

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
March 26, 2007
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, March 26, 2007 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 Jim Tucker, Jr. 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 March 12, 2007 were approved as submitted.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Consultant contract for Impact Fee Study
C. Montana Department of Transportation Construction Agreement for Pavement Maintenance project
D. Bid rejection - Malben Reservoir Corrosion Coating Replacement, Project No. 06-41

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

Commissioner Oitzinger asked that item B to be removed for discussion.

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

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

Item B B. CONSULTANT CONTRACT FOR IMPACT FEE STUDY

Discussion Commissioner Oitzinger expressed concern over the cost of the first phase of the contract and asked Administrative Services Director Tim Magee to provide additional information on the budget for the study. Director Magee explained the contract work is exhaustive because of the scope of the project, which is the feasibility portion of the study that will include a large amount of data collection. Phase two will consist of a review of the recommendations that resulted from information collected in the first phase. Commissioner Oitzinger asked if the study is being frontloaded in phase one? Director Magee concurred. Commissioner Oitzinger commented the process is pricey because of the way state statute is written and this is another example of how different levels of government impact each other profoundly. Commissioner Peura asked

if the contract is within the designated budget for the project? Director Magee stated yes.

Motion

Commissioner Oitzinger moved approval of item B on the consent agenda. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Peura reported he attended the statewide Bicycle and Pedestrian Coalition today; it was a very informative seminar. He spoke with colleagues from around the state about the city's neighborhood transportation program and there was a lot of interest. He also reminded citizens to yield to pedestrians and watch out for kids walking to school with the weather getting nicer.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Burton asked Fire Chief Steve Larson to report on the Fire Intern Program, which is a partnership with the University of Montana-Helena College of Technology (HCT). Fire Chief Larson introduced HCT Dean Daniel Bingham and Dave Kneebone, head of the Fire Intern program at HCT and Fire Captain Pat Clinch. Captain Clinch gave an overview of the program.

Dean Bingham expressed the college's gratitude for being able to partner with the city on this program. Mr. Neebone spoke of the importance of the program. Mayor Smith presented graduation certificates to Louis Menghini, Jesse Jutila, Kory Rehmer and Angela Sperry, who was absent.

City Manager Burton reported he had sent the bi-annual letter to the Federal Bureau of Investigation (FBI) per the city's Patriot Act Resolution. A copy of the letter was given to the Commission members. He asked American Civil Liberties Union (ACLU) of Montana Executive Director Scott Crichton to report on what has transpired with the act in Washington, DC.

Scott Crichton, ACLU Montana Executive Director, Rodney Street; spoke in opposition to the Patriot Act and read a written statement into the record. A copy of this statement is included in the Commission packet as part of the official record. Commissioner Oitzinger asked if the reauthorization of the Patriot Act relaxed the previous requirements of the act? Mr. Crichton stated no. Commissioner Cartwright stated of all the motions he has brought forward this is the one he least wanted to be vindicated on. He noted the information contained in the FBI's report results in a sad day for Montana and the United States but he is glad the city passed Resolution No. 19181.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Jim Tucker Jr. reported the HCC is inviting all members of the public to attend the HCC quarterly district meetings beginning in April and gave the schedule of meetings. One topic of discussion will be vacancies on the council.

Mr. Tucker presented the following recommendation to the Commission:

The Helena Citizens Council recommends that City of Helena establish a uniform timeframe for speed limit reduction to 15 miles per hour in school zones, and the timeframe should be from 7:30am to 4:30pm.

Commissioner Peura concurred with the recommendation and thanked the HCC for bringing it forward. Mayor Smith asked that the recommendation be placed on an upcoming Administrative Meeting agenda for discussion.

Artisan Park Subd.

CONSIDER AN AGREEMENT FOR SATISFACTION OF CERTAIN CONDITIONS FOR THE FIRST PHASE OF THE ARTISAN PARK MAJOR SUBDIVISION; GENERALLY LOCATED EAST OF FORT HARRISON, SOUTH OF COUNTRY CLUB AVENUE, WEST OF THE ARCHIE BRAY FOUNDATION, AND NORTH OF TENMILE CREEK.

Staff Report

City Planner Lucy Morell-Gengler reported on January 30, 2006, the Helena City Commission approved:

- Pre-zoning to R-2 (Single-Family Residential) District and B-1 (Neighborhood Business) District;
- A Resolution of Intention to commence annexation to the City of Helena;
- Conditional preliminary plat for the proposed Artisan Park major subdivision creating 586 residential lots, 127 mixed use residential/commercial lots and parkland; and
- Conditional Use Permit (CUP) for a Planned Unit Development (PUD) to allow greater building heights, density and intensity of uses than would be permitted by the R-2 and B-1 underlying zoning.

The applicant is requesting clarification of annexation and subdivision conditions pertaining to the traffic light at the intersection of Williams Street and Highway 12; improvements to Country Club Avenue and the portion of Williams Street between Fort Harrison and the Artisan Park Subdivision; and improvements to the water and wastewater systems including the looped water system for the first phase of the Artisan Park subdivision. The applicant is requesting an agreement with the city establishing the parameters in which those conditions would be considered completed for the first phase of the development. All other conditions associated with the first phase of the subdivision identified in the Findings of Fact and the Resolution of Intention to Commence Annexation would not be affected by this agreement.

The applicant is requesting clarification of certain conditions of approval for the first phase of the subdivision; there are no material changes to the preliminary plat. The intent of this request is to coordinate looping the water system with improvements to Country Club Avenue; allow time to consult with adjacent property owners in the design of Country Club Avenue; and coordination of improvements to Williams Street (installation of a new bridge and signal light) with installation of Country Club Avenue. Ms. Morell-Gengler explained when the proposal was first presented, the developer proposed the route of annexation be Williams Street. Through the review process by the City

Commission, the route of annexation was determined to be Country Club Avenue. In discussions with the Montana Department of Transportation (MDT), which has jurisdiction over the subject intersection, it was determined that the installation of the signal would be delayed from 2008 to 2010 or 2011. The original condition required the developer to install the signal light with the first phase of the subdivision. Because of the delay by MDT, city staff and the developer are recommending the condition be amended to require the installation no later than the final phase of the subdivision. Also, Williams Street was to be improved first. With the delay by MDT, staff is proposing Country Club Avenue be improved first. The developer did not anticipate this change and will not be ready to install Country Club Avenue in the first phase of the subdivision. They are requesting to financially guarantee the improvements to the designated portion of Country Club Avenue with the first phase. Regarding water mains, the developer would also financially guarantee installation of a looping water system connecting to a water main near Highway 12. Staff does not anticipate that line would actually be installed, it is anticipated the water line would actually be installed on Country Club Avenue. In addition, the parameters of the applicant's responsibility for the lift station study would be clarified by the proposed agreement. Ms. Morell-Gengler noted many of these clarifications are the result of timing.

Ms. Morell-Gengler recommended approval of the agreement, as it would facilitate coordination of infrastructure installation with the needs of each phase.

Public comment

Mayor Smith called for public comment.

Jeff Rhodes, partner in Artisan Park Project, 8604 Estrolita, Las Vegas, NV; stated he supports staff's recommendation and appreciates the city's timeliness in moving forward with the project. He noted he is working diligently to work out the technical issues associated with Country Club Avenue.

Commission comment

Commissioner Peura asked for the definition of "financially guaranteed" as stated in the agreement? City Attorney Nielsen explained the applicant would submit a performance bond or letter of credit with the agreement. Commissioner Peura asked Mr. Rhodes for the timetable of phase one? Mr. Rhodes stated engineering and improvement plans have been submitted to the city for review and construction on Phase 1A is expected to start on May 1, 2007, with lots available for sale this fall.

Motion

Commissioner Cartwright moved approval of the "Agreement for Satisfaction of Subdivision and Annexation Conditions" for the first phase of the Artisan Park Subdivision. Commissioner Peura seconded the motion. All voted aye, motion carried.

Discussion

Mayor Smith referred to properties on city water and/or sewer in the trailer court on Joslyn Street, and asked if this project would facilitate annexation of that property. City Manager Burton stated those owners have been contacted and staff is working to coordinate additional land use issues in the area for consideration by the Commission. Commissioner Cartwright encouraged staff to create the rails to trails

connection from Joslyn Street to Spring Meadow Lake while working on this subdivision.

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3080 AMENDING SECTION 6-2-6 OF THE HELENA CITY CODE TO CLARIFY REQUIREMENTS FOR WATER MAIN EXTENSIONS AND COST REBATE.

B. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3079 AMENDING SECTION 6-3-4 OF THE HELENA CITY CODE TO CLARIFY REQUIREMENTS FOR WASTEWATER MAIN EXTENSIONS AND LIFT STATIONS AND COST REBATE.

Staff Report

City Public Works Director John Rundquist reported Sections 6-2-6 and 6-3-4 of the Helena City Code define the conditions for reimbursement of costs associated with extension of new water and wastewater facilities and rebates associated therewith. The current code sections evolved separately and although the intent of both is similar, the language difference between the two creates some confusion as to correct city policy. In addition, the requirements of these ordinances do not fully anticipate the range of facilities that could be reimbursed when benefited properties connect to city utilities. The proposed ordinance revisions would accomplish the follow:

1. Similar format, structure, and consistency between the two ordinances. For example, Section 6-3-4 specifically allows the city to obtain rebates for new wastewater facilities constructed and paid for by the city. However, Section 6-2-6 has no provision to allow this for water facilities.

2. Expand the rebate policy to include sewer force mains and interceptors and water reservoirs and pump stations.

3. Clarity, consistency, flexibility, and adaptability in water and sewer main extension requirements by the city. Every development should fit like a puzzle piece so that the water and sewer main requirements anticipate utility service expansion to adjacent properties on all sides. Presently, there are discrepancies and some vague wording in the existing ordinances relative to what the city may require for main extensions to serve new developments. Section 6-2-6 states that "the director of public works may require the public mains be connected, extended or looped in addition to the paid extension to provide an adequate and functional water supply". However, Section 6-3-4 states: "Beginning at the point where service is available, the main must be extended through the entire length of the property to be served". Neither of these requirements fully address the city's need for main extensions to serve new developments, especially relative to larger subdivisions that may have multiple streets, multiple points of connection, and a variety of options for future extensions to bordering properties.

Director Rundquist recommended approval of the proposed revisions to Helena City Code Sections 6-2-6 and 6-3-4 to clarify the process for water and wastewater facility extensions and the rebates

associated therewith, as they would expand reimbursement potential to a variety of utility infrastructure and allow for a common format and structure to the "rebate ordinance" to assist with consistent code interpretations. He noted Commissioner Cartwright's minor language amendments have been incorporated into the proposed ordinance.

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.

Motions

Commissioner Cartwright moved approval for final passage of Ordinance No. 3080 amending Section 6-2-6 of the Helena City Code. Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance #3080**

Commissioner Cartwright moved approval for final passage of Ordinance No. 3079 amending Section 6-3-4 of the Helena City Code. Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance #3079**

Public Communications

PUBLIC COMMUNICATIONS
No communications given.

Meetings of Interest

MEETINGS OF INTEREST
The next Administrative Meeting is Wednesday, April 4, 2007 at 3:30p.m. at the Civic Center and the next Commission Meeting is Monday, April 9, 2007. The City/County Joint Work Session will be held on Thursday, April 5, 2007 at 3:00p.m.
Mayor Smith noted a public hearing on proposed zoning ordinance revisions will be held Tuesday, March 27, 2007 in the Commission Chambers. Commissioner Oitzinger reminded citizens to attend the HCC District Meetings.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:11p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission