated if the Commission would like to require a bulb-out on Butte Avenue he would recommend tabling the proposal to allow staff to look at the impact to the street network. Commissioner Cartwright indicated he would support requesting a bulb-out or some other device to increase pedestrian safety in the motion.

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

**Motion** **Commissioner Peura moved to table a variance for curbside sidewalks for 1450 Prospect Avenue to November 20, 2006.**  
Commissioner Oitzinger seconded the motion.



Ms. Morell-Gengler recommended approval of the CUP and stated 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.

Public comment

Mayor Smith called for public comment, Jolyn Eggert, 1505 Missoula Avenue; expressed concern with traffic problems in the area.

Bill Hayden, applicant; stated he is in agreement with either an "entrance only" on Butte Avenue or no entrance or exit on Butte Avenue.

John Gillespe, representing Taco John's; stated he believes providing an entrance on Butte Avenue would decrease the amount of overall traffic on Butte Avenue.

Motion

**Commissioner Peura moved approval for a resolution granting a Conditional Use Permit (CUP) to allow a parking lot for not more than 21 spaces in a R-O District for property legally described in the staff report and subject to the five conditions listed in the City Commission memo dated October 3, 2006, as amended, with the additional condition that the subject parking lot must not provide vehicular access to Butte Avenue.** Commissioner Oitzinger seconded the motion.

Discussion

Mayor Smith indicated he would support no entrance or exit on Butte Avenue. Commissioner Peura spoke in support of the motion. Commissioner Oitzinger encouraged Helena High School students to walk to the restaurant. Commissioner Cartwright indicated he would support the motion and suggested the applicants provide access from the west to mitigate traffic and screening issues.

Vote

All voted aye, motion carried. **Resolution #19426**

**Public Communications**

PUBLIC COMMUNICATIONS

**Meetings of Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, November 15, 2006 and the next Commission Meeting is Monday, November 20, 2006.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:50p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission