

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
December 18, 2006
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, December 18, 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 City Clerk Debbie Havens were present. Others present were George McCauley 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 December 4, 2006 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Final passage of Ordinance No. 3074 amending City of Helena Ordinance No. 2359 and amending the official zoning map thereof, for a zone change from: (1) R-3 (Medium Density Residential) District to B-2 (General Commercial) District for a portion of Lot 1, Block 6, and Lots 5 and 6, Block 5; (2) from R-3 (Medium Density Residential) District to R-O (Residential-Office) District for Lots 1 through 4, 7 and 8 of Block 17; and (3) from R-2 (Single Family Residential) District to R-O (Residential-Office) District for Lots 5 and 6, Block 17 of the Nob Hill Major Subdivision, Phase IV; generally located southwest of Colonial Drive, along Deerfield Lane, and east of Chianti Drive **Ordinance #3074**
- C. Resolution declaring certain property to be abandoned and unclaimed and authorizing the disposal of said property (seized evidence) **Resolution #19428**
- D. PropertyRoom.com contract
- E. Grandstreet Theatre Building Lease
- F. 2006 Comprehensive Annual Financial report
- G. Utility Bill Insert - City of Helena Sidewalk Snow Removal
- H. Acceptance of additional grant funds from HOME Investment Partnership to assist in the construction of Eagles Manor III, amending the budget to expend the grant funds, entering into an amended contract, and authorizing the City Manager to sign said contract

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

Public Comment

Mayor Smith asked for public comment, none was received.

Commissioner Cartwright complimented the Police Department for researching the PropertyRoom.com option.

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

Bid Award BID AWARD
A. State bid for administrative and service fleet purchases

Staff Report Fleet Manager Ed Robinson reported the State of Montana opened bids for administrative and service vehicles on October 27, 2006. The City of Helena included a number of vehicles identified for fleet replacement from all divisions in the bid process. Mr. Robinson referred the commission to the summary of all departments and divisions with their vehicle requests, budgets and bid prices.

Staff recommends the purchase of these new vehicles at the bid prices as presented on the bid summary. All vehicles replaced will be declared surplus and sold at the State auction September 2007.

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

Motion Commissioner Peura moved to award the low bids to those dealers identified in the summary of bids. Commissioner Throssell seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
A. Helena International Affairs Council Annual Report

HIAC Chair Pat Murdo introduced HIAC members Kay Hansen and Will Garvin and then delivered the annual report.

Ms. Murdo noted the HIAC by-laws have been amended to include affiliate members. This has enhanced the participation in HIAC. Ms. Murdo reported the Sudan Exhibit will be in Helena in July 2007; HIAC is one of the sponsors for the exhibit.

Mayor Smith and the commission members thanked Ms. Murdo for the work and dedication the HIAC members do on behalf of the City of Helena.

Commission comments Commissioner Cartwright noted there will have been three performances of the Nutcracker in Helena this holiday season.

Commissioner Peura updated the commission on the Downtown Visioning Group. The group continues to meet to formalize a recommendation. On January 17-18 the Downtown Visioning Group is sponsoring a seminar entitled "Destination Downtown: the Ten Steps to a Vibrant Downtown" to be held at the Best Western Hotel. Mr. Roger Brooks, CEO of Destination Development, has worked closely with many communities. Additional information on the seminar will be available in the city commission office.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
No report was given.

Report of the City Manager REPORT OF THE CITY MANAGER
A. Lewis & Clark County Veterans' Memorial Committee presentation

City Manager Burton invited members of the Memorial Committee to come forward and deliver an update on the memorial. Mr. Jim Cottrill spoke on behalf of the committee and delivered the report.

The committee thanked the city commission for the financial assistance to refurbish the war memorial in Memorial Park and the support given to all the veterans.

General Prendergast also addressed the commission and spoke on the team effort. General Prendergast recognized the committee members and city staff who worked to get the memorial refurbished.

General Prendergast stated the Montana National Guard has given \$25,000 toward the continued maintenance on the memorial. General Prendergast presented a Bob Morgan print of the Lewis & Clark County Veterans' Memorial to Mayor Smith and the commission.

Mayor Smith thanked the committee for their dedication to the city. Commissioner Oitzinger and Peura both concurred with Mayor Smith's comments.

B. Police Department Chief McGee stated HPD Officer Shane Moos has announced his retirement, effective December 31, 2006. A luncheon for Officer Moos will be held on December 29th at the Police Department.

McGee updated the commission and the community on the recent homicide of Paul Raftery. Chief McGee thanked Sheriff Liedle and County Attorney Leo Gallagher for their assistance.

Mayor Smith thanked Chief McGee and all law enforcement agencies that were involved with this case.

C. Helena Housing Authority Stewart Homes project

City Manager Burton invited Helena Housing Authority Executive Director Colleen McCarthy to give a presentation on the redevelopment of Stewart Homes.

Ms. McCarthy introduced Architect Mike Dowling and HHA Board members Maureen Garrity, Byron Stahly and Mary Lee Shepard. Ms. McCarthy and Mr. Dowling gave a PowerPoint presentation on the proposed development.

Mayor Smith stated he attended the HUD videoconference; he thanked Ms. McCarthy for the presentation and stated he would continue to rely on the experts going forward. He then asked for the HHA board's position on this proposal. Ms. McCarthy explained the board voted not to apply for the tax credit at this time. There will be ongoing discussions with the partners.

HHA would need a letter of support from the city; however, there are some unanswered questions that need answering. Commissioner Peura stated there are 132 units; replacement is 109 with 46 senior units. Ms. McCarthy stated the goal is to have more units than are currently in Stewart Homes. Commissioner Peura asked if the 20 market homes are not included in the previous numbers. Ms. McCarthy concurred; she noted there have been concerns expressed relating to if the 20 homes could be sold. Ms. McCarthy stated they would work directly with city staff when completing the final design. Commissioner Peura then asked what would happen if the 20 units could not be sold? Ms. McCarthy stated she believes those homes would be absorbed back into public housing, again not all the details have been worked out.

Commissioner Cartwright stated he does not believe density would be an issue.

Commissioner Oitzinger emphasized the importance for the 1st Time Homebuyers Program. The proposal to build and sell the 20 homes is very important. This will be a staff intensive project to make sure the project works.

Mayor Smith asked City Manager Burton if this would be brought forward to an administrative meeting for further discussion. City Manager Burton concurred as HHA is asking for a letter of support for the proposal. Mayor Smith asked that this be put on an upcoming administrative meeting agenda.

Mayor Smith spoke on the number of low-income housing units in Helena; what assurance would the city get that there would not be any less numbers; what is the relationship between the city and HUD if this project is completed; and the importance of creating partnerships within the community. Mayor Smith added resident relocation must be addressed within the community.

D. Internal Audit Program Review

City Controller Glenn Jorgenson reported the Administrative Services Department (ASD) implemented an internal audit program during fiscal year 2006. The program is risk assessment based and is designed to enhance the overall internal control structure of the City.

The city does contract with an independent audit organization to complete an annual audit. The auditor's work includes reviewing and testing internal controls. However, it is somewhat limited as the auditor is trying to insure internal controls are adequate in those areas that have a direct and material effect on the amounts presented in the financial statements. Internal controls are also tested in relation to compliance with laws and regulations, or city ordinances and policies.

The city's new Internal Audit Program is designed to be more comprehensive than the external auditor's work. The annual audit shows that the city has a good internal control structure in place. However, staff feels it is important to regularly review the structure in more detail to ensure it is adequate and working as planned. City policies, processes and procedures change with time to meet changes in its environment, and the internal controls need changes also. The program will be primarily focused on internal controls over financial processes, and compliance with laws and regulations. Efficiency and effectiveness audits will also be performed as the need arises, or if possible enhancements are identified during an audit.

The new internal control program is coordinated by the City Controller. There are two types of audits:

A. Discretionary audits are based on a city-wide risk assessment. ASD staff completes them at its discretion and attempts to review all internal controls within a division.

B. Special reviews are audits performed if specific problems are identified that ASD staff feel need immediate attention. These audits will be tailored to that specific situation.

Staff's goal at this time is to inform the commission and general public of the program.

Commissioner Peura stated this is an excellent program and noted the city just received another clean financial audit. This is another tool for accountability.

Mayor Smith stated this is going to be a great program and assures accountability to the citizens of Helena. Mayor Smith added the representatives from Galusha, Higgins and Galusha are also supportive of this program.

E. Urban Wildlife Task Force Update

City Manager Burton introduced Urban Wildlife Committee members Matt Cohen and Virginia Niccolucci. Ms. Niccolucci recognized Tom DeYoung, also a member of the task force. Ms. Niccolucci and Matt Cohen then presented the task force update report that included management options; deer census and public opinion survey. Mr. Cohen delivered the preliminary data from the survey results. The final results will be available in January 2007.

Ms. Niccolucci reviewed task force future actions to include: refine management options, finalize survey and make available, census results, public forums and outreach, draft report and final report to the city commission in March 2007.

Mayor Smith thanked the members of the task force for the report and work that has been accomplished. Commissioner Oitzinger stated the members of the task force have meet every other week since it was appointed and has been a very productive committee. Commissioner Oitzinger spoke on the importance of the town hall meetings; they will offer the citizens an opportunity to speak directly to the task force members.

Public Comments

Michael O'Neil, 621 Hilldale, addressed the commission regarding the HHA presentation. He thanked HHA staff and board members for the community outreach. Mr. O'Neil encouraged the city to become a partner in the MOU that Ms. McCarthy referenced during her presentation.

Amy Hall with Montana Legal Services Association and Susan Kidd, with WEEL, concurred with Mr. O'Neil's comments and noted they will be working with HHA to make this a viable project.

**Report from the
Helena Citizens**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member George McCauley gave the HCC report. The HCC hopes to have a new and/or extended profile for 2007, which includes concentrating on the seven neighborhood councils. There continues to be six vacancies on the HCC, if citizens are interested they can contact Justin Trafton, Chair of the HCC.

Mr. McCauley stated he has met with a number of his neighbors concerning a traffic issue and those who signed the petition for the traffic study are in support of hiring the proposed transportation technician position.

Mr. McCauley reported that Sarah Jaeger was recently named one of the first artists to be designated an USA Fellows 2006 by the United States Artists. Ms. Jaeger traveled to New York City to receive the award. Mayor Smith asked when the quality of life survey might be available. Mr. McCauley stated the final results would be available in January 2007. The next HCC meeting is December 20th in Room 326.

Mayor Smith asked Mr. McCauley to provide him with more information on Ms. Jaeger's award.

**Cable TV Public
Access Agreement**

CONSIDER AN AMENDMENT TO THE AGREEMENT FOR
ADMINISTRATION AND MANAGEMENT OF A CABLE TELEVISION
PUBLIC ACCESS CHANNEL FOR HELENA, MONTANA

Staff Report

Community Facilities Director Gery Carpenter reported in October 2004, the City contracted with Helena Civic Television ("HCTV") to manage a public access channel on cable television. This agreement provides that HCTV will produce the City Commission meetings live and provide another 48 hours of cable cast time per year for other events or meetings selected by the City. The City desires HCTV to also produce the regular monthly meetings of the Helena Zoning Commission and the Helena/Lewis and Clark County Consolidated Planning Board. HCTV is agreeable to providing these additional services but will need to employ another part-time employee to cover these two meetings. The cost of this part-time employee is about \$15,000 per year. Lewis and Clark County also has an agreement with HCTV that is similar to the City's. The County is agreeable to paying one-half of the additional cost for a new part-time employee hired by HCTV. The City's share of this additional cost is \$7,500 per year.

The proposed amendment to the agreement with HCTV will require HCTV to cable cast the regular monthly meetings of the Helena Zoning Commission and the Helena/Lewis and Clark County Consolidated Planning Board and to increase the annual compensation to HCTV by \$7,500 per year.

Director Carpenter recommended approval of the Amendment to the Agreement for Administration and Management of a Cable Television Public Access Channel between the City of Helena and HCTV.

Commission comment

Commissioner Peura asked if this amendment were approved, when would the additional broadcasts begin? Director Carpenter stated hopefully something would be done in January; however, that would be controlled by HCTV.

City Manager Burton stated the contract amendment includes the increase in staff that is required to increase coverage. Manager Burton stated he would be discussing with the commission a capital contribution, which would allow the commission chambers to use automatic cameras; which is also a 50/50 split with Lewis and Clark County. The additional capital contribution is not on the agenda this evening.

Mayor Smith asked if this amendment could be made without affecting the city budget. City Manager Burton stated the current city budget can absorb the additional \$7,500, which he will bring forward as a request for contingency funds.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Throssell moved approval of the Amendment to the Agreement for Administration and Management of a Cable Television Public Access Channel between the City of Helena and HCTV. Commissioner Oitzinger seconded the motion.

Mayor Smith commented that HCTV will also be doing live broadcasts of the 2007 Legislative Session proceedings into six of the other Montana communities.

Vote All voted aye, motion carried.

Big Sky Economic Economic Develop. Trust CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN AN APPLICATION FOR THE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND BEING SUBMITTED ON BEHALF OF THE STUDENT ASSISTANCE FOUNDATION.

Staff Report Community Facilities Director Sharon Haugen stated the proposal before the commission is for the City of Helena to sponsor a grant application to the Montana Department of Commerce Big Sky Economic Development Trust Fund, on behalf of the Student Assistance Foundation (SAF.) Ms. Haugen stated the Montana Business Assistance Connection and the City of Helena would be partners in this project. The Student Assistance Foundation (SAF) is a Montana nonprofit corporation that is organized and operated for charitable and educational purposes. Their mission is to provide loans and grants to students as well as provide outreach and education to parents and students on how to pay for higher education. SAF is projecting that it will increase the student loan portfolio that it services by 155% and they anticipate hiring an additional 35 to 50 full-time employees in the upcoming 12 months.

The proposal is the city will submit a grant application to the Department of Commerce's Big Sky Economic Development Trust fund Grant to assist Student Assistance Foundation of Montana in expanding their operation and employee base in the amount of \$170,000.

The grant funds in the amount of \$170,000 will be utilized to increase staffing, space, equipment and technology to handle this increase in business.

Ms. Haugen recommended approval authorizing submittal of a Montana Department of commerce Big Sky Economic Development Trust Fund Grant to assist the Student Assistance Foundation and authorize the Mayor to act on behalf of the city and sign the application.

Public comment Mayor Smith called for public comment. Mr. Sheldon Bartel, Executive Director and Sheli Jacoby of the Montana Business Assistance Connection, spoke in support of the proposal to submit the grant application. Ms. Jacoby reviewed the proposal and the jobs that would be created.

Motion Commissioner Peura moved approval authorizing submittal of a Montana Department of commerce Big Sky Economic Development Trust Fund Grant to assist the Student Assistance Foundation and authorized the Mayor to act on behalf of the city and sign the application. Commissioner Throssell seconded the motion. All voted aye, motion carried.

Expansion of Water & Sewer Service Boundary CONSIDER EXPANSION OF THE WATER AND SEWER SERVICE AREA BOUNDARY TO INCLUDE LOTS 1-9 IN BLOCK 7 OF THE BELT VIEW ADDITION

Staff Report City Engineer Ryan Leland reported the owners have recently purchased property located off Scott Drive and want to construct condominiums on platted lots. The developers are requesting to expand the water and sewer service boundary for the City of Helena to include Lots 1-9 in Block 7 of the Belt View Addition. This property is already

annexed into the city. Mr. Leland gave the history of why the property is within the city limits but does not have city water and sewer service.

City Engineer Ryan Leland recommended approval of the expansion of the water and sewer service boundaries to include Lots 109 in Block 7 of the Belt View Addition, subject to the following conditions:

- All infrastructure plans must be approved by the Public Works Department. This includes water, sewer, streets grading and drainage.
- Dedication of Scott Drive for right-of way (ROW).
- Dedication of Comstock Drive from Belt View Drive through Lots 1 and 9 of the development for ROW.
- The construction of all infrastructure to city standards.

Commission comments

Commissioner Cartwright asked if city standards include the street grade of 10%? Mr. Leland stated the standards do include the street grades. Commissioner Cartwright asked if Fire Chief Larson has signed off on the design? Mr. Leland stated the Fire Department is comfortable with the proposal.

Mayor Smith asked when the work would begin and when it would be completed. City Engineer Ryan Leland explained a new developer has purchased the property and would like to get the infrastructure installed as soon as possible.

Public comment

Mayor Smith called for public comment. Mr. Tony Hewitt, developer, explained the project would be completed in phases. Mr. Hewitt anticipated the entire build-out would be approximately two years.

Commissioner Cartwright asked for an update on the project at an administrative meeting when the final designs have been completed.

Motion

Commissioner Cartwright moved approval of the expansion of the water and sewer service boundaries to include Lots 1-9 in Block 7 of the Belt View Addition, subject to the conditions outlined above. Commissioner Peura seconded the motion. All voted aye, motion carried.

Taylor Street and Clore Avenue

CONSIDER A RESOLUTION OF INTENTION TO VACATE PORTIONS OF TAYLOR STREET AND CLORE AVENUE TO THE CENTERLINE OF THE RIGHTS-OF-WAY (ROW) ADJACENT TO LOTS 23 AND 24 IN BLOCK 1 OF THE ORIGINAL HELENA TOWNSITE

Staff Report

City Engineer Ryan Leland reported Joe Hrella and Dave Brown have applied to vacate a portion of the Taylor Street ROW and Park Avenue ROW to the centerline of the ROW adjacent to Lots 23 and 24 in Block 1 of the Original Helena Townsite. The total amount of the vacation is approximately 1891 square feet of portions of Taylor Street and Park Avenue ROW. The fee for the vacation would be approximately \$9,393.

If the commission approves the vacation of portions of Taylor Street and Clore Avenue rights of way it would correct an encroachment on city ROW.

Mr. Leland recommended approval of the resolution of intention to vacate portions of Taylor Street and Clore Avenue to the centerline of the rights-of-way adjacent to Lots 23 and 24 in Blocks 1 of the Original Helena Townsite and set a public hearing date for January 8, 2007.

Commission comments Commissioner Cartwright asked if the ownership of the retaining wall would transfer to Hair Hair Salon? City Engineer Leland concurred. Commissioner Throssell asked if access to the lots to the west and north of this property would be prohibited if this were approved. City Engineer stated there are options for access to the lots to the west and north. The property owners would have access down Taylor Street or they could access up into their lot; however, the property owners would have to develop the street.

Public comment Mayor Smith called for public comment. Mr. Joe Hrella spoke in support of the proposal, which will allow for the property lines to be cleaned up.

Motion **Commissioner Throssell moved approval of the resolution of intention to vacate portions of Taylor Street and Clore Avenue to the centerline of the rights-of-way adjacent to Lots 23 and 24 in Blocks 1 of the Original Helena Townsite and set a public hearing date for January 8, 2007.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19429**

Amended Subdivision Plat – Great Northern CONSIDER AN AMENDED SUBDIVISION PLAT AGREGATING 6 LOTS INTO 5 LOTS IN THE GREAT NORTHER PUD, LOCATED IN THE B-3 (CENTRAL BUSINESS) DISTRICT; GENERALLY LOCATED NORTH OF 14TH AVENUE BETWEEN GREAT NORTHERN BOULEVARD AND CAROUSEL WAY.

Staff Report Planner Kathy Macefield reported the City Commission tabled action for this proposal on December 4, 2006 to resolve issues related to emergency vehicle access. A revised amended plat has been submitted that identified Bicentennial Plaza as a dedicated right-of-way as stated in the agreement filed with the Clerk and Recorder (Book M30, Page 6505) in 2004. A written emergency vehicle access easement has also been submitted.

Montana law requires amended plats that redesign or rearrange six or more lots as a subdivision to be reviewed by the governing body (76-3-207 MCA). The City Subdivision Regulations state the minor subdivision review process is to be used for this type of amended plat. The six vacant and undeveloped lots will be aggregated into five lots with this subdivision, thus amending the Great Northern plat. The property is legally described as Lots 5-A, 7-A, 8, 9, 10 and 11, Block E, Great Northern Townsite PUD, Helena, Montana; generally located north of 14th Avenue between Great Northern Boulevard and Carousel Way. City infrastructure is already in place; no parkland is required.

The applicant has stated aggregating the lots as proposed would allow west-facing windows in two buildings that are proposed for the property.

Ms. Macefield recommended approval for the amended subdivision plat aggregating six lots into five lots located in the B-3 (Central Business) District, for property legally described in the Findings of Fact, Helena, Montana, generally located north of 14th Avenue between Great Northern Boulevard and Carousel Way, and to adopt the Findings of Fact contained therein.

Public comment

Mayor Smith called for public comment. Jeff Larson with Stahly Engineering, 3530 Centennial Drive; explained in order to put windows on one side of the proposed building the plat needs to be amended.

Motion

Commissioner Cartwright moved approval of the amended subdivision plat aggregating six lots into five lots located in the B-3 (Central Business) District, for property legally described in the Findings of Fact, Helena, Montana, generally located north of 14th Avenue between Great Northern Boulevard and Carousel Way, and to adopt the Findings of Fact contained therein. Commissioner Peura seconded the motion. All voted aye, motion carried.

Resolution of Intent To Annex – Stone Meadows Subdivision

CONSIDER A RESOLUTION OF INTENTION TO ANNEX LOTS 5A, 7A AND 8A AS SHOWN ON COS #3035465, LEWIS AND CLARK COUNTY, MONTANA, ALSO KNOWN AS THE STONE MEADOWS SUBDIVISION, AND THE FULL WIDTH OF THE ADJACENT GREEN MEADOW DRIVE RIGHT-OF-WAY INTO THE CITY OF HELENA AND ESTABLISH CONDITIONS FOR ANNEXATION; PROPERTY IS GENERALLY LOCATED EAST OF GREEN MEADOW DRIVE AND NORTH OF CRYSTAL SPRINGS SUBDIVISION

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING PRIOR TO ANNEXATION INTO THE CITY OF HELENA TO R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT, R-4 (HIGH DENSITY RESIDENTIAL) DISTRICT, AND PLI (PUBLIC LANDS AND INSTITUTIONS) DISTRICT FOR THE PROPOSED STONE MEADOWS SUBDIVISION; GENERALLY LOCATED EAST OF GREEN MEADOW DRIVE AND NORTH OF THE CRYSTAL SPRINGS SUBDIVISION.
- B. CONSIDER A PRELIMINARY PLAT FOR THE STONE MEADOWS MAJOR SUBDIVISION FROM 60.08 ACRES FOR PROPERTY GENERALLY LOCATED EAST OF GREEN MEADOW DRIVE AND NORTH OF CRYSTAL SPRINGS SUBDIVISION.

Staff Report

Planner Lucy Morell-Gengler reported the owner of this property, Justin Joyner representing 60 Stone Meadows, LLC, is requesting three simultaneous proposals for the same 60.08 –acre property;

- Rezoning to R-3 (Medium Density Residential), R-4 (High Density Residential) District, and PLI (Public Lands and Institutions) Districts;
- Annexation to the City of Helena; and
- Major Subdivision /Preliminary Plat for proposed Stone Meadows Subdivision creating 163 residential lots, 2 open space/park lots, and a lot for the existing cemetery.

Resolution of Annexation

The subject property is currently vacant and undeveloped although previously it was in agricultural use. This development represents a change from agricultural use to a more urban development with mixed residential uses although, this higher density development could relieve some of the pressure to develop agricultural lands further from the City.

Ms. Morrell-Gengler stated when reviewing the proposal for annexation the 2001 Growth Policy must be considered. The Growth Policy states: Development consistent with this plan. All development proposals (public and private) should be reviewed for consistency with the Growth Policy. Such reviews are required for subdivision proposals, zoning changes, substantial land use, facility and infrastructure changes, and other matters. Alterations or shifts in the economic, social and cultural conditions should also be considered in light of the plan's provisions.

Chapter 9 of the 2001 Helena Growth Policy addresses annexation in this way: "The City and County have, individually and cooperatively, identified urbanizing areas near existing city limits that could be suitable for annexation. The planning area addressed by the City of Helena Growth Policy generally extends up to 3 miles beyond the current city limits. This 3-mile area was chosen for several reasons:

- 1) The city is affected by development outside its boundaries and within close proximity;
- 2) This general areas contains land that could be annexed to the city in the future; and
- 3) This area includes the "urban areas" identified in the 2000 County Comprehensive Plan as compatible with planned municipal infrastructure within the 20-year planning horizon.

While the city's capacity to extend infrastructure to serve specific areas is a subject for detailed analysis, it generally appears that current City water and wastewater capacity is sufficient to support the eventual annexation of significant territory to the City of Helena. The following territories, if annexed, would need to develop to City of Helena infrastructure standards. It is anticipated that these areas could accommodate development at urban density.

The Growth Policy states in the Relation to Existing Land Use section: A growth policy need not always reflect the existing land use pattern established within the planning area, and its function should not be confused with that of an existing land use map. An existing land use map is a documentation of land uses in place at a point in time.

Accordingly, the growth policy ignores some existing land uses in order to present a generalized picture of the dominant land use character and trends of an area, and to reflect the transition of an existing land use to a new one. The growth policy attempts to show how current trends and logical progressions in land uses can be managed over a relatively long time frame.

In addition, the Growth policy states as a Land Use and Infrastructure policy The City shall encourage land use change and development proposals that make most efficient use of land, infrastructure, energy and other resources.

Utilizing these sections of the Growth Policy, it can be extrapolated that the subject property, which is within the three-mile transitional area anticipated for annexation review, is consistent with these sections of the Growth Policy. The subject property is currently identified as "Residential - Medium/High Density" on the 2001 Growth Policy land use map and this proposal satisfies many of the goals, objectives and policies of the Growth Policy. The proposed project will provide efficient use of the property where infrastructure will be installed per the proposed Stone Meadows subdivision.

Annexation of this property would result in higher density development close to the City which can reduce vehicle miles traveled, reduce ground water degradation, provide for more efficient delivery of services (street maintenance, garbage collection, etc.), and can accommodate a higher level of amenities (boulevards sidewalks, trails, etc.). City water and wastewater mains are located near to the subject property.

Annexation of this property and the proposed development is consistent with some of the uses in the area. Predominantly medium density residential uses similar to the proposed development are located south of the subdivision. Installation of infrastructure in accordance with city approved plans could further encourage efficient development of the area.

The subject property is currently less than 400 feet from the Helena city limits. For the City of Helena to consider annexation of property under Montana Code Annotated (MCA) Section 7-2-46, annexation by petition, the owner of 50% of the property to be annexed must petition the city for annexation. The applicant is the sole property owner of the Stone Meadows subdivision property under consideration of annexation and has petitioned the City for annexation.

Annexing unimproved right-of-way (ROW) is not sufficient to provide a link to the City of Helena for the provision of services such as police and fire protection. Therefore, the Benton Avenue extension must be dedicated to the City. This northward extension must be constructed to City standards or financially guaranteed prior to annexing the first phase of the Stone Meadows subdivision to establish a route between the proposed annexation and the City of Helena via a City street. This street will facilitate the provision of City services and continuity with the City street network.

The submitted Preliminary Design Report – Water Distribution System, indicates water supply for the Stone Meadows subdivision “domestic use and fire protection will be provided by connection to existing water mains owned by the City of Helena. ...The new water mains have been sized to meet the estimated residential and fire flow demands for Stone Meadows, as well as provide for future connection or expansion of the water system in this area.”

According to the applicants Preliminary Design Report – Wastewater Collection System, the force main and lift station would be sized to handle not only the flow from Stone Meadows, but also off-site wastewater flow generated from the area. During final design, the sizing of the force main and lift station will be carefully coordinated with the efforts of adjacent landowners, the City of Helena, and Lewis & Clark County to ensure there is sufficient capacity to serve the surrounding areas.

The site plan shows water and sewer mains will be located outside the boundaries of the Stone Meadows subdivision in the future Benton Avenue extension. Prior to construction of these improvements intended for City ownership and prior to annexation, the applicant must provide complete design drawings, construction details, design calculations, and construction specifications for the street, drainage and utilities and obtain approval from the City.

Review of construction plans for the subject property prior to annexation would help ensure that any construction work associated with property requesting annexation is reviewed by the city for conformance

with City Code requirements, including zoning, building, fire and infrastructure.

Regarding stormwater, portions of the extension of Benton Avenue between the City and the subdivision are adjacent to Crystal Springs. The construction of this roadway and the creation of impervious surface could generate stormwater that would impact the water quality of Crystal Springs. Therefore, the applicant must provide a complete storm drainage plan for improvements outside the boundaries of the subdivision, such as those associated within the future extension of Benton Avenue, demonstrating compliance with City Ordinances and State Law including:

- 1) Control of storm drainage during construction of on-site and off-site improvements.
- 2) Control of storm drainage for water quality.
- 3) Control of increased runoff for any event up to and including 100-year frequency events.

Ms. Morell-Gengler recommended approval of a Resolution of Intention to Annex Lots 5A, 7A and 8A shown on COS #3035465, Lewis and Clark County, Montana, also known as the Stone Meadows Major Subdivision, and the full width of the adjacent Green Meadow Drive right-of-way into the City of Helena; and establish the following conditions for annexation:

1. Access: Benton Avenue right-of-way (ROW) from the existing Benton Avenue to the southern boundary of the property to be annexed must be obtained and annexed prior to or simultaneously with annexation of the first phase of the Stone Meadows Subdivision. This ROW must be 76 feet wide to allow for a minor arterial street and must be constructed to City standards or financially guaranteed as described in these conditions.
2. Water/Wastewater: Water and wastewater mains must be extended to the subject property in accordance with the Stone Meadows application and preliminary plat as conditionally approved by the City Commission.
3. Stormwater: The applicant must provide a complete storm drainage plan demonstrating compliance with the Helena City Code and state law.
4. Improvements: Prior to construction of improvements intended for City ownership and prior to annexation, the applicant must provide complete design drawings, construction details, design calculations, and construction specifications for streets, storm drainage and utilities and obtain approval from the City.
5. Review of New Construction: The property owner must submit plans for review by the City of Helena for all construction commenced subsequent to the adoption of this resolution and prior to annexation of the property to ensure compliance with infrastructure, zoning, and all other Code requirements, including building and fire codes, and pay all fees for such reviews in the same manner and on the same basis as do owners of properties already in the City.
6. Taxes and Assessments: Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.
7. Final Plat: Applicants must submit the final plat of the subdivision to the City Commission for approval prior to filing the Resolution of Annexation.

8. Completion of Conditions: The conditions of annexation must be completed prior to the end of the period during which the preliminary plat approval is in force. The applicants must notify City Planning in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within that time frame, the City is under no obligation to annex the property and may discontinue any City services, including water and sewer service to the property.

Pre-Zoning

The applicant is requesting the adoption of an ordinance rezoning to R-3, R-4 and PLI Districts the Stone Meadows Subdivision prior to annexation to the City of Helena, Montana. This request is part of a development plan, which includes requests for annexation of approximately 60-acres to the City of Helena; preliminary plat approval for the proposed Stone Meadows major subdivision creating 163 residential lots, 2 open space/park lots, and a lot for the existing "Poor Farm Cemetery."

On November 14, 2006, the Zoning Commission recommended (4:1 vote) approval for the adoption of an ordinance rezoning prior to annexation into the City of Helena, Montana to:

- 1) R-3 (Medium Density Residential) District for Lots 6-36, Block 2 and all of Block 3, a total of 90 lots;
- 2) R-4 (High Density Residential) District for Lots 1-5, Block 2 and all of Block 1 except for Lot 13, total of 73 lots; and
- 3) PLI (Public Lands and Institutions) District for Lot 13, Block 1, the Poor Farm Cemetery, and Open Space #1 and Open Space #2

All as shown on the preliminary plat for the proposed Stone Meadows Subdivision legally described as Lots 5A, 7A and 8A on COS #3035465, Lewis and Clark County, Montana; generally located east of Green Meadow Drive and north of Crystal Springs subdivision.

Ms. Morell-Gengler recommended approval for an ordinance pre-zoning prior to annexation into the City of Helena, Montana, as outlined above.

Preliminary Plat

Mr. Morell-Gengler reported on November 21, 2006 the Consolidated Planning Board held a public hearing for a major subdivision/preliminary plat, to be known as Stone Meadows subdivision. The Planning Board adopted one change to the Findings of Fact and conditions recommended by staff (identified with underlining in the draft Findings of Fact). The Planning Board unanimously recommended conditional approval (6:0 vote) for the preliminary plat of the Stone Meadows Major Subdivision creating 163 residential lots, 2 open space/park lots, and a lot for the existing cemetery from 60.08 acres and to adopt the Findings of Fact and the amended conditions contained therein for property legally described in the Findings of Facts.

Commission comments

Mayor Smith asked if in addition to taking public comment on the resolution of intention to annex, also open up the public hearings for 16A and 16B. City Attorney Nielsen concurred.

Commissioner Throssell asked if Cooney Drive dead-ends at the old county nursing home at the present time. Ms. Morrell-Gengler concurred. Commissioner Throssell asked if the proposed dedication is in anticipation of the extension of Cooney Drive. Ms. Morrell-Gengler again concurred and noted it would be in compliance with the

transportation plan. Commissioner Throssell asked if there is another access from Benton Avenue? Ms. Morrell-Gengler explained the applicant in their original proposal had requested a connection from their subdivision to Benton Avenue. As proposed, it would not be consistent with the other road networks in the area. Staff anticipates the extension of Horseshoe Bend, which would be an east/west connector. Ms. Morrell-Gengler then addressed the expansion of the street network within the subdivision and noted Benton Avenue extension is staff's preferred second access to the subdivision. Commissioner Throssell asked if the lots to the east side would rely on just one crossing across the Crystal Springs Creek dedication for the time being? Ms. Morrell-Gengler concurred. Commissioner Throssell asked what is the anticipated cost, not the installation of the new lift station and equipment, but in the ongoing operation and maintenance of the lift station? City Manager Burton stated staff has the operating and maintenance costs for the existing lift station. The proposed lift station is larger; therefore, staff does not know what the incremental increase would be based on its size. Public Works John Rundquist concurred with City Manager Burton's comments. However, due to the location and the additional volume, it would be somewhat more expensive. Commissioner Throssell asked if the additional maintenance costs would be the responsibility of the people in the subdivision or would it be distributed to all of the ratepayers on the wastewater system? Director Rundquist stated the developer is responsible for the construction of the lift station; however the city and the utility customers would be responsible for cost of the maintenance.

Commissioner Cartwright stated the further the city allows development to the north, the greater the expenses for those people currently in the city. He asked if staff would agree with that statement? Public Works Director John Rundquist stated he is not sure that is totally correct, there would be additional cost to pump because it is further north; but to say what that is, is relative to population served. Staff would have to do additional calculations.

Commissioner Cartwright referred to the Environmental Assessment that was completed and noted in one of the conditions it states that Cooney Drive is on the west side of the development; in reality it is on the east side. Mayor Smith asked if the interim county zoning would apply to the adjacent county property. Ms. Morrell-Gengler deferred the question to the City Manager. City Manager Burton stated the current zoning districts in the county would remain; however, any un-zoned property would be affected by the interim zoning that was recently adopted by Lewis and Clark County commission. Mayor Smith stated the recommendation is to annex a non-contiguous property and asked if a development agreement would be necessary. City Manager Burton stated he does not believe a development agreement is necessary for this proposal. There have been discussions with the property owners to the south, which will create some elderly housing and a church compound. City Manager Burton stated the timing of the two development is moving forward in a positive manner. With the rezoning that exists on the southern lot and what is proposed, the city would be able to stage the city continuity with the various property owners. Additionally, the entire county complex, including the old Cooney Home and county shops are on city services and at some point should be annexed into the city.

Commissioner Peura stated he is concerned with the street grid and the connectivity; specifically the prezone to R-3 to the south. Commissioner Peura asked for reassurance that what is proposed to the north would create an effective and connected street grid to the parcel to the south. Ms. Morrell-Gengler stated the applicant has proposed a local street access to the property to the north, as well as the Benton Avenue extension. In discussions staff has had with the property owners to the south, they have indicated because they anticipate utilization of the property as a church compound, they are not certain at this point that they would like a street connection through the area because of the design.

Commissioner Peura stated one of the conditions requires Benton Avenue being extended through the development. Ms. Morrell-Gengler concurred. Commissioner Peura asked if staff has confirmed the extension of Benton Avenue from Custer Avenue to this proposed development. City Manager Burton stated staff is in the final stages of acquiring the right-of-way for the extension of Benton Avenue from Custer Avenue to the Crystal Springs Subdivision. Staff is also in discussion with MDT on the reconfiguration of the Benton Avenue and Custer Avenue intersection. Hopefully the city will be able to complete the intersection and extension of Benton Avenue in the 2007 construction season.

Commissioner Peura asked why the open lands area is zoned PLI. Ms. Gengler stated PLI zoning is the only zone that allows a cemetery. Commissioner Peura stated he is interested in hearing from the applicant regarding the timing of the build out and the intention of the R-4 zoning including the price ranges of the homes anticipated.

Public Testimony

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

Mark Brooke, Morrison/Maierle, 1 Engineering Place, reviewed the three proposals. Mr. Brooke stated he will focus on the zoning and the intention of the applicants.

Mr. Brooke stated he will also address the comments from the commission. The main issue he wants to focus on is the zoning and the intention of the zoning. Mr. Brooke complemented Ms. Morrell-Gengler for the presentation and the context of the subdivision review and how it fits into the planning of the area. On the parcel south of the subdivision and west of Benton Avenue, the property owner plans to build a church with a campus type compound. Mr. Brooke noted the two property owners have met and the applicant for Stone Meadows is willing to accommodate the adjacent property's access issues they require; that may involve the connection of a road on the northern boundary of their property, either as a public right of way or some type of non-motorized connectivity. With that respect, one of the elements of the design of Stone Meadows, is a clustered development. There is more open space dedication than what is required, part of this is to address some of the concerns with the set back from Crystal Springs. To offset the open space and make the project viable in terms of the development density and recognize the road network, the proximity to Green Meadow Drive and the minor arterial extension of Benton Avenue, the developer has proposed the higher density of R-4. The R-4 density does include the multi-family component, the intention is to allow smaller lots that could be sold affordably for single family housing, but also accommodate

townhouse, condo uses and some 2, 4 and 6 plex-units on the larger lots.

Regarding the timing of the build out, if the commission approves the agenda items this evening, the applicant would begin phasing the project in the course of 2007 with construction beginning late in the year. Mr. Brooke again stated the proposal is to be phased; therefore, parcels west of Benton Avenue would be constructed first, retaining the property on the east side of Crystal Springs for the last phase of development.

Shannon Marinko, Skyline Surveying, discussed the access off the southern boundary of the development and connecting back into Benton Avenue. The applicant does hold an easement to the access. As previously mentioned, this development will be built in phases and with that phase being the last portion to be built. The applicant is hoping the property to the south would be developed prior to using the easement. The developers hope to have one crossing of the creek in order to preserve the open space and not have a lot of traffic going through the corridor.

George McCauley, 926 5th Avenue, spoke on the importance of affordable housing in the community. He asked if the developer could identify what price range these lots/houses might sell for.

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

Commission comments

Commissioner Oitzinger stated staff received a memorandum from the Water Quality Protection District regarding the stormwater quality in the area. She referenced the Finding of Facts, page 11, Water, and A, B & C, and asked if they meet the request that the Water Quality Protection District asked for under best management practices? Public Works Director John Rundquist stated the city's ordinance relative to stormwater requires that there is no degradation of water quality off-site from any new development. The ordinance also requires there is no additional run off from the site. Staff uses the Engineering Standards which include best management practices for stormwater facilities to both collect sediment and the detrimental affects of stormwater runoff prior to it getting off site and into the drainages. Commissioner Oitzinger stated the best management practices that were identified in the memorandum are pertinent to the status of the wetland and described as wet ponds, created wetlands, filters, infiltration trenches and swales. Commissioner Oitzinger asked if the conditions in the Findings of Fact encompass the best management practices. Director Rundquist stated the stormwater requirements come into play during the design period; the developer needs to demonstrate exactly what is in the city codes. There is a whole realm of best management practices that could be used to design the stormwater drainage plan. Director Rundquist referenced page 16 of the Findings of Fact, 4. Effects on Natural Environment, E and F. Director Rundquist emphasized infrastructure plans would be reviewed during final design. Commissioner Oitzinger stated she is not inclined to add language to the Findings of Fact. She is comfortable that staff will address this during the design consideration.

Mayor Smith stated the stormwater drainage plan is usually reviewed and approved during the final design of the project. City Manager Burton stated once the commission is comfortable with the concept of a development, the applicants become comfortable with developing the final design.

Commissioner Cartwright stated the water table in the area is relatively high, and asked if the sewer lift station would be below the water table and if that would create any problems during construction or with long-term maintenance. Mr. Brooke concurred the water table is high; however, it should not create any additional maintenance costs. He noted the lift station for the Crystal Springs Subdivision is built below the water table. The lift station and wet well would be designed to be watertight. In addition, the design has to be approved by the Department of Environmental Quality.

Commissioner Cartwright asked if the new lift station would be sized to accommodate the extra load from Fort Harrison? Mr. Brooke stated the existing lift station currently handles wastewater flows from Fort Harrison; once the line is abandoned and moved to the north, it will be upsized to handle future capacity projections from the gravity main. Commissioner Cartwright asked who sets the size of the sewer and how much area to the west is being opened up by moving the lift station to the north? City Manager Burton stated he is not sure the commission is opening up property; it depends upon proximity to city standards or county standards. What becomes important and is a valuable tool is the information from the Wastewater Collection System Study. Staff is going to be able use this tool to monitor the capacity for decisions the commission has already made, right up through this lift station. Commissioner Cartwright asked if the lift station is moved further to the north, what areas would have access to it? Public Works Director John Rundquist stated that is one element of the design review that staff is going to do as well as look at the capacity of that lift station relative to what the collection system master planning states, and make their recommendation from that information. Commissioner Cartwright stated the discussion on where Helena should grow needs to be held.

Commissioner Cartwright stated this is a good design, he asked if R-4 would be sufficient to provide all of the services. Commissioner Cartwright stated he would be inclined to zone some of the northwest corner at least R-0 to allow restaurants and certain office space in there. He asked if the applicant had considered expanding the zoning to include other uses, such as restaurants. Mr. Brooke stated this was discussed at the Zoning Commission hearing; whether to include some type of neighborhood retail. Mr. Brooke stated the idea of having mixed uses is a good idea, however, he is not sure if it pencils out economically. The Zoning Commission discussed how to try and accommodate that suggestion. One idea that came out of that meeting is there is some discussion that the City of Helena is looking at revising the zoning standards and one of the provisions is to possibly look at allowing a neighborhood type of establishment. The type of zoning that is before the commission this evening would accommodate that. Mr. Brooke stated the element to keep in mind is commercial doesn't happen by accident, even where you try to plan commercial to occur, it is very difficult to be viable. Mr. Brooke stated this development does not have the density that would accommodate a retail type of business. Commissioner Cartwright thanked the applicant for having thought of it; he stated he is inclined to zone some of the lots in Block 1, R-O, which doesn't mandate commercial and doesn't exclude anything in the preliminary stages but would make it possible. Mr. Brooke stated the size of the lots in the proposal are not large enough to accommodate commercial uses, they would not have enough parking and other elements to make it viable.

Commissioner Throssell stated the applicant spoke about developing it in phases; however, the proposal before the commission is preliminary approval for the entire subdivision. Ms. Morrell-Gengler stated the applicant has not submitted a phasing plan, although given the size of the subdivision, they may develop it in phases, each phase would have to be a stand alone phase; the water, sewer and access would have to accommodate that phase by itself. The city has allowed phasing in the past and it depends on the independence of that particular subdivision. Commissioner Throssell stated he is concerned with the east portion of the subdivision not having a second access from Cooney Drive. Commissioner Throssell asked if it would be possible to condition the approval of the subdivision upon contingencies that have been discussed, including the eastern portion having a second access?

Ms. Morrell-Gengler stated the subdivision regulations require that subdivisions that create more than 200 vehicle trips per day be required to have two access. This subdivision meets that requirement. She then deferred Commissioner Throssell's question to City Attorney David Nielsen. City Attorney Nielsen stated the final plat comes in phases and the commission has the opportunity to review the phases to assure it has the appropriate access. City Attorney Nielsen stated it could be put in as a condition; however, it is not necessary at this time as the commission is being asked to approve the larger concept. After the improvements are installed or financially guaranteed, then the review could be done on each plat application.

Commissioner Cartwright asked if approving the preliminary plat without conditions creates some type of entitlement for the plat without Cooney Drive being completed? Ms. Morrell-Gengler stated the extension of Cooney Drive to the existing street was not part of this subdivision, just the provision of a future connection when the property to the south develops. Commissioner Cartwright stated he believes the subdivision has been very well designed for future connectivity, once those streets or even part of those streets are in on the east side, the question of access will go away. The question is by approving it now without conditioning it, do we create an expectation, some entitlement that the plat would be approved even if the connecting streets to the south and east were not yet finished. City Attorney David Nielsen stated in order to make it clear, he would recommend the commission includes a condition that the eastside could not be phased in first, it has to be phased in last to assure connectivity. Commissioner Cartwright stated the condition he was thinking of would have a completed connection other than "Street B". City Attorney Nielsen stated the applicant has proposed that they do have an easement from the south, which would come across and connect into Benton, which would be the second access point. This might be the least desirable, however, that is still legally available. City Attorney Nielsen stated he could not advise the commission on which access is better because that is not a legal question, it is a policy decision. City Manager Burton stated one way is to condition the dual access to the east side of the development. What will functionally happen if this is approved is that each phase will come before the commission for final plat approval. The applicant has already stated their preference would be to develop the east side last.

Commissioner Peura stated he continues to be concerned with the annexation and the additional costs for the maintenance of the lift station. He asked is it possible through wastewater utility rates to particularly allocate those additional costs solely to the residents of this

subdivision? City Manager Burton stated the commission and staff has had several discussions about that very issue over the years and whether it is a lift station on the upper west side or this particular development, there are many varying areas of town that use it. City Manager Burton stated it is his understanding the city cannot have varying rates. He also stated he would not automatically determine that the operating costs for this lift station would be overwhelming. The commission needs to weigh that against spreading all the other costs that residents pay, relative to what this subdivision might bring in to the city. City Attorney Nielsen concurred the city's utility rates have to be uniform. Commissioner Peura stated it is not addressed in great detail how the fire services and police services would service this development as a 2008 responsibility now that the applicant has explained the build out plan. Commissioner Peura reiterated his concern with expanding the footprint of the city asked if Fire Chief Larson would like to address his comments.

Fire Chief Larson stated he does have concerns with continuing to expand the footprint of the city. However, he believes this issue would be a key focus of the fire service review and any recommendations that might be brought forward. Chief Larson stated he could not give specifics on what the costs might be.

Motion

Commissioner Oitzinger moved approval of a resolution of intention to annex Lots 5A, 7A, and 8A shown on COS #3035465, Lewis and Clark County, Montana, also known as the Stone Meadows Subdivision, and the full width of the adjacent Green Meadow Drive right-of-way, into the City of Helena as legally described in the resolution of intention to annex into the City of Helena, and establish conditions for annexation as stated in the resolution. Commissioner Cartwright seconded the motion.

Commissioner Throssell stated he would be voting against the resolution of annexation. He stated this is a well-designed subdivision; however, he is concerned this is too far and the city's footprint is getting to large and might not be able to provide services to the expanded area.

Commissioner Peura concurred with Commissioner Throssell's comments and stated he too would be voting against the annexation.

Mayor Smith stated he will support the proposal and believes there are mechanisms in place to handle the concerns.

Vote

Motion carried 3-2 with Commissioners Throssell and Peura voting no. **Resolution #19430**

Motion

Commissioner Oitzinger moved approval for first passage of an ordinance pre-zoning prior to annexation into the City of Helena, Montana to: R-3 (Medium Density Residential) District for Lots 6-36, Block 2 and all of Block 3, a total of 90 lots; R-4 (High Density Residential) District for Lots 1-5, Block 2 and all of Block 1 except for Lot 13, total of 73 lots; and PLI (Public Lands and Institutions) District for Lot 13, Block 1, the Poor Farm Cemetery, and Open Space #1 and Open Space #2. All as shown on the preliminary plat for the proposed Stone Meadows Subdivision legally described in the ordinance. Commissioner Throssell seconded the motion.

Friendly Amendment Commissioner Cartwright offered a friendly amendment to amend the motion to zone Lots 1-3 and Lots 14-24, Block 1 as R-0 for a total of 14 lots that would be removed from the R-4, dropping that to 59 lots.

Mayor Smith asked Commissioners Oitzinger and Throssell if they would accept the amendment. Commissioner Oitzinger declined to accept the friendly amendment as presented by Commissioner Cartwright.

Substitute Motion Commissioner Cartwright moved approval for an ordinance pre-zoning prior to annexation into the city of Helena, Montana to: R-3 (Medium Density Residential) District for Lots 6-36, Block 2 and all of Block 3, a total of 90 lots; R-4 (High Density Residential) District for Lots 1-5, block 2 and all of Block 1 except for Lots 1-3 and 13-24, total of 59 lots; R-0 (Residential Office) District for Lots 1-3 and 14-24, Block 1 for a total of 14 lots and PLI (Public Lands Institutions) District for Lot 13, Block 1, the Poor Farm Cemetery, and Open space #1 and Open Space #2. All as shown on the preliminary plat for the proposed Stone Meadows Subdivision legally described in the ordinance. Commissioner Peura seconded the motion.

Commissioner Peura asked if there is anything that an applicant would want to do in an R-4 that they could not do in an R-O. Ms. Gengler stated the R-0 and R-4 are very similar, there are a number of non-residential uses permitted in the R-4 with a Conditional Use Permit, including offices, grocery stores and a number of other service type uses. The R-0 allows some of those by right and also has a more extensive list of conditional permit uses.

Substitute Motion & Vote Motion failed 2-3 with Commissioners Throssell, Oitzinger and Mayor Smith voting no.

Vote on Original Motion Motion carried 4-1 with Commissioner Cartwright voting no. **Ordinance #3075**

Motion Commissioner Oitzinger moved to conditionally approve the preliminary plat for the Stone Meadows major subdivision creating 163 residential lots, 2 open space/park lots, and a lot for the existing cemetery from 60.08 acres, 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.

Commissioner Cartwright stated there was discussion and a recommendation from the Planning Board to have access to the north between Benton Avenue and Green Meadow, while it is referenced in a couple of places, it is not included in the Approval with Conditions.

Ms. Morrell-Gengler referenced page 22, item G of the draft Findings of Fact that address the access. Commissioner Cartwright concurred the language is in the Findings of Fact and would not ask that it also be included in the Approval of Conditions section.

Friendly Amendment Commissioner Cartwright offered a friendly amendment to amend the Findings of Fact to include dual access to the eastern portion of the Stone Meadows Subdivision east of Crystal Springs must be provided when the phase is developed. Commissioner Oitzinger accepted the friendly amendment.

Friendly Amendment Commissioner Throssell offered a friendly amendment to condition that the applicant waive any right to protest the creation of any special maintenance district that might be created to fund the operation of the pump lift station.

Commissioner Oitzinger asked City Attorney Nielsen if a special improvement district could be created for maintenance. City Attorney Nielsen asked Commissioner Throssell to restate his amendments.

Commissioner Throssell stated he recommends adding a condition to the approval that states the applicant must waive the right to protest to the creation of any special maintenance district for the operation and maintenance of the pump lift station. City Attorney Nielsen stated technically it could be created; practically it is not feasible. Special Improvement Districts are primarily created to build the improvement; the statute does allow for the creation of a district for the maintenance. However, when it involves a utility, like water and sewer, all the maintenance goes through the ratepayer.

Commissioner Oitzinger did not accept the friendly amendment.

Vote on Amended Motion Motion carried 4-1 with Commissioner Throssell voting no.

Public Communications PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest MEETINGS OF INTEREST
The next Administrative Meeting is Wednesday, January 3, 2007 and the next Commission Meeting is Monday, January 8, 2007. The City/County Commission Joint Work Session will be held on Thursday, January 4, 2007. The commission retreat is scheduled for January 12 and 13, 2007.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 10:00 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission

