

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**June 2, 2008 - 6:00 P.M.**

**Time & Place** A regular City Commission meeting was held on Monday, June 2, 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, Oitzinger, Peura, and Elsaesser were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Marshall Gingery 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 May 19, 2008 were approved as submitted.

**Appointments** APPOINTMENTS:  
A. Helena Housing Authority

Mayor Smith recommended the appointment of Dan Sullivan to the Helena Housing Authority. The term will begin upon appointment and expire on August 1, 2013.

**Motion** **Commissioner Cartwright moved approval of the appointment of Dan Sullivan to the Helena Housing Authority; the term will begin upon appointment and expire on August 1, 2013.**  
Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Adoption of an updated version of the Official Zoning Map for the City of Helena dated April 30, 2008 reflecting Commission action since the last update of April 2007  
C. Utility Bill Insert - Montana Military Museum  
D. Resolution of intention to set fees charged for disposal of garbage and refuse at the City of Helena Transfer Station for Fiscal Year 2009 **Resolution #19560**  
E. Resolution of intention to budget additional property tax revenue for fiscal year 2009 **Resolution #19561**  
F. Acceptance of an additional \$5,000 Project Incentive Agreement from Northwestern Energy to add variable frequency drives to the city's non-potable water system at the Wastewater Treatment Facility

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

**Commission comment** Commissioner Elsaesser asked that item F be removed for further discussion.

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

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

**Item F** F. ACCEPTANCE OF AN ADDITIONAL \$5,000 PROJECT INCENTIVE AGREEMENT FROM NORTHWESTERN ENERGY TO ADD VARIABLE FREQUENCY DRIVES TO THE CITY'S NON-POTABLE WATER SYSTEM AT THE WASTEWATER TREATMENT FACILITY

Public Works Director John Rundquist reported the Wastewater Treatment Facility is currently adding three variable frequency drives to the non-potable water system to run the system more efficiently and save on energy costs. Northwestern Energy has agreed to add \$5,000 to the original agreement for a total of \$10,000 in grant funding.

Director Rundquist noted the project has been completed and is working well; staff will report the amount of energy savings to the Commission in the future.

**Motion** Commissioner Elsaesser moved approval of item F on the consent agenda. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Bid Award** BID AWARD:  
A. Solid Waste Division – Front-end Loader

Staff Report Fleet Superintendent Ed Robinson reported bids were received for a new front-end loader for replacement and trade of unit #203. The low bid was received from Modern Machinery Co. A summary of the bids was included in the Commission packet. Modern Machinery bid a 2008 Komatsu Model WA380-6 at a price of \$192,330 after trade. The FY08 budget appropriation for this unit is \$215,000.

Mr. Robinson recommended the purchase of the new front-end loader from Modern Machinery Co., at the bid price of \$192,330 after trade, for the replacement of unit #203. He also recommended the bid include the optional extended warranty of 4 year/4000 hours at a cost of \$12,500 for a total bid award of \$204,830.

Public Comment Mayor Smith called for any public comment; none was received.

**Motion** Commissioner Peura moved approval to accept the bid from Modern Machinery for a new Front-end Loader with extended warranty for the bid price of \$204,830. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

**Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
Commissioner Oitzinger reported she welcomed the participants of the Girls State Program on Saturday, May 31, 2008.  
Mayor Smith announced he welcomed former President Bill Clinton to Helena on Sunday, June 1, 2008.  
Commissioner Cartwright reported Growing Friends planted 32 trees on Walnut Street over the weekend; the neighborhood was very involved in the planting.

**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 reported there has been a request by Ward Shanahan and Peter Sullivan with the Navy League of the United States, along with former Mayor Russ Ritter, to relocate the anchor and related navy monuments, currently located in Pioneer Park, to the Montana Military Museum at Fort Harrison. He noted the city had recently donated artifacts from the U.S.S. Helena to the museum. If the Commission were to allow the move, staff would work with the United States Navy to get all the necessary paperwork taken care of. Manager Burton explained Fort Harrison has agreed to perform the actual relocation, at no cost to the city.

Mayor Smith called for public comment.

Ward Shanahan; spoke in support of relocating the monuments.

Peter Sullivan, President of the Helena Council of the Navy League; urged the Commission to support the relocation of the items.

Russ Ritter; spoke in support of the relocation and noted the Fort Harrison museum may receive a large model of the USS Helena.

Commissioner Cartwright stated he would regretfully oppose the relocation because of concerns for the isolation of the military from the public and the public from the military. A monument like this should stay in the public sector; citizens have to be aware of the military and not be able to pretend it doesn't exist just like they pretend Iraq doesn't exist. Commissioner Elsaesser expressed concern that the Parks Board should review the proposed relocation. Commissioner Oitzinger commented it will be jarring for Helena residents to have the long standing monuments removed; however, the synergy that will be created by having the U.S.S. Helena replica and the monument in the same locale is persuasive as it will provide a destination within Helena for reflection. Commissioner Peura stated the move will affect people but the opportunity to bring together all of the artifacts at the museum is an important opportunity. He recommended the proposal be submitted to the Parks Board for comment. He also recommended notifying the Public Arts Committee of the relocation as it will leave a gap in Pioneer Park and may be an opportunity for the committee to consider how to replace it. He added he does agree with Commissioner Cartwright's comments regarding having military artifacts within the city. Mayor Smith noted there are lots of ways to acknowledge, honor and respect the military within Helena; Memorial Park is a good example. He agreed the Parks Board should be involved in the proposal.

**Motion**

**Commissioner Peura moved to direct City Manager Burton to work with the local chapter of the Navy League and Parks Board to discuss the possibility of moving the monument to the Fort Harrison Military Museum.** Commissioner Oitzinger seconded the motion. Motion carried, 4-1, with Commissioner Cartwright voting no.

City Manager Burton asked Director Rundquist to report on the city's voluntary water restrictions, which have been recalled. Director Rundquist gave an overview of the problems with the filters at the Ten Mile Water Treatment Plant, which were not working properly due to excessive water from melting and heavy rains.

Manager Burton updated the Commission on a letter sent from the city to the State of Montana, requesting to acquire the old Armory land. He gave the history of the property and reported the state is in the process of preparing a response.

**Report from the  
Helena Citizens  
Council**

**REPORT FROM THE HELENA CITIZENS COUNCIL**

HCC member Marshall Gingery reported the HCC has new council members in Districts 1, 5 and 7. He gave an update on the HCC's work on the city's undeveloped parks.

Mr. Gingery announced Bob Habeck was elected Vice-Chair of the HCC; the previous Vice-Chair, Ole Olson, had to resign because he accepted the position of City Prosecutor with the City of Helena.

**15<sup>th</sup> Street Parking  
Garage**

**CONSIDER A COMMON BOUNDARY LINE ADJUSTMENT BETWEEN  
THE 15<sup>TH</sup> STREET PARK GARAGE AND THE STATE FUND BUILDING**

**Staff Report**

Community Facilities Director Gery Carpenter reported the two properties Lot 4A (City owned property) and Lot 8B1 (Board of Investment owned property) are the construction sites for the 15<sup>th</sup> Street Parking Garage and State Fund building. Currently the boundaries do not allow the appropriate orientation of either structure and do not allow utility access for both structures.

The proposal is to receive Commission approval as one of the property owners to relocate the property line between the properties to the new location indicated by the certificate of survey by Robert Peccia & Associates. Each parcel would have the same total area after the relocation as each parcel had before.

Director Carpenter stated the approval of the boundary adjustment allows best method construction of both facilities, maximizes the Parking Structure's orientation, allows access to 14<sup>th</sup> Street from the parking structure and allows for the greatest retention of surface parking spaces. The boundary adjustment also allows the best north/south and east/west orientation of the State Fund building.

Director Carpenter recommended approval of common boundary line adjustment between the 15<sup>th</sup> Street Parking Garage and the State Fund Building as indicated on the survey.

**Commission Comment**

Commissioner Peura asked when construction is slated to begin? Director Carpenter responded late August; the State Fund building will take 14-18 months to complete and the parking structure will take 12-13 months.

**Public Comment**

Mayor Smith called for public comment, none was received.

**Motion**

**Commissioner Elsaesser moved approval of common boundary line adjustment between the 15<sup>th</sup> Street Parking Garage and the State Fund Building as indicated on the survey.**

Commissioner Peura seconded the motion. All voted aye, motion carried.

***Resolution of Annexation***

CONSIDER A RESOLUTION ANNEXING TRACT B1-A AND LOT 11-A OF THE RED LETTER MINOR SUBDIVISION, THE FRACTION LODE MINING CLAIM AND THE TIGER LODE MINING CLAIM, GENERALLY LOCATED SOUTH OF GOLD RUSH AVENUE BETWEEN WINSKOTT LANE AND CRYSTAL DRIVE ADJACENT TO CITY LIMITS.

**Staff Report**

City Planner Elroy Golemon reported Richard and Betti Hill and the City of Helena have requested the annexation of Tract B1-A and Lot 11-A of the Red Letter Subdivision; the Fraction Lode Mining Claim; and the Tiger Lode Mining Claim, all located in Lewis and Clark County, Montana, into the City of Helena, Montana.

On January 28, 2008, the Helena City Commission adopted a Resolution of Intention (#19545), to annex parcels to be known as Tract B1-A, Lot 11-A, both in the Red Letter Subdivision and established conditions of annexation.

The applicants have completed the conditions for annexation that included the following:

1. **Taxes and Assessments:** Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.
2. **Dust Control:** The property owners must waive, in writing, their right to protest the creation of an improvement district, whether it be an SID (street improvement district) by the City or an RID or RMD (rural improvement district) by Lewis & Clark County, or both, that may be created to control or mitigate vehicular dust on the access easement lying west of Tract B1-A.
3. **Amended Plat:** The Amended Plat creating the new lots to be known as Tract B1-A and Lot 11-A in the Red Letter Subdivision must be filed with the Lewis & Clark County Clerk and Recorder.
4. **Completion of Conditions:** These annexation conditions must be completed within one (1) year of the date of approval of this resolution. The property owner 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 to the property, including water and sewer service.

Planner Elroy Golemon recommend approval of a resolution annexing property legally described in the resolution, located in Lewis & Clark County, Montana, and extend services to the property as shown on Exhibit "A".

**Commission Comment**

Discussion was held on the dust control district.

- Public Comment Mayor Smith called for public comment, none was received.
- Motion** Commissioner Peura moved approval of a resolution annexing property legally described in the resolution, located in Lewis & Clark County, Montana, and extend services to the property as shown on Exhibit "A". Commissioner Oitzinger seconded the motion. All voted aye, motion carried. Resolution #19562
- Curb Cut Variance** CONSIDER A CURB CUT VARIANCE TO INCREASE THE CURB CUT FROM 24' TO 33' FOR THE PROPERTY LOCATED A 296 WILLOWBROOK DRIVE.
- Staff Report City Engineer Ryan Leland reported the owner at 296 Willowbrook has constructed a single-family residence. The approved building plans show the curb cut in compliance with City Code. However, the contractor, during construction deviated from the approved plans.
- The owner is requesting a variance to increase the maximum curb cut for a single-family residence from 24' to 33'. The variance will reduce the amount of boulevard landscaping, increase the impervious area and create a greater potential for vehicle conflicts.
- City Engineer Leland recommended denial of the curb cut variance to increase the curb cut from 24' to 33' for the property at 296 Willowbrook Drive.
- Public Comment Mayor Smith called for public comment.
- Linda Lynde and Stan Lynde, applicants; spoke in support of the variance.
- Commission Comment Commissioner Peura asked what kind of penalties could be applied to the applicant? City Attorney Nielsen responded the Commission's option if the variance is denied is to require the applicant to install a curb in accordance with City Code; there is no civil penalty.
- Mayor Smith asked if the Commission would be setting a precedent by approving recent and the proposed curb cut variances. Attorney Nielsen explained there would be no legal precedent, but there is a need to be consistent.
- Commissioner Elsaesser indicated he would not support the variance, as the pedestrian way needs to be as safe as it can be in neighborhoods. Commissioner Peura spoke of a variance that was granted on Day Spring Loop for elevation reasons and indicated he would vote to deny the proposed variance. Commissioner Oitzinger stated she would not support the proposed variance, as there are not persuasive reasons to approve it. She expressed concern that the applicant will have to waste concrete.
- Motion** Commissioner Peura moved to deny the curb cut variance to increase the curb cut from 24' to 33' for the property at 296 Willowbrook Drive. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.
- Right-of-Way Dedication** CONSIDER A RIGHT-OF-WAY DEDICATION OF LOT 1, BLOCK 14 IN THE NOB HILL SUBDIVISION PHASE I AND GRANT ACCESS TO THE NOB HILL RESERVOIR ACCESS ROAD.

## Staff Report

City Engineer Ryan Leland reported the Nob Hill Reservoir is located on Tract B-1-A-2 with an access road from Saddle Drive. The reservoir and access road are presently fee title City property.

The developer of Lot 1, Block 14 in the Nob Hill Subdivision Phase 1 has requested the City allow access to a proposed multifamily development from the Nob Hill Reservoir access road. The developer is proposing to upgrade the access road to city standards with a fire truck turn around. Constructing the access road to city standards will require 4,356 square feet of right-of-way to be dedicated from the adjacent lot. Granting access to Nob Hill Reservoir access road will result in an upgrade of the dirt access road to City Standards.

Mr. Leland recommended the following two motions:

1. Move to accept Right-of-Way Dedication of Lot 1, Block 14 in the Nob Hill Subdivision, Phase 1 of the City of Helena.
2. Move to grant access to the Nob Hill Reservoir access road with the condition the access road is constructed to City Standards.

## Commission comment

Discussion was held on the history of how the city obtained the land the road is located on. Mayor Smith asked if the reservoir is gated and fenced. Mr. Leland stated yes. Commissioner Cartwright noted he would support the proposal because the city obtained the land through dedication and the condominiums will provide additional security for the water tank. Commissioner Peura commented he would support the proposal because it is an efficient use of land, will provide dust mitigation and will eliminate a source of sedimentation into the city's stormwater drainage system.

## Public Comment

Mayor Smith called for public comment, none was received.

## Motion

**Commissioner Cartwright moved approval to accept Right-of-Way Dedication of Lot 1, Block 14 in the Nob Hill Subdivision, Phase 1 of the City of Helena.** Commissioner Peura seconded the motion. All voted aye, motion carried.

## Motion

**Commissioner Cartwright moved to grant access to the Nob Hill Reservoir access road with the condition the access road is constructed to City Standards.** Commissioner Peura seconded the motion. All voted aye, motion carried.

**Termination of Contract**

CONSIDER TERMINATION OF THE CONTRACT WITH RIMROCK STAGES FOR DEPOT SERVICES

## Staff Report

Fleet Superintendent Ed Robinson reported Rimrock Stages currently contracts with the City of Helena to provide the necessary bus services at 630 North Last Chance Gulch. This contract was initiated in May of 2006. During the period from May 2006 to the present, the City of Helena has been providing depot services through the Helena Area Transit Service (HATS) operation and facility. Two buses were scheduled daily at 4:30 and 8:20 p.m. Initially revenues collected from the operation as the provider were adequate in covering the costs of operation and assisting in HATS operation when used as matching funds under the Section 5311 Transportation Grant.

On May 12, 2008, Rimrock Stages informed the City they would be adding an additional bus to their schedule increasing depot hours and management costs. This coincided with the notification, HATS would not be receiving Federal funding under the Job Access Reverse Commute (JARC) program for it's North Valley and expanded trolley bus services. Without the availability of Federal matching funds, the partnership between the City of Helena and Rimrock is not financially viable. Continuation of this relationship would result in the City of Helena subsidizing Rimrock operations.

The contract does contain language that allows either party to discontinue the arrangement following, the expiration of a period of six (6) months by at least thirty (30) days previous notice from either party to the other.

Superintendent Robinson recommended approval to authorize staff to terminate the contract with Rimrock Stages for depot services effective July 5, 2008.

#### Commission Comment

Commissioner Cartwright asked if Rimrock Stages was approached to renegotiate the contract? Superintendent Robinson stated no; when the contract was originally negotiated, Rimrock was very stoic about the terms of the contract. They indicated they have a standard contract and they do not vary or have not varied with any other agency. Commissioner Cartwright suggested notifying Rimrock of the proposed termination to see if they would renegotiate. Commissioner Peura asked how much the loss of federal funding impacted the need to terminate the contract? Superintendent Robinson explained the process of applying for JARC funding and noted without funding there is no need to retain Rimrock as a local match, there is sufficient local funding. If retained, the city would be financing Rimrock. Discussion was held on Rimrock's role in the proposed new transit facility. Mayor Smith asked what the revenue loss is attributed to? Superintendent Robinson stated lack of ridership and lack of freight.

Commissioner Elsaesser recommended tabling the determination of the contract until Rimrock can be contacted or until staff can see if ticket sales increase this summer due to the rising cost of gas. City Manager Burton gave the history of the agreement and recommended canceling contract, as the city will be subsidizing a private business. If the contract is terminated, it does not mean that staff can't stay constructively engaged with Rimrock regarding consolidated services. Commissioner Peura recommended terminating the contract but urged staff to negotiate a new contract with Rimrock. Commissioner Oitzinger recommended discussion of the contract be held at an Administrative Meeting. Manager Burton recommended the Commission table the determination of the contract. Mayor Smith indicated he would support tabling termination of the contract.

#### Public Comment

Mayor Smith called for public comment, none was received.

#### Motion

**Commissioner Cartwright moved to table the proposal to terminate the contract with Rimrock Stages for depot services to the call of the City Manager.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.



- Free Bus Service**      CONSIDER A REQUEST FROM HELENA EMPOWERING YOUTH (HEY) NETWORK, A SUB-COMMITTEE OF HELENA YOUTH CONNECTIONS, TO PROVIDE FREE SUMMER BUS SERVICE TO HELENA'S YOUTH.
- Staff Report      Superintendent Ed Robinson reported the Helena Empowering Youth! (HEY) Network, a sub-committee of Helena Youth Connections recently contacted the City Commission with a request to provide free transportation to Helena's youth for its' summer programs. It was noted that lack of transportation during the day was one of the barriers to participation in the summer youth programs. HEY Network is proposing a community-wide free summer bus service for students in hopes the youth bus service will augment participation in the greater Helena area events.
- Staff has reviewed the proposal and recommends the City Commission approve the free youth service on existing fixed routes including the trolley, checkpoint and east valley service. All curb-to-curb buses and services would be exempt from the program. Staff would work with HEY to identify and promote those summer programs and services that would be available for this program. The program would be called the HEY-Ride Program.
- Superintendent Robinson recommended approval of the program, as one of the criteria used by the state in determining the allotment of Federal Section 5311 funding is trips provided and any increase in ridership would be beneficial to our operational funding.
- Public Comment      Mayor Smith called for public comment.
- The following persons spoke in support of the proposed program: Drinda Carlson, Director of Youth Connections; Pat McKracken; Helen Paulson, HEY-Network; and Sandy Smith, HEY-Network.
- Motion**      **Commissioner Cartwright moved approval to authorize staff to work with the HEY Network to develop and implement the summer HEY-Ride Program.** Commissioner Peura seconded the motion.
- Discussion      Commissioner Peura asked that Youth Connections monitor the HEY-Ride Program and report back to the Commission on how it helped them reach their goals.
- Vote**      All voted aye, motion carried.
- Res. of Annexation**      CONSIDER A RESOLUTION ANNEXING TRACT A-1 OF COS # 3140861 AND TRACT A-3-A-1-A-1 OF COS # 3147622 KNOWN AS PHASE A OF THE ASPEN PARK AT MOUNTAIN VIEW MEADOWS SUBDIVISION AND THE FULL WIDTH OF THE ADJACENT HIGHWAY 282 RIGHT-OF-WAY; GENERALLY LOCATED SOUTHWEST OF EAST HELENA, WEST OF HIGHWAY 282 AND NORTH OF THE JEFFERSON COUNTY LINE.
- Final Plat**      CONSIDER THE FINAL PLAT FOR THE ASPEN PARK AT MOUNTAIN VIEW MEADOWS PHASE A MAJOR SUBDIVISION CREATING 41 RESIDENTIAL LOTS AND PARKLAND FROM PROPERTY

GENERALLY LOCATED SOUTHWEST OF EAST HELENA, WEST OF HIGHWAY 282 AND NORTH OF THE JEFFERSON COUNTY LINE.

**Public Hearings**

**PUBLIC HEARINGS:**

A. CONSIDER A RESOLUTION ANNEXING CONTIGUOUS GOVERNMENT PROPERTY BEING PORTIONS OF HIGHWAY 12 EAST AND CROSSROADS PARKWAY RIGHTS-OF-WAY INTO THE CITY OF HELENA.

**Staff Report**

City Planner Lucy Morell-Gengler reported R & D Partners, LLC is requesting annexation for Phase A of the Aspen Park at Mountain View Meadows Subdivision containing 41 residential lots and parkland/open space lots. Completing this annexation is a prerequisite to enabling the City to approve the final plat for this phase. Tract A-1 of COS # 3140861 was a portion of the Aspen Park Phase and has been donated to the City as open space and will be annexed at this time. State law, 7-2-4211 MCA, requires adjacent rights-of way be annexed with adjacent properties; therefore, the full width of the adjacent Highway 282 right-of-way will also be annexed.

On February 14, 2005 the City Commission established conditions of annexation for the Aspen Park at Mountain View Meadows Subdivision (Resolution #19191), and established R-2 (Single-Family Residential) and R-3 (Medium-Density Residential) Districts pre-zoning designations for the properties (Ordinance #3021). On that same date, the Commission conditionally approved the Aspen Park at Mountain View Meadows Subdivision preliminary plat.

Current uncommitted capacity at the Airport Road lift station, which serves this subdivision, would be able to serve 130 dwelling units. Based on the R-2 and R-3 zoning on the property, the maximum build out of the lots south of Runkle Parkway would be 105 units and Lot 1, Block 8, the multifamily lot north of Runkle Parkway, would be 101 units for a total of 206 dwelling units. Although it is not anticipated that the lots would be built out to their maximum potential, the property owner has agreed to restrictions placed on the multifamily lot, Lot 1, Block 8, restricting any development requiring sewer service until such time that capacity becomes available.

The conditions of annexation associated with this phase of the subdivision have been fulfilled and all procedural and due process requirements have been completed. Annexation has been requested by the applicant and is recommended by staff. The annexation request is accompanied by a simultaneous request for final plat approval for the same property.

On February 14, 2005 the City Commission gave conditional preliminary plat approval for the Aspen Park at Mountain View Meadows major subdivision creating 330 residential lots and parkland from approximately 192 acres. On February 11, 2008 the City Commission granted a one-year extension for meeting the conditions for final plat. The applicant, R and D Partners LLC, is currently requesting final plat approval for the first phase of the Aspen Park stage of the Mountain View Meadows development. This first phase consists of 41 residential lots on approximately 42.3 acres. The plat also includes the dedication of 4.26 acres of parkland and numerous rights-of-way.

The approval of the preliminary plat was subject to the conditions stated in the Findings of Fact, which have been completed for this phase. Ms. Morell-Gengler recommended approval of the final plat.

In 2005, the City Commission passed a resolution of intention to annex the Aspen Park at Mountain View Meadows Major Subdivision. One of the conditions of the annexation was to provide a route of annexation via a street connecting the subdivision to the City. This route includes a portion of Highway 12 and Crossroads Parkway, both of which are the Montana Department of Transportation (MDT) rights-of-way (ROW). The City has received a request to annex these ROWs from MDT; thus, the City of Helena proposes to annex the following rights-of-way to improve efficiency and minimize confusion for emergency providers:

1. The full right-of-way width of Highway 12 East from the existing city boundary line, eastward 361 feet to the eastern-most section of the intersection of Highway 12 and future Crossroads Parkway, generally located between Helena and East Helena; and

2. Tract HW1 of Certificate of Survey # 3145703, containing approximately 4.37 acres, that has been deeded to the Montana Department of Transportation for Crossroads Parkway ROW.

These rights-of-way are adjacent to land that is currently in the City of Helena. The annexation of these street rights-of-way into the City is intended to assist emergency response personnel in correctly defining the City/County service boundaries for emergency aid, as well as promote uniform development of street section improvements and street maintenance.

In accordance with Montana Law (Section 7-2-4403 MCA), *the administrative head of the owner of land referred to in 7-2-4402 or the administrative head of the holder of a beneficial interest in such land shall file with the clerk of the municipality a description of the land, a certification of ownership or of beneficial interest therein, and a statement that the owner or the holder of the beneficial interest in the land desires to have it annexed.* Mr. Jim Lynch, director of the Montana Department of Transportation has submitted a request to have the subject rights-of-way annexed to the city (attached).

On May 5, 2008 the City Commission approved a Resolution of Intention to Annex the subject property. The Commission action was duly advertised and a 20-day comment period was provided for. No comments were received as of May 19, 2008. Ms. Morell-Gengler recommended approval of the proposed annexation of government property.

Commission comment

Commissioner Peura referred to the Airport Road lift station and asked if the subject developer and adjacent developer would fund the expansions needed for additional capacity? Ms. Morell-Gengler explained there are two options for providing sanitary sewer to this area; one being an upgrade to the lift station, the other being an interceptor main. The interceptor main is considerably more costly. As this subdivision progresses, staff will review both options. Commissioner Peura commented the cost of whichever option will be borne by the developers; not city government. Ms. Morell-Gengler concurred.

Public Testimony

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

Greg Dahl, R & D Partners, applicant; spoke in support of the land use proposals.

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

Discussion

Commissioner Cartwright expressed concern for the length of the blocks in the subdivision, which are roughly one-quarter mile long. He commented radically different transportation systems need to be designed due to the high price of fuel. There are ways to break up blocks that are fairly low cost; such as 20-foot roadways and bike/pedestrian access in between houses. He indicated he would support the annexation but vote against the other land use proposals. Commissioner Peura spoke of upcoming revisions to the subdivision regulations; block length and road width will be reviewed. As R & D Partners moves forward with the development of the rest of the subdivision via the new subdivision regulations, pedestrian connectivity will be of prime importance. He indicated he would support the land use proposals. Commissioner Elsaesser concurred with Commissioner Cartwright's comments.

Motion

**Commissioner Peura moved approval for a Resolution to annex contiguous government property being portions of Highway 12 East, and Crossroads Parkway rights-of-way as legally described in the resolution into the City of Helena.** Commissioner Oitzinger seconded the motion. Motion carried 3-2, with Commissioners Elsaesser and Cartwright voting no. **Resolution #19564**

Motion

**Commissioner Peura moved approval for a resolution annexing into the City of Helena Phase A of the Aspen Park at Mountain View Meadows Subdivision including Tract A-1 of COS #3140861 and the full width of the adjacent Highway 282 right-of-way, for property legally described in the attached resolution of annexation.** Commissioner Oitzinger seconded the motion. Motion carried 4-1, with Commissioner Cartwright voting no. **Resolution #19563**

Motion

**Commissioner Peura moved approval for the final plat for the Aspen Park at Mountain View Meadows Phase A major subdivision creating 41 lots plus parkland and to accept the dedication to the City of property for public improvements designated thereon.** Commissioner Oitzinger seconded the motion. Motion carried 3-2, with Commissioners Elsaesser and Cartwright voting no.

B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A PLANNED UNIT DEVELOPMENT (PUD) FOR ASPEN PARK AT MOUNTAIN VIEW MEADOWS SUBDIVISION; GENERALLY LOCATED SOUTH OF HIGHWAY 12, SOUTHWEST OF EAST HELENA, WEST OF HIGHWAY 282 AND NORTH OF THE JEFFERSON COUNTY LINE.

Staff Report

Regarding the CUP proposal, Ms. Morell-Gengler reported the applicant's proposal for the first phase of the PUD would allow variations to the underlying R-2 (Single Family Residential) and R-3 (Medium

Density Residential) Districts for the Aspen Park phase of the development to allow:

- Schools and churches in residential districts by right, which would **not** require a CUP;
- Signage identifying the subdivision on entrances of the development; and
- Building heights greater than the current 24 foot maximum building height in the R-2 (Single-Family Residential) and R-3 (Medium Density Residential) Districts to allow a maximum height of 35 feet.

On May 13, 2008 the Helena Zoning Commission held a public hearing and made no recommendation regarding the proposed PUD for the Aspen Park at Mountain View Meadows development due to a tied vote (2:2).

Commission comment

Commissioner Cartwright asked how approval of this PUD would bind future Commissions? Ms. Morell-Gengler explained this PUD has underlying zoning, that zoning will follow the property as well as the restrictions developed through the PUD. The Commission does not initiate change to the PUD, if the developer should want to change those conditions they would go through the same public hearing process as any amendment to a CUP. Commissioner Cartwright asked what conditions would be binding? Ms. Morell-Gengler stated the only items that would differ from the underlying zoning are the signage, the usage and the building heights.

Public Testimony

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

Greg Dahl, R & D Partners, applicant; spoke in support of the proposed PUD.

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

Discussion

Commissioner Cartwright spoke in favor of the CUP. He expressed concern that some amount of the market wants houses of a certain size, they can chose where they might want to live. If the proposed height is allowed in the city, some number of those houses will be located in the city instead of outside of the city. Locating outside the city comes with extra cost to the environment and economy. He commented if one house can locate inside the city instead of MT City, it would save the same amount of oil as the winter plastics recycling collection did.

Commissioner Peura indicated he would support the CUP because it is compact development, will address climate change, reduce fuel consumption and reduce sprawl.

Motion

**Commissioner Peura moved approval for Resolution for a Conditional Use Permit for a Planned Unit Development (PUD) for Aspen Park at Mountain View Meadows subdivision allowing:**

- **Worship facilities and educational facilities as permitted uses in all residential districts;**
- **Maximum 50 square foot and 6-foot in height subdivision identification signs to be located at entrances to the development; and**
- **A maximum building height of 35 feet in the R-2 (Single Family Residential) and R-3 (Medium Density Residential) Districts;**

**for property legally described in the staff report and subject to the conditions in the transmittal memo to the City Commission.**

Commissioner Cartwright seconded the motion.

**Discussion**

Commissioner Elsaesser expressed concern for the proposed building height allowed with approval of the CUP. Commissioner Oitzinger concurred with Commissioner Elsaesser.

**Amendment**

**Commissioner Oitzinger moved to amend the allowable height to 30 feet in the R-2 District and 35 feet in the R-3 District.**

Motion dies for lack of a second.

**Vote**

Motion carried 4-1, with Commissioner Elsaesser voting no.

**Public Communications**

**PUBLIC COMMUNICATIONS**

No communications were given.

**Meetings of Interest**

**MEETINGS OF INTEREST**

The next Administrative Meeting is Monday, June 30, 2008 and the next Commission Meeting is Monday, June 16, 2008. The primary election will be held on Tuesday, June 3, 2008.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 8:52p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission