

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 7, 2008
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, January 7, 2008 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, Elsaesser, Oitzinger and Peura were present. City Manager Tim Burton, City Attorney David Nielsen and City Clerk Debbie Havens were present. Others present were Thom Warzinski 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 17, 2007 were approved as submitted.

Appointments APPOINTMENTS:
A. Global Climate Change Task Force -

Mayor Smith stated he would make his recommendation for appointments to the Global Climate Change Task Force at the January 28, 2008 commission meeting.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Resolution declaring the Baldor 3 Phase Motor and the Spencer Blower tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property.
Resolution 19534

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

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Oitzinger reminded citizens to return their HCC ballots. The deadline is 8:00 p.m. on January 8, 2008.

Commissioner Peura reinforced the reminder of Commissioner Oitzinger to return the HCC ballots.

Commissioner Cartwright welcomed Commissioner Elsaesser to the commission. Commissioner Cartwright thanked Mayor Smith for asking for recommendations on the members of the Climate Change Task Force.

Commissioner Elsaesser thanked the citizens for electing him the commission. He then recognized his parents, Ford and Jean Elsaesser and also reminded people to return their HCC ballots.

Mayor Smith congratulated Commissioner Cartwright for his re-election and welcomed Commissioner Elsaesser to the commission.

**Report of the City
Attorney**

REPORT OF THE CITY ATTORNEY
No items to report.

**Report of the City
Manager**

REPORT OF THE CITY MANAGER

A. Ten-Million Penny Campaign – City Manager Burton introduced Betsy Bauer with the Ten Million Penny Campaign. Ms. Bauer then introduced Patty Dahl, Director of Head Start and Barb Ridgeway with Helena School District #1.

Ms. Bauer spoke on the book titled “Three Cups of Tea” and author Greg Mortinsen. She then reported on the Pennies for Poverty Program and noted ½ of the money raised (500,000 pennies) will go to Head Start and ½ will go to Central Asia Institute to build a new school and hire a teacher for five years.

Head Start Director Patty Dahl gave an overview of the Head Start program and the poverty level of the students.

Barb Ridgeway, Helena School District, explained the proposal is for every school within the school district to participate in Pennies for Poverty Program in February by collecting pennies and learning more about the power of education to change lives.

Ms. Bauer gave additional information on the fundraising efforts to accomplish raising \$100,000. There will be a 10,000,000-Penny March in the downtown area in April. Ms. Bauer stated she would like to have a city fire truck lead the Penny March with the students from the Middle School class that raises the most money. She then requested the city commission waive the policy for the fire truck and allow the students to ride on the fire truck. Ms. Bauer gave a copy of the book “Three Cups of Tea” to the commission members.

Ms. Bauer also requested a proclamation from Mayor Smith and that a water bill insert be approved for the February bills.

City Attorney Nielsen recommended the commission make a motion to waive the fire truck policy for the 10,000,000-Penny March.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Peura moved to grant special permission to the City Manager to waive the fire truck policy and meet the request for the use of the fire truck at the Penny March. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

City Attorney Nielsen stated the request for a water bill insert is a separate issue from the proclamation request. The original request from Ms. Bauer did not meet the city’ criteria within the water bill insert policy. However, if Head Start would submit the request, they would qualify under the policy.

Further discussion was held on the water bill insert policy and the possibility of revisiting it in the future. Commissioner Peura referred Ms. Bauer to the Helena International Affairs Council Chair Pat Murdo; this is something the committee might want to be involved in.

B. Railroad Quiet Zone – City Manager Burton asked Assistant Public Works Director Phil Hauck to update the commission on the City of Billing’s efforts to implement quiet zones at the railroad crossings. Assistant Public Works Director Phil Hauck reported The Billings Downtown Business Partnership is considering using TIF funds to pay for the quiet zone. The estimated cost for the three intersections is

\$1,000,000. The City of Billings has been working with the State of Montana, the Federal Railroad Administration and Montana Rail Link on acceptable solutions for a quiet zone. Assistant Director Hauck gave an overview of the requirements.

Commissioner Peura commented with the State having recommendations on the crossings, he asked if there was any funding offered to pay for the requirements for the quiet zone. Assistant Director Hauck stated he was not aware of any funding from the State. Commissioner Peura asked staff to begin researching other funding that might be available, if the City of Helena wants to pursue a quiet zone.

Commissioner Cartwright stated he would support holding off on moving forward with an RFP until the completion of the Billings project.

***Report from the
Helena Citizens***

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Thom Warsinski thanked the City Commission for supporting the HCC. He reviewed the HCC projects that were implemented and completed in 2007. Mr. Warsinski recognized and acknowledged the work of Martha Eberle.

Commissioner Oitzinger, on behalf of the commission, thanked Mr. Warsinski for being a strong voice for veterans and his contributions during his tenure on the HCC.

Light District 216

CONSIDER A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 216 ALONG THE STREETS AND AVENUES IN PARTS OF THE COTTONWOOD WEST SUBDIVISION.

Staff Report

Administrative Services Director Tim Magee gave an overview of the streetlight districts in the City of Helena including the following:

- City Ordinances – Lighting Standards
- Lighting District Creation and Installation
- Assessment Method

Commissioner Oitzinger asked to get an electronic copy of the PowerPoint presentation. She then stated it would be helpful to be able to understand if the petition process and assessment process, if that is all driven by the fee nature of the statute. She asked what would happen if the City of Helena decided as a priority that they wanted to select a series of districts where they would swap out lights for dark skies and energy efficiencies, would the city be permitted to do that? Administrative Services Director Magee stated under current state statute a street lighting district can be created and terminated by the petition process. However, the commission could not change the district without the property owner's involvement.

Mayor Smith stated this is a very complex issue and recommended further discussion at an administrative meeting.

Commissioner Cartwright stated there are four assessment methods set in state statute and asked if the city is obligated to offer all four or could the city offer just one of those four? Administrative Services Director Magee stated the assessment methods cannot be combined, the commission would need to pick among the four. Commissioner Cartwright stated he believes the frontage method would produce a far better spatial arrangement in the town.

Light District 216

Accounting Supervisor Brandi Pierson reported a petition has been signed and filed by Cottonwood West, LLC and Headmaster, LLP requesting a light district be created in the Cottonwood West Subdivision.

The proposed facilities will consist of 9 units, with underground wiring, fiberglass or metal poles for 14-foot mounting heights, and glass

enclosed acorn luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$5,979 with the estimated costs being \$.01229 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the city to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessment. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Accounting Supervisor Pierson recommended approval of the resolution of intention and to set a public hearing for January 28, 2008.

Commission comment

Commissioner Cartwright stated SLD 216 will have the acorn fixtures, which are allowed by the current ordinance, which says historical light fixtures. The city then defers it to Northwestern Energy to determine what is allowed. Northwestern Energy has stated there are fixtures that are close to being dark sky compliant and all city staff needs to say is focus on these. Commissioner Cartwright stated he is disappointed that the city has not limited what type of fixtures that are allowed.

City Manager Burton stated the lights that are allowed are outlined in the ordinance and although that can be changed, it would require commission action. Commissioner Cartwright stated it says historical or historical like fixtures and Northwestern Energy determines what constitutes that and they are open to city input.

City Manager Burton stated he would recommend the commission establish a policy when the ordinance is reviewed so he knows exactly what the direction is.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Oitzinger moved approval of a resolution of intention to create Special Improvement Lighting District No. 216 along the streets and avenues in parts of the Cottonwood West Subdivision and set a public hearing date for January 28, 2008. Commissioner Peura seconded the motion. Motion carried 4-1 with Commissioner Cartwright voting no. **Resolution 19535**

Light District 217

CONSIDER A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 217 ALONG THE STREETS AND AVENUES IN PARTS OF THE GOLDEN ESTATES PHASE IV SUBDIVISION.

Staff Report

Accounting Supervisor Brandi Pierson reported a petition has been signed and filed by Ron & Laverne Yuhas requesting a light district be created in the Golden Estates Phase IV Subdivision.

The proposed facilities will consist of 32 units, with underground wiring, fiberglass or metal poles for 14-foot mounting heights, and glass enclosed acorn luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$21,315 with the estimated cost being \$.013 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the city to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter,

the annual assessment will be approximately one-half of the first year's assessment.

Accounting Supervisor Pierson recommended approval of the resolution of intention and to set a public hearing for January 28, 2008.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Oitzinger moved approval of a resolution of intention to create Special Improvement Lighting District 217 along the streets and avenues in parts of the Golden Estates Phase IV Subdivision and set a public hearing date for January 28, 2008.

Commissioner Peura seconded the motion. Motion carried 4-1 with Commissioner Cartwright voting no. **Resolution 19536**

Sale of Real Property

CONSIDER A RESOLUTION OF INTENTION TO DECLARE AS SURPLUS AND AUTHORIZE THE SALE OF REAL PROPERTY OWNED BY THE CITY OF HELENA.

Staff Report

Accounting Supervisor Brandi Pierson gave an overview of the surplus real property process. She then reported the City of Helena currently owns a piece of property located between Harrison Avenue and Park Avenue. The property is legally described as Lots 1 and 2 of Helena Townsite Block 75. All directors were notified and it was determined that none of the departments have a need to retain the property. At this time, no utilities have been extended to this parcel.

It appears to be in the best interest of the City of Helena to declare this property surplus. If the resolution of intention is approved, a notice of intent to declare this parcel surplus will be sent to all properties within 300-feet of the property and a public hearing will be scheduled for January 28th. If notice were sent to properties within 500-feet of the property, there would be 23 additional property owners notified. If approved, a sale will be conducted and a minimum bid of \$17,640 will be required.

The property is currently zoned R-1/R-2 and by itself it is not a buildable lot; however, if it was combined with an adjoining lot, it would meet the requirements to build a residential structure on it.

Accounting Supervisor Brandi Pierson recommended approval of the resolution of intention and to set a public hearing date for January 28, 2008.

City Manager Burton spoke on how the process begins on why and how a piece of city owned property comes before the city commission for surplus and most of the time it comes from a citizen inquiry.

Commission comment

Commissioner Oitzinger stated this property is not a buildable lot and asked if the initial inquiry was from someone with an interest in the adjacent property. Accounting Supervisor Brandi Pierson stated the adjacent property owner did inquire and would intend to build on the lot after the two lots are combined.

Commissioner Oitzinger referred to the Clore Street access and asked if there would be an alternate access other than what has been identified and is currently closed. Ms. Pierson noted the property owner might gain access through Harrison Avenue SID from an easement from another property owner. However, she would anticipate the property owner would probably extend out to Old Park Street to obtain access.

Commissioner Elsaesser asked if this were a buildable lot, how would the assessed value change? Ms. Pierson explained the assessed value would change; currently the city owns the property and no taxes or

assessments are being charged to it. If the property is built on, it would be assessed all city assessments and pay real property taxes. Mayor Smith asked if this property were a buildable lot, would the DOR appraised it differently? Ms. Pierson stated the DOR puts an arbitrary value on all city owned property. The adjacent property is valued at \$13,000 and the city's property is valued at \$17,640.

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

Motion Commissioner Peura moved approval of a resolution of intention to declare as surplus and authorize the sale of real property owned by the City of Helena. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. Resolution 19537

Public Hearings A. CONSIDER A RESOLUTION TO AMEND THE 2001 CITY OF HELENA GROWTH POLICY BY ADDING A CHAPTER ADDRESSING THE WILDLAND-URBAN INTERFACE AREA (WUI), AS OUTLINED IN 76-1-601, MCA, AND RATIFYING AND AFFIRMING THE 2001 GROWTH POLICY.

Staff Report Planner Elroy Golemon reported the 2007 State of Montana Legislature amended Section 76-1-601, MCA, to require Growth Policies include an evaluation of the potential for fire and wildland fire in the jurisdictional area of the Growth Policy. On December 17, 2007 the Helena City Commission approved Resolution of Intention 19533 to amend the 2001 Growth Policy by adding a chapter addressing the Wildland-Urban interface area (WUI) as outlined in Section 76-1-601, MCA, and ratifying and affirming the 2001 Growth Policy.

The proposal is to amend the 2001 Growth Policy to include a chapter delineating and evaluation the Wildland-Urban Interface area in the City of Helena.

The proposed Wildland-Urban Interface Growth Policy Chapter addresses the requirements outlined in Section 76-1-601(3.j) MCA. Further, the adoption of this proposed amendment to the Growth Policy will assist current and future community decision-makers and stakeholders in implementing relevant policies and regulations for the WUI area in the City of Helena. Planner Golemon presented the fuel loads map, the spot-fire analysis map, and the wildland-urban interface delineation map. The goal of the Wildland-Urban Interface chapter is to prevent loss of life, property and increased costs to the public from a Wildland-Urban Interface fire on public and private land located in and around the City of Helena.

Planner Golemon recommended approval of a resolution to amend the 2001 City of Helena Growth Policy by adding a chapter addressing the Wildland-Urban Interface area (WUI), ratifying and affirming the 2001 Growth Policy.

Commission Comment Commissioner Cartwright asked if the commission is adopting the graphics by ordinance or is this the kind of thing as new information becomes available could be administratively updated. Planner Golemon stated these would be the graphics adopted and presented for the Growth Policy as it is written.

Commissioner Cartwright stated what is a little confusing is the behaved model; the Forest Service model gives the likelihood of spotting, depending on various wind speeds. Planner Golemon explained the spots that the potential was evaluated from. Commissioner Cartwright referred to the map that has the line drawn showing the 30 mph winds from the locations and the Planning Board felt

the 50 mph would be more representative of a worst-case situation. Commissioner Cartwright asked if language needs to be added that the lines are not definitive. Community Development Director Sharon Haugen stated one of the things required by the MCA, the city had to delineate the Wildland Urban Interface; so this is the attempt to do that. If this is not clear within the context of the document that these are not just demonstrative and not the absolute for those maps, language could be added.

Commissioner Cartwright asked City Attorney Nielsen if he believes the city is on defensible solid legal ground if the entire city is covered under WUI? City Attorney Nielsen stated he believes the city is covered and referred the commission to Figure 3 and noted there is a disclaimer that the map is developed as a conceptual evaluation.

Public Testimony

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

There being no persons wishing to address the commission, the public portion of the hearing was closed.

Commission comment

Commissioner Peura spoke on the recent history of wild fires both in the city limits and the surrounding area. He also spoke of the Global Climate Change Task Force, the drought conditions and high winds continuing to be a concern.

Motion

Commissioner Peura moved approval of a resolution to amend the 2001 City of Helena Growth Policy by adding a chapter addressing the Wildland-Urban Interface area (WUI), as outlined in 76-1-601, MCA, ratifying and affirming the 2001 Growth Policy. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution 19538**

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING TITLE 11 (THE ZONING ORDINANCE) OF THE HELENA CITY CODE BY ADDING A NEW CHAPTER 41 TO BE KNOWN AS THE WILDLAND URBAN INTERFACE DISTRICT.

Staff Report

Planner Naren Garg reported on November 27, 2007 the Helena Zoning Commission recommended approval to amend the Helena City Code to include regulations for a Wildland-Urban Interface District. The Helena Zoning Commission also recommended approval to establish a Wildland Urban Interface District that encompasses the entire City of Helena.

Section 76-3-601(3)(j) MCA requires a Growth Policy to include an evaluation of the potential for fire and Wildland fire in the jurisdictional area. This evaluation must include an analysis of whether or not there is a need to delineate the Wildland-Urban Interface, and whether there is a need to adopt regulations to require, defensible space around structures, adequate ingress and egress to and from structures and developments to facilitate fire suppression activities, and adequate water supply for fire protection. The evaluation of the proposed WUI identified the need for regulations to address defensible space around structures. The proposed WUI zoning ordinance addresses defensible space around structures by prohibiting and use of wood roofing material and requiring a Class C or higher fire resistance rating on all proposed roofing material. It also states that when more than 10% of a roof plane is replaced the entire roof plane must be replaced in accordance with the new regulations and when more than 50% of the entire roof to be replaced then the entire roof must be replaced in accordance with the new

regulations. This provision allows for minor patchwork or non-conforming roofs.

There were two proposed boundaries. Proposed Wildland-Urban Interface (WUI) Zoning District Map A would include all structures south of the BNSF Railroad Tracks and West of Interstate 15 and Proposed Wildland-Urban Interface (WUI) Zoning District Map B encompasses the entire City of Helena. There were two members of the public that spoke in support of WUI Zoning District Map A. After further discussion the Zoning Commission moved to recommend approval for the adoption of an ordinance amending Title 11 (The Zoning Ordinance) of the Helena City Code by adding a new Chapter establishing the Wildland-Urban Interface District that encompasses the entire City of Helena (Boundary B) with an amendment to Part B of the proposed ordinance to increase percentage requirement for replacement of entire roof from 49% to 50%.

The proposed Wildland-Urban Interface District is consistent with the proposed Wildland-Urban Interface amendments to the 2001 Growth Policy. Further, the adoption of the proposed ordinance would assess the city's efforts to mitigate the impacts of a potential Wildland fire in the City of Helena.

Planner Garg referred to a letter from the Historic Preservation Commission, specifically the replacement costs for historic roofs. He then showed a cost analysis of acceptable alternative materials. A property owner could request a variance from the proposed WUI and would be considered by the Helena City Commission.

Planner Garg recommended approval for first passage of an ordinance amending Title 11 (The Zoning Ordinance) of the Helena City Code by adding a new Chapter 41 to be known as the Wildland-Urban Interface District.

Commission Comment Commissioner Peura asked to review the costs alternatives and asked if the faux cedar would meet the standards at the \$90 to \$200 a square. Planner Garg noted all the roofing materials listed, except for the cedar shingles, would meet the ordinance criteria.

Public Testimony Mayor Smith declared the public portion of the hearing opened and called for any persons wishing to address the commission.
 There being no persons wishing to address the commission, the public portion of the hearing was closed.

Motion **Commissioner Cartwright moved approval for first passage of an ordinance amending Title 11 (The Zoning Ordinance) of the Helena City Code by adding a new Chapter 41 to be known as the Wildland-Urban Interface District.** Commissioner Peura seconded the motion. All voted aye, motion carried. **Ordinance 3093**

C. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW 2,444 SQUARE FEET OF GENERAL OFFICE SPACE TO BE LOCATED IN A R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT WITH A PROPERTY ADDRESS OF 1063 HELENA AVENUE.

Staff Report Planner Naren Garg reported on December 11, 2007 the Helena Zoning Commission unanimously recommended conditional approval for a resolution granting a CUP to allow 2,444 square feet of general office space to be located in an R-3 (Medium Density Residential) District. Legally described as Lots 1, 2 and 3, Block 22, Lockey Addition, Helena,

Montana; generally located south of Helena Avenue and east of Idaho Street with a property address of 1063 Helena Avenue.

The proposed office use is for an engineering business that conducts its business primarily on a computer or over the phone. The proposed business has two employees, and the proposed hours of operation are Monday through Friday 7:00 a.m. to 5:00 p.m.

This proposal will allow a higher intensity use to be accommodated within an existing residential building without adversely impacting the surrounding residential area or generating measurable increase in traffic, noise, or other concerns.

Planner Naren Garg recommended approval of a resolution granting a Conditional Use Permit (CUP) to allow 2,444 square feet of general office space to be located in an R-3 (Medium Density Residential) District for property legally described in the staff report, subject to the following conditions:

1. Proposed sidewalks and curb cuts must be reviewed and approved by the City of Helena Engineering Division for conformance with the City's Engineering Standards.
2. All conditions and required improvements must be completed within one year and before utilizing the property for the new use.

Public Testimony

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

Brian Moloney, 930 Vallejo Road stated that he was the applicant and owner of the subject property. Mr. Moloney gave his professional background and projects he has worked on.

Mr. Moloney asked the commission to approve the resolution granting the CUP. Mr. Moloney noted he intends to sign up for the city's sidewalk improvement program and asked if he would be allowed to move into the space prior to all improvements being completed.

There being no further persons wishing to address the commission, the public portion of the hearing was closed.

Commission comment

Commissioner Cartwright asked if the applicant gave a financial guarantee could the applicant move in prior to the completion of the conditions. City Attorney Nielsen stated the condition states being reviewed and approved and the installation could be at a later time.

Commissioner Elsaesser asked if the CUP would remain with the property. City Attorney Nielsen stated the CUP is for the use of the property, which would be for general office space and would remain with the property. The parking requirements would remain the same.

Motion

Commissioner Cartwright moved approval of a resolution granting a Conditional Use Permit (CUP) to allow 2,444 square feet of general office space to be located in an R-3 (Medium Density Residential) District for property legally described in the staff report, subject to the conditions outlined above. Commissioner Elsaesser seconded the motion. All vote aye, motion carried.
Resolution 19539

- D. CONSIDER A RESOLUTION GRANTING A TAX ABATEMENT IN ACCORDANCE WITH MCA 15-24-1401 TO SUMMIT AERONAUTICS FOR THE PURCHASE OF NEW EQUIPMENT.
- E. CONSIDER A RESOLUTION GRANTING A TAX ABATEMENT IN ACCORDANCE WITH MCA 15-24-1401 TO BHAM DEVELOPMENT LLC (SUMMIT DESIGN) FOR A BUILDING EXPANSION AT 3200 SKAYWAY DRIVE

Staff Report on
Summit Aeronautics

Community Development Director Sharon Haugen reported Summit Aeronautics Group (Summit) has submitted an application for tax abatement for qualifying improvements for a new and expanding business. Summit is requesting tax abatement for the purchase of over \$9 million in new equipment at their plant. The company was established in 1997 to design and manufacture components for the aerospace industry. All of their sales are earned outside the state of Montana. Their major clients include Lockheed, Boeing and other aerospace companies. Summit is one of the city's major employers, with over 90 employees currently. The average annual salary for a Summit employee is \$38,832. With this tax abatement in place, Summit has committed to hiring 20 new employees in the next year. The ultimate goal is to eventually hire 50 additional employees.

The intent of the tax abatement is to allow local communities to encourage new and /or expanding businesses by making available tax benefits for future expansion and development. The tax abatement helps the company to better afford improvements and expansion of their existing operation and to enable the expansion to better cash flow. Summit has been granted previous tax abatements and has performed on all of the commitments associated with that abatement.

The applicant has requested tax abatement for new and expanding businesses to abate the taxes on new equipment purchases. The equipment was purchased in 2007. The abatement, if granted, would run from tax years 2008 through 2017.

The granting of the tax abatement would provide financial assistance in the further expansion of Summit Aeronautics. It would also implement the goals in the City's Growth Policy relating to promoting the expansion of existing Helena businesses through economic incentives.

With the granting of the abatement there would be loss of some property tax revenue for the period the tax abatement is in effect. The total amount of property tax revenue abated during this period is \$689,382, of which \$132,930 is the city's share of the abatement. However, the short-term costs of the abatement may be offset by the further expansion of Summit Aeronautics.

Director Haugen recommended approval of a resolution granting a tax abatement in accordance to MCA 15-24-1401 to Summit Aeronautics for the purchase of new equipment.

Staff Report on
BHAM Development, LLC

Community Development Director Sharon Haugen reported BHAM Development LLC has submitted an application for tax abatement for qualifying improvements for a new and expanding business. BHAM is requesting a tax abatement for the \$4,361,743 expansion of the building in which Summit Aeronautics is located. Summit Aeronautics has occupied the building since 2000. The construction permit for the new expansion was issued in the summer of 2007. Summit Aeronautics was established in 1997 to design and manufacture components for the aerospace industry. All of their sales are earned outside the state of Montana. Their major clients include Lockheed, Boeing and other aerospace companies. Summit is one of the city's major employers, with over 90 employees currently. The average annual salary for a Summit employee is \$38,832. With this tax abatement in place, summit has

committed to hiring 20 new employees in the next year. The ultimate goal is to eventually hire 50 additional employees.

The intent of the tax abatement is to allow local communities to encourage new and /or expanding businesses by making available tax benefits for future expansion and development. The tax abatement helps the company to better afford improvements and expansion of their existing operation and to enable the expansion to better cash flow. The completion of the building expansions is equally as important to the success of Summit's expansion as is the purchase of the new equipment.

The applicant has requested a tax abatement for new and expanding businesses to abate the taxes on the expansion of an existing building. The abatement, if granted, would run form tax years 2008 through 2017

The granting of the tax abatement would provide financial assistance in the further expansion of Summit Aeronautics. It would also implement the goals in the City's Growth Policy relating to promoting the expansion of existing Helena businesses through economic incentives.

With the granting of the abatement there would be loss of some property tax revenue for the period the tax abatement is in effect. The total amount of property tax revenue abated during this period is \$205,100 of which \$39,550 is the city's share of the abatement. However, the short-term costs of the abatement may be offset by the further expansion of Summit Aeronautics.

Director Haugen recommended approval of a resolution granting a tax abatement in accordance to MCA 15-24-1401 to BHAM, LLC for the building expansion at 3200 Skyway Drive.

Community Development Director Sharon Haugen reported at the December City-County Joint Work Session two items were discussed; one had to do with the policy for tax abatements and the second was the "clawback requirement." The "clawback requirement" is a provision in the law and what the law says if they do not perform. Staff is suggesting if this is something the commission wants to pursue, that staff could do an annual monitoring of Summit and look at whether they are still conducting their business, if the equipment that is abated is still in use and if the additional employees have been hired. The previous tax abatement was monitored due to the funding was from a CDBG grant.

Commission Comment

Commissioner Peura asked for clarification on the "recapture or clawback provision" clause and asked if the process the city would follow would simply be to get a baseline measure today as to the number of employees and look going forward at the commitment of an additional 20 employees over the next two years. Director Haugen explained since the abatement is for the new equipment and the building, city staff would assure those things are still in place and running operably. It is staff's understanding that there is a need for the 20 additional employees to operate and manage the new equipment. The law does not specifically talk about employment; it talks about the items being abated.

Commissioner Peura stated he would prefer that city staff specifically look at the jobs as well, although it is not outlined in the law. Commissioner Peura stated he would ask City Attorney Nielsen if an additional motion would be necessary to trigger the additional monitoring.

Commissioner Cartwright stated he is willing to let city staff figure out the best monitoring; but wants to emphasize the importance of it. Commissioner Cartwright asked what assurances does the city have that the abatement given to BHAM, LLC, would be passed through to Summit Aeronautics. Community Development Director Haugen stated the law talks about the recapture of the building if not used. The reason the city is considering the abatement is because of Summit and the housing of the equipment.

Commissioner Cartwright stated if the city gives \$100 tax abatement to BHAM, LLC and they lower the rent to Summit Aeronautics by \$50; that isn't the reason why the city would be giving the abatement. How would the city track that type of transaction? Community Development Director Haugen commented Commissioner Cartwright is looking at the correlation between granting the tax abatement to BHAM versus Summit's operation and the rent. Ms. Haugen stated the law does not allow the city to get into how that flows, the law looks at the expansion of a building to help support new and expanding businesses. How city staff will monitor the business relates to that building, just like the new equipment.

Commissioner Cartwright stated this is a general concern and not specifically to the applicant's for these two tax abatements.

Public Testimony

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

Tom Hoffman, Summit Aeronautics Group, 6200 Willow Creek Drive, spoke in support of the two resolutions for the tax abatements. Mr. Hoffman stated he is already subject to internal auditing for the job creations by the Board of Investments and would provide the same information to the City of Helena.

Mr. Hoffman noted the 20 jobs that have been identified in the tax abatement application, 15 of those employees have been hired. Mr. Hoffman noted the owners of Summit Aeronautics and BHAM, LLC are the same owners. He explained the advantage of keeping the debt of the buildings separate from the production portion of the business.

There being no further persons wishing to address the commission, the public portion of the hearing was closed.

Commission comment

Commissioner Cartwright commented Mr. Hoffman stated Summit Engineering and BHAM, LLC are owned by the same owners. Community Development Director Sharon Haugen concurred.

Commissioner Peura stated this is a very exciting opportunity and appreciates what Summit Aeronautics and BHAM, LLC bring to Helena, a private sector business that brings in new money. Commissioner Peura clarified exactly what the City of Helena is getting for this abatement and what Summit has offered is the creation of 20 new jobs. Commissioner Peura asked if a motion should include any language to assure those 20 new positions are created within the two-year period.

City Attorney Nielsen stated MCA has no reference with regard to employment, it strictly is whether they install the equipment or not and maintain the type of ownership outlined in the application. However, there is language in the MCA that talks about the recapture for other than statutory. Legally it would be preferable if the city and county commissions adopted a policy so there is a quantifiable standard that would be a part of the tax abatement. City Attorney Nielsen expressed

reservations on adding any language at this point on these two applications.

Commissioner Oitzinger stated she appreciates the comments from City Attorney Nielsen and the other commissioners. However, she noted with Summit Aeronautics she would not question the 20 employees would be hired. For general purposes, she would support adopting a policy for both the city and county commissions use.

Commissioner Cartwright stated he understands, based on City Attorney Nielsen's comments, why it may not be a good time to make this a requirement to trigger a clawback; however, he does like the idea of monitoring the businesses that receive tax abatements. Commissioner Cartwright suggested the commission may want to request an annual report on what is happening on the hiring of the employees.

Motion Commissioner Peura moved approval of a resolution granting a tax abatement in accordance with MCA 15-24-1401 to Summit Aeronautics for the purchase of new equipment.
Commissioner Cartwright seconded the motion. All voted aye, motion carried. Resolution 19540

Motion Commissioner Peura moved approval of a resolution granting a tax abatement in accordance with MCA 15-24-1401 to BHAM, LLC for the building expansion at 3200 Skyway Drive.
Commissioner Oitzinger seconded the motion. All voted aye, motion carried. Resolution 19541

Motion Commissioner Cartwright moved to direct City Manager Burton to report on an annual basis on the progress on this abatement, looking at both the conditions for recapture described in state law and on the fulfillment of the commitment of 20 new employees.

Commission comment Mayor Smith stated he thought the commission was going to try and stay away from the issue of 20 new employees and stick with the annual monitoring of the abatement that was just approved. Commissioner Cartwright stated that is why his motion is in two portions; one for the requirements under state law for recapture and monitoring the promises made in the application.

Commissioner Peura seconded the motion.

Mayor Smith stated he would not support the motion with the 20 employees as a contingent of the annual monitoring. Mayor Smith recommended the city and county commissions work together to develop the general policy on tax abatements.

Commissioner Cartwright stated his intention was the motion would set two requirements, one the report on the requirements set out by the state law and would trigger a clawback and second a report on the status of the promises made within the application. Commissioner Cartwright asked if his motion speaks to the earlier warning not to put 20 employees as a requirement. City Attorney Nielsen stated with the explanation, the motion separates the reporting for informational purposes on the number of employees from those statutory mandates that may trigger a recapture.

Commissioner Peura asked Mr. Tom Hoffman if he is comfortable with the motion in terms of what the commission has asked him to report on. Mr. Hoffman clarified the job creation and expansion has been in the works for approximately two years. Therefore, the jobs have been created in some form over the last year or two.

Vote

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

Commissioner Peura stated it is clear the commission had some difficulty dealing with the tax abatement issue, and not specifically to the merits of these applications. The lack of a clear policy and procedure that this commission had talked about getting is essential. He noted that he is probably not going to be comfortable approving any further tax abatements until both the city and county commissions adopt a policy.

Public Communications

PUBLIC COMMUNICATIONS
None

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is January 23, 2008 and the next Commission Meeting is January 28, 2008.

Commissioner Peura reported the Advantage Helena Steering Committee will be hosting another meeting with Roger Brookes on Thursday, January 10th at 7:00 p.m. at St. Peter's Hospital conference center.

Commissioner Elsaesser reported there is a S.A.V.E. fundraiser on Wednesday, January 9th at Miller's Crossing.

Adjournment

There being no further business to come before the commission, the meeting was adjourned at 8:45 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission