

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

Time & Place A regular City Commission meeting was held on Monday, October 6, 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 Ellen Bell 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 September 22, 2008 were approved as submitted.

Proclamation PROCLAMATION:
A. Fire Prevention Week

Mayor Smith read the proclamation designating October 5-11, 2008 as Fire Prevention Week. Fire Marshall Craig Trapp accepted the proclamation and gave an overview of Fire Prevention Week activities in the City of Helena.

Appointments APPOINTMENTS:
A. Tenmile Watershed Collaborative Committee

Mayor Smith asked for Commission concurrence on the following appointments:

Tenmile Watershed Collaborative Committee-

Helena City Fire Chief – Steve Larson
One City Commission Member – Mayor Smith
One County Commissioner – Commissioner Mike Murray
Helena National Forest Timber Management Officer – Sharon Scott
Helena National Forest Fire Management Officer – Dave Larsen
Representative of City of Helena Water Treatment Div. – Don Clark
Representative of the Timber Industry – Ellen Simpson
Representative of Lewis and Clark County Planning Department – Rebecca Shaw
Representative of the Montana Department of Environmental Quality – George Mathieus
Representative Lewis and Clark County Disaster and Emergency Services – Paul Spengler
Representative from Tri-County Fire Safety Working Group – Pat McKelvey
Representative of the Baxendale Fire District – Dave Mason
Representative of the Community of Rimini – Carl Kochman

Two local citizens – Jim Cottrill and Shannon Downey
One Helena Citizens Council Representative – Larry Mitchell

Terms will begin upon appointment and expire September 2009.

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

Motion Commissioner Cartwright moved approval of the appointments to the Tenmile Watershed Collaborative Committee as outlined above. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Utility Bill Insert - United Way
C. Utility Bill Insert - Montana Shares
D. An extension of one year for final plat approval for the Aspen Trails Ranch Subdivision
E. Acceptance of a Gift Deed for dedication of public right-of-way from Edward P. McHugh and Peter J. McHugh for an access street connecting McHugh Drive and Four Georgians Elementary School

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

Commission comment Commissioner Peura asked item D be removed for further discussion.

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

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

Item D D. AN EXTENSION OF ONE YEAR FOR FINAL PLAT APPROVAL FOR THE ASPEN TRAILS RANCH SUBDIVISION

On Monday, November 21, 2005, the Helena City Commission conditionally approved the preliminary plat for Aspen Trails Ranch Major Subdivision, a major subdivision creating 341 lots (325 residential lots, one commercial lot and 15 lots for parkland) from 267.76 acres. The proposed subdivision is legally described as Tract 1A COS #598543/B as amended per Quit Claim Deed #3025005 Bk –M26, Pg-9866, Lewis and Clark County, Montana.

Montana Codes Annotated Section 76-3-610 states: "This [preliminary plat] approval shall be in force for not more than 3 calendar years or less than 1 calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than 1 calendar year, except that the governing body may extend its approval for a period of more than 1 year if that approval period is included as a specific condition of a written agreement between the governing body and the subdivider."

The subdivider has submitted a request for an extension for filing the final plat for the Aspen Trails Ranch which is a relatively large

subdivision (341 lots). The preliminary plat approval was contingent on the completion of twenty-seven conditions, most of which related to infrastructure improvements and mitigation of the impacts to waterways. Within the 3 years since preliminary plat approval the applicant has demonstrated a commitment to completing the subdivision by completing infrastructure plans, most of which have been approved by the Public Works Department.

A complaint from area property owners was filed in December 2005 challenging the City's approval of the Aspen Trails Ranch subdivision. Proceeding further with the subdivision has been delayed by the uncertainty of the outcome of this lawsuit. Therefore, the applicant has requested additional time beyond the typical one-year extension to accommodate the delays associated with the lawsuit. The applicant has also identified plans to phase the development and delays regarding construction of a regional lift station that could serve the Aspen Trails Ranch subdivision as reasons for granting the extension.

Although the applicant had identified delays in the regional lift station as justification for the extension, the conditions of approval did not require participation in the regional lift station. Staff has maintained that if construction of a regional lift station could not meet the developer's timeframe, the applicant needed to proceed with the design and construction of an individual lift station with adequate capacity to serve this subdivision and the developer must provide rights-of-way dedicated to the City, or exclusive easements to the City for the lift station, and related infrastructure.

The preliminary engineering plans for an individual lift station have been submitted to the City for review but corrections to these plans, as identified by staff, have not been submitted. In addition to those corrections, options were presented to the developer early in the process if he decided to participate in a regional lift station. Since there is not a developed plan for the regional lift station those options are no longer available to the developer. Staff has indicated a willingness to administer a rebate program if the developer constructs a lift station with capacity in excess of the needs of the Aspen Trails Ranch Subdivision.

If the conditions of preliminary plat approval are not met within this one-year extension, an additional time extension and a written agreement, between the city and the subdivider, for filing the final plat for the Aspen Trails Ranch Subdivision must be approved prior to the expiration of the one-year extension.

Discussion

Commissioner Peura asked what criteria the Commission should use to review requests for extension of final plat approval? City Attorney David Nielsen explained there are not statutory standards as to when an extension is granted; the statute simply states a Commission can, prior to the expiration of three years from preliminary plat approval, grant an extension for up to one additional year.

Commissioner Peura recommended tabling the extension to allow for discussion and asked if there is a deadline for the Commission to contemplate a decision on the proposal? City Attorney Nielsen stated deadline for the time extension would be November 21, 2008.

Motion

Commissioner Peura moved to table an extension of one year for final plat approval for the Aspen Trails Ranch Subdivision to the call of the City Manager. Commissioner Elsaesser seconded the motion.

- Commission comment Discussion was held on the applicant's reasons for the extension. Commissioner Cartwright indicated he would support the motion and Mayor Smith stated he would not support tabling the extension.
- Public Comment Mayor Smith asked for public comment.
Richard Bowen, applicant; stated he would request a three to five year extension in order to recover the time lost due to litigation.
- Vote** Motion carried 4-1, with Mayor Smith voting no.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Cartwright expressed regret over Commissioner Oitzinger's resignation. Commissioner Elsaesser stated it has been an honor to serve with Commissioner Oitzinger. Mayor Smith expressed gratitude to Commissioner Oitzinger for serving as Mayor Pro Tem and thanked her for her years service. Commissioner Peura expressed sorrow over Commissioner Oitzinger's resignation.

Commissioner Oitzinger thanked everyone for their comments.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

A. Proposed Country Club fire settlement

City Attorney Nielsen reported the city has submitted a bill of \$15,781.59 to the County Attorney's Office for services rendered by the Helena Fire Department at the Spring Meadow Lake Fire on September 16, 2007. The claimant's attorney has offered partial settlement of \$7,500 to the city to resolve the outstanding financial claim.

Attorney Nielsen noted the attorney representing the insurance company had called and indicated that not all of the involved parties are willing to enter into the global settlement. He recommended the Commission take no action on the settlement at this time. He indicated he would bring the settlement proposal back for Commission consideration when appropriate.

Attorney Nielsen thanked Commissioner Oitzinger for her service and commented it has been a privilege to work with her.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Burton stated it has been a pleasure working for Commissioner Oitzinger and thanked her for her service to the City of Helena.

Manager Burton referred the Commission to a memo outlining the recruitment process for a replacement Commissioner. The memo is included as part of the official record in the Commission packet. There was Commission concurrence to proceed with the proposed process.

A. Confirmation of Police Officers Mark Baker, Nathan Casey, Jared Ryan and Buck Herron

City Manager Burton asked Police Chief McGee to introduce Officers Baker, Casey, Ryan and Herron. Chief McGee gave each officer's background, training, education and hobbies and recommended the Commission consider a motion to confirm the prospective officers.

Officers Baker, Casey, Ryan and Herron introduced their family members in attendance and thanked the City of Helena for the opportunity to serve on the Helena Police Department.

Mayor Smith and the Commission members welcomed the Officers to the Helena Police Department.

Motion

Commissioner Peura moved approval of the confirmation of Officers Mark Baker, Nathan Casey, Jared Ryan and Buck Herron. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Chief McGee reported Officer Steve Hagen was promoted to Lieutenant and Officer Jeff Scow was promoted to Sergeant. He gave both Officers' work history and congratulated them on their promotions. Mayor Smith and the Commission members praised the Officers for their work performance.

B. Introduction of Jason Fladland, Water Production Supervisor

Water/Wastewater Superintendent Don Clark introduced Water Production Supervisor Jason Fladland and gave his education and work history. Supervisor Fladland expressed his appreciation and excitement for his new position.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chair Ellen Bell reported the HCC's Quarterly District Meetings would be held Thursday, October 9, 2008. Districts 1 and 2 will meet at the Neighborhood Center, Districts 3 and 4 in City/County Building Room 326 and Districts 5, 6 and 7 at the University of Montana - Helena College of Technology. Chair Bell gave an overview of the agenda for the meetings.

Trademark

CONSIDER THE TRANSFER OF ASSUMED BUSINESS NAME AND TRADEMARK FOR THE WESTERN RENDEZVOUS OF ART TO THE MONTANA HISTORICAL SOCIETY.

Staff Report

Civic Center Manager Diane Stavnes reported both the Trademark and the Assumed Business Name were registered to the City of Helena on behalf of the Civic Center Board in their partnership with the Montana Historical Society to produce the *Western Rendezvous of Art*. Since the Civic Center Board is no longer a partner, transferring the trademark and logo to the Montana Historical Society (MHS) with the Montanan Secretary of State's office would allow continued use of both by the MHS.

Ms. Stavnes recommended approval of the proposed transfer.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Oitzinger moved approval for a transfer by the City of Helena to the Montana Historical Society the Assumed Business Name and Trademark for the *Western Rendezvous of Art* and authorized the City Manager to sign the necessary documents related to the transfer. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

YWCA

CONSIDER AUTHORIZING A LOAN OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM INCOME FUNDS TO THE HELENA YWCA, 501 N. PARK AVENUE.

Staff Report

Community Development Director Sharon Haugen reported the YWCA has requested that the City of Helena loan the organization for the replacement of the boiler for its building, located at 501 N. Park Avenue. The current boiler in the building has been determined to be inoperable by the State of Montana. The YWCA is an historic structure in the community and has served as some form of a women's shelter since opening its doors in the early 1900's. The YWCA has little funds for operating and maintaining the building and has recently reorganized its Board to rejuvenate its operation and rededicate itself to its new mission. The new boiler would be more energy efficient and reduce the operating costs dramatically.

The Helena YWCA provides housing for women referred to them from the Care House, Friendship Center, God's Love, local health care providers, and others. Through the Homeless Vet coordinator at the VA, the YWCA has initiated a plan to begin outreach to homeless women Vets who unlike male Vets have had no homeless shelter options in Helena. They YWCA has the capacity to serve 32 women. Women who are unable to pay are helped by the Board on case by case through scholarships, work exchange, and affordable payment plans.

Staff has identified program income available from a previous CDBG Homeowner Rehabilitation program and the reimbursement of administrative fees in the amount of \$25,000. In order to use those funds, the project must be considered an eligible CDBG activity, and all applicable Federal requirements must be met. The YWCA Board of Directors has recently adopted policies and procedures that ensure it will provide low income women, women with special needs, and emancipated girls over the age of 14 housing at affordable rates. There will be no outside remodeling with this project or any construction that would trigger any State Historic Preservation Office concerns and all work will be done in accordance to applicable Federal and State prevailing wage laws. When using CDBG program income, it is the responsibility of the City to ensure that all program requirements are met now and in the future.

Staff recommends if the loan is approved that a mortgage be placed on the property and that the following terms and conditions be established as part of the loan agreement:

- A lien be placed on the property requiring the loan amount to be returned in the event the building is sold or no longer used to house women or children who are considered eligible for assistance under the CDBG income guidelines; and
- The records of the YWCA will be available for City inspection at any time.

Director Haugen noted the loan will assist the YWCA to operate this coming winter season and beyond. It is one of the few transitional shelters for homeless and low-income women in the community and continues to work with other agencies to address these housing needs.

Commission comment Commissioner Peura clarified the loan itself is not being considered tonight; the proposal under consideration would authorize staff to move forward in applying for the loan. Director Haugen concurred.

Public comment Mayor Smith called for public comment.
Amy Skordal, YWCA Board; thanked the Commission for their consideration of the loan proposal and spoke in support of the project.

Motion **Commissioner Oitzinger moved to authorize the City of Helena to loan the Helena YWCA Community Development Block Grant (CDBG) program income funds to assist in replacing the boiler at the YWCA building located at 501 N. Park Avenue subject to the following conditions:**

- **A lien be placed on the property requiring the loan amount to be returned in the event the building is sold or no longer used to house women or children who are considered eligible for assistance under the CDBG income guidelines; and**
- **The records of the YWCA will be available for City inspection at any time.**

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

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION LEVYING AN ASSESSMENT UPON ALL PROPERTY IN SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 218 ALONG THE STREETS AND AVENUES IN PARTS OF WILLOWS SUBDIVISION.

Staff Report

Accounting Supervisor Brandi Pierson reported the Commission must levy and assess an annual charge for Special Improvement Lighting District (SLD) No. 218 in order for the charge to be placed on the upcoming tax bills. Lighting district assessments are based upon the anticipated cost of electric utility bills and administrative services. The City Commission approved Resolution No. 19599, the Resolution of Intention to levy an assessment upon all property in Special Improvement Lighting District No. 218, on September 8, 2008. Supervisor Pierson recommended approval of the proposed resolution.

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.

Motion

Commissioner Elsaesser moved approval of a resolution to levy an assessment upon all property in SLD No. 218 to defray the cost of maintaining improvements in said district for fiscal year 2009. Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19610**

B. CONSIDER A RESOLUTION LEVYING AN ASSESSMENT UPON ALL PROPERTY IN SPECIAL IMPROVEMENT LIGHTING

DISTRICT NO. 219 ALONG THE STREETS AND AVENUES IN PARTS OF ASPEN PARK AT MOUNTAIN VIEW MEADOWS SUBDIVISION, PHASE A.

Staff Report

Supervisor Pierson reported the Commission must levy and assess an annual charge for Special Improvement Lighting District (SLD) No. 219 in order for the charge to be placed on the upcoming tax bills. Lighting district assessments are based upon the anticipated cost of electric utility bills and administrative services. The City Commission approved Resolution No. 19600, the Resolution of Intention to levy an assessment upon all property in Special Improvement Lighting District No. 219, on September 8, 2008. Supervisor Pierson recommended approval of the proposed resolution.

Public Testimony

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

Bruce Hayes, Helena; asked if the proposed SLD is related to consent agenda item D, which was tabled earlier in the meeting.

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

Comment

City Manager Burton explained SLD No. 219 is not connected to the tabling of the final plat extension for Aspen Trails Ranch Subdivision.

Motion

Commissioner Elsaesser moved approval of a resolution to levy an assessment upon all property in SLD No. 219 to defray the cost of maintaining improvements in said district for fiscal year 2009. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Resolution #19611**

C. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW A PAVED PARKING LOT TO BE LOCATED IN AN R-3 (RESIDENTIAL) DISTRICT GENERALLY LOCATED NORTH OF 14TH STREET BETWEEN JACKSON STREET AND THE ALLEY.

Staff Report

City Planner Kathy Macefield reported on September 9, 2008 the Helena Zoning Commission provided no recommendation, due to lack of a second for the motion for approval subject to the 2 recommended conditions, for a resolution granting a Conditional Use Permit (CUP) to allow a paved parking lot with 8 parking spaces to be located in an R-3 (Residential) District. The applicant's representative has stated the parking lot will be for their tenants' use of their existing building located to the west across the alley. The property is legally described as Lot 1, Block 575, Central Addition #2, Helena, Montana; generally located north of Fourteenth Street between Jackson Street and the alley.

Ms. Macefield recommended approval of the CUP as it is consistent with the CUP criteria of 11-3-5 of the Helena Zoning Ordinance and is not expected to significantly increase risk to the public health, safety, or general welfare; is not expected to significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located. In considering whether a proposed conditional use meets the above requirements, the following factors have been weighed and balanced in the evaluation of this proposal with the mitigating conditions: pedestrian, vehicular, and bicycle traffic; on-street parking; noise; glare; odor; and

the type and size of structures and improvements and their relative locations on the subject property.

Commission comment

Commissioner Peura referred to the condition requiring a physical barrier to restrict after-hours parking and asked for the policy goal of that condition? Ms. Macefield stated there was public concern for loitering and noise after hours so requiring a physical barrier to restrict access was seen as a way to help mitigate those concerns. Commissioner Peura commented he believed that was a waste of land. Commissioner Peura referred to the alleyway that is proposed to be paved and asked if it is all residential homes that back up to the alleyway. Ms. Macefield stated yes except for property related to the Center for Mental Health. Commissioner Peura stated the condition requiring the paving of the alley is a presumption that there will be more traffic down the alley and will reduce dust from the increased traffic. Ms. Macefield stated it is conceivable. Commissioner Peura stated Parking Lot 15 is a block away from the subject property. Commissioner Peura stated one of the criteria when reviewing a CUP is that the proposed use will not significantly increase risk to the public health, safety, or general welfare and asked Attorney Nielsen if the city has a specific definition of the term "significantly". Attorney Nielsen stated no, the dictionary-type definition would be applied. He noted "significantly" would mean something more than just trifling or speculative, it would be something of substance. Commissioner Peura referred to the term "peaceful use" referenced in another area of review criterion and asked if the city has a specific definition. Attorney Nielsen stated no.

Commissioner Elsaesser asked if the alleyway were paved, would it count towards the total impermeable surface amount? Ms. Macefield stated no, the alleyway would not be considered as part of the applicant's property when calculating impermeable surface.

Commissioner Cartwright stated 5,000 feet is the trigger for impermeable surface requirements so if there was a series of 5,000 foot lots that could be paved or covered, it would be entirely impermeable. Ms. Macefield stated that requirement is in city code; however, it would have to be reviewed by staff according to the proposal and how the code is written.

Public Testimony

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

The following persons spoke in opposition to the proposed CUP:

Bruce Hayes, Helena; Nancy Cobble, 72 Ruby Mountain Road, MT City; JoAnn Stultz, 815 Jackson; Joe Filson, 811 N. Jackson; Melissa Kaiser-Synness, 812 N. Jackson; Will Selser, 728 N. Warren; Bill Rule, Helena; Curt Synness, 812 N. Jackson. Mr. Synness submitted written testimony from Peter Brown, MT Historic Preservation Office, 423 5th Avenue.

The following persons spoke in support of the proposed CUP:

Kelly Patzer and Jerry Olsen, applicants; and Ellen Bell, 805 N. Last Chance Gulch.

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

Discussion

Commissioner Cartwright asked for the location of the town center lot? Ms. Macefield stated it is the lot immediately north of the Empire building. Commissioner Cartwright asked if there water service

to the subject property? Ms. Macefield stated no, the applicants will need to install water service with the landscaping as called for by the landscaping requirements. Commissioner Cartwright asked Mr. Patzer if the tree and bush are on the subject property or the adjoining property? Mr. Patzer replied the juniper is on the adjoining property and the ash is on the subject property. Commissioner Cartwright referred to public comment that referenced future parking restrictions to 14th Street and asked Ms. Macefield for more information. Ms. Macefield stated she did not have any information about proposed parking changes as they are not handled through the Planning Department. Manager Burton stated staff has not seen a request by the Parking Commission, to date, concerning the overall street parking issues that would ultimately be decided by the City Commission once the garage is built.

Commissioner Peura indicated he would oppose the CUP and referred to City Code 11-3-5.1 and stated he believes the existence of the parking lot would increase the risk to public safety by the projected 40.69 additional vehicle trips and higher speed through the neighborhood per the traffic study and staff. He defined his concerns as significant. He referred to City Code 11-3-5.2 and stated he believes a parking lot will significantly reduce or impair the peaceful use of existing property in the vicinity. He noted commercial use proposals have caused the Jackson Street neighborhood to form a Neighborhood Association specifically for the purpose of drafting a neighborhood plan for the purpose of preserving and protecting their peaceful use of their neighborhood. The city's Growth Policy calls for preserving residential opportunities downtown, in particular, lower cost homes and housing. The proposed parking lot would encroach upon such a neighborhood. Also, the Growth Policy discusses the importance of efficient use of land; there is parking available in the area. The new parking garage will be somewhat undersold and there continues to be spaces available in Parking Lot 15 and the Getchell Street Garage.

Motion

Commissioner Peura moved denial of a resolution granting a CUP to allow a paved parking lot with eight (8) parking spaces to be located in an R-3 (Residential) District for property legally described in the staff report and subject to the conditions therein.
Commissioner Oitzinger seconded the motion.

Comment

Commissioner Oitzinger concurred with Commissioner Peura's concerns. Commissioner Elsaesser indicated he would not support the CUP. Commissioner Cartwright asked what would the zoning code say if a townhouse were put in the east end of the lot but most of the remaining lot given over to pavement? Ms. Macefield stated it would be a dual use of the property, if the CUP were granted for the parking lot/commercial venture, then there could be two uses there. There is no minimum lot size requirement anymore so it is no longer a limiting factor.

Vote

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

Comment

Commissioner Peura requested discussion of the snow removal ordinance be placed on an upcoming Administrative Meeting agenda; City Manager Burton agreed to do so.

D. CONSIDER A RESOLUTION ANNEXING CONTIGUOUS GOVERNMENT PROPERTY BEING A PORTION OF THE BENTON AVENUE RIGHT-OF-WAY INTO THE CITY OF HELENA; PROPERTY IS GENERALLY LOCATED EAST OF THE CRYSTAL SPRINGS SUBDIVISION AND NORTH OF WILLOWBROOK DRIVE.

Staff Report

City Planner Lucy Morell-Gengler reported the City of Helena proposes to annex the following right-of-way to improve efficiency and minimize confusion for emergency providers:

The approximately 225-foot long and 30-foot wide southern portion of right-of-way shown as Tract R-1 on COS #3151528, Lewis and Clark County, Montana, located north of Willowbrook Drive and east of the Crystal Springs Subdivision.

This right-of-way is adjacent to land that is currently in the City of Helena and was dedicated to the City in June 2008 to facilitate the northward extension of Benton Avenue but was not annexed. The annexation of this street right-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 of or the holder of the beneficial interest in the land desires to have it annexed. The Helena City Manger has submitted a request to have the subject right-of-way annexed to the city.

On September 8, 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. No comments were received as of the date of this memo.

Ms. Morell-Gengler recommended approval of the proposed resolution as annexation of this right-of-way is consistent with city policy, will allow for adequate street maintenance, and will assist emergency providers.

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.

Motion

Commissioner Peura moved approval for a resolution annexing contiguous government property being portions of Benton Avenue right-of-way into the City of Helena as legally described in the attached resolution. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19612**

E. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359 AND AMENDING THE OFFICIAL ZONING MAP THEREOF IN REFERENCE TO PROPERTY LEGALLY DESCRIBED AS LOTS 6-9, COTTONWOOD WEST SUBDIVISION, FOR A ZONE CHANGE FROM CLM (COMMERCIAL LIGHT MANUFACTURING) TO B-2 (GENERAL COMMERCIAL) DISTRICT.

Staff Report

City Planner Dustin Ramoie reported On September 9, 2008 the Helena Zoning Commission recommended approval (3:0 vote) for the adoption of an Ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map thereof for a zone change from CLM (Commercial-Light Manufacturing) to B-2 (General Commercial) District in reference to the property legally described as Lots 6-9 of the Cottonwood West Subdivision, Helena, Montana generally located north of Barney Street and east of Colton Drive.

Mr. Ramoie recommended approval of the zone change as the proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance and is compatible with the surrounding land uses.

Commission comment

Discussion was held regarding private property in the area owned by Gardenwerks.

Public Testimony

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

Jeff Larson, representing Dave Crofts, applicant; spoke in support of the zone change.

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

Motion

Commissioner Oitzinger moved approval for first passage of an ordinance amending City of Helena Ordinance No. 2359, and amending the Official Zoning Map thereof for a zone change from CLM (Commercial-Light Manufacturing) to B-2 (General Commercial) District in reference to the properties, legally described in the staff report. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Ordinance #3103**

Public Communications

PUBLIC COMMUNICATIONS

Ed McHugh, Cloverview; thanked Commissioner Oitzinger for her service to the City of Helena. He presented a petition to the Commission requesting removal of the traffic calming devices on McHugh Lane and gave the history of the issue. He noted McHugh, Inc. would pay to remove the devices at no cost to the city.

P.J. McHugh, McHugh Mobile Home Park; urged the Commissions to remove the traffic calming dips.

Mayor Smith noted the city is working on the issue.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, October 15, 2008 and the next Commission Meeting is Monday, October 20, 2008.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:03p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission