

**CITY OF HELENA**  
**REGULAR CITY COMMISSION MEETING**  
**April 25, 2011**  
**6:00 P.M.**

- Time & Place** A regular City Commission meeting was held on Monday, April 25, 2011 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, Ellison and Elsaesser were present. Commissioner Thweatt was excused. City Manager Ron Alles, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Olivia Tooley 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 April 11, 2011 were approved as submitted.
- Proclamation** PROCLAMATION:  
A. Arbor Day
- Mayor Smith read the proclamation designating April 29, 2011 as Arbor Day in the City of Helena and presented it to Parks and Recreation Department Administrative Assistant Carol Kirkland. Ms. Kirkland announced Arbor Day activities being held on Thursday, April 28<sup>th</sup>. Mayor Smith thanked Ms. Kirkland for her work with the Arbor Day program.
- Consent Agenda** CONSENT AGENDA:  
A. Claims  
B. Facade easement to allow installation and maintenance of murals on the Trolley Block of the downtown walking mall  
C. Public access easement on the Trolley Block of the downtown walking mall  
D. Contract between the City of Helena and Wells Fargo Bank regarding collateralization of deposits and placement of the securities  
E. Resolution declaring seized evidence items as abandoned and unclaimed property thus making it eligible for disposition
- City Manager Ron Alles recommended approval of the claims and the consent agenda.
- Public Comment** Mayor Smith asked for public comment, none was received.
- Motion** Commissioner Ellison moved approval of items A through E on the consent agenda. Commissioner seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS  
No communications were given.

**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 Alles announced the schedule for community meetings to solicit public comment on the update of the Subdivision Regulations.

He reported the Fire Department Union ratified their contract and gave an overview of additions to the contract.

**Report from the Helena Citizens Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

No report was given.

**Big Sky Estates Major Subdivision**

A. CONSIDER A RESOLUTION OF ANNEXATION FOR THE BIG SKY ESTATES SUBDIVISION; GENERALLY LOCATED WEST OF ELAINE STREET AND SOUTH OF TRICIA STREET.

B. CONSIDER FINAL PLAT APPROVAL FOR THE PROPOSED BIG SKY ESTATES MAJOR SUBDIVISION GENERALLY LOCATED WEST OF ELAINE STREET AND SOUTH OF TRICIA STREET.

Staff Report

City Planner Lucy Morell-Gengler reported the owner of this property, Koehler Properties LLC, has requested annexation for approximately 2.23 acres legally described as Lot 3, Block 1 of the Sleeping Giant Addition Amendment of Industrial Park, Document #310668, known as the Big Sky Estates Subdivision. This property is bordered by the city on three sides and is currently vacant and undeveloped.

On February 8, 2010, the Helena City Commission approved the Resolution of Intention to Annex (Resolution #19720) and the preliminary subdivision plat creating 9 residential lots, and a stormwater pond/utility lot for the property. Conditions for annexation as an intermediate step toward the finalization of annexation were established at that time. A request for final plat approval has been submitted and the conditions for the subdivision and annexation have been met. For reference, a list of the original subdivision conditions were included in the Commission packet. The property has been pre-zoned R-4 (Residential-Office) District (Ordinance 3036); the improvements such as water and sewer mains and the internal street have been installed. The adjacent right-of-way for Elaine Street was previously annexed and has been installed to city standards. The subdivision includes dedication of Lot 3-C for stormwater drainage facilities and the internal streets to the City. The parkland requirement has been met by a cash payment to the city.

Ms. Morell-Gengler recommended approval of the annexation and final plat of the Big Sky Estates Subdivision as the proposed annexation is adjacent to the city; water and sewer mains have been installed; and all streets will be installed to city standards. Therefore, annexing this property is a logical expansion of the city, an opportunity to promote compatible urban growth, and would be consistent with the efficient use of land, infrastructure, energy and resources and the 2001 Helena Growth Policy. The subdivision will promote urban density development close to major transportation routes and close to employment opportunities.

Public Comment

Mayor Smith asked for public comment.  
Gary Koehler, applicant; urged the Commission to approve the annexation and final plat.

Motion

**Commissioner Elsaesser moved approval for a resolution of annexation for the Big Sky Estates Subdivision, as legally described in the resolution, into the City of Helena.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19823**

Motion

**Commissioner Ellison moved approval of the final plat for the Big Sky Estates Major Subdivision and to accept the dedication to the city of property for public improvements designated thereon.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

***Backflow Ordinance***

C. CONSIDER FINAL PASSAGE OF ORDINANCE NO. 3143 REQUIRING INSTALLATION, MAINTENANCE AND ANNUAL INSPECTION OF BACKFLOW PREVENTION DEVICES BY AMENDING CHAPTER 2 OF TITLE 6 OF HELENA CITY CODE.

Staff Report

Utilities Superintendent Kevin Hart reported a public hearing on the draft ordinance was duly noticed April 3 and 10, 2011 and a public hearing held on April 11, 2011. The ordinance passed first reading on April 11, 2011 as recommended.

The proposed amendments to Title 6 Chapter 2 would provide the authority to establish a program within the water utility to require the installation maintenance and annual inspection of back flow devices installed at points of service and to eliminate cross connections of non-drinking water with the Helena municipal water system. The program will focus on identifying and controlling back flow situations or eliminating cross connection hazards that pose a threat to the quality of Helena's drinking water.

Superintendent Hart recommended approval of the ordinance as the proposed additions to the water code will provide a mechanism within the water utility to coordinate, control and monitor connections to the water system where other existing codes require such devices. The code will provide the utility with a tool to assist with protecting and maintaining the quality of water delivered and protection of Helena's water supply.

Discussion

Commissioner Cartwright requested the Commission be provided with an annual report on the program.

Mayor Smith asked if the ordinance would apply to federal, state and local government facilities. Mr. Hart confirmed they will be included in the program and noted Parks Department properties have already been retrofitted to comply with the proposed ordinance.

Commissioner Elsaesser asked if the ordinance contains a fee. Mr. Hart explained there is no specific fee in the ordinance and gave the intent of the program. He noted the anticipated testing cost is \$75.00 per device.

Commissioner Ellison asked what the average residential user could expect if this ordinance is approved. Superintendent Hart stated for the most part, residential customers won't notice a difference. At this time, there is no intent to move forward with any residential testing as the hazard risk is much smaller.

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

**Motion** **Commissioner Ellison moved approval of final passage of Ordinance No. 3143 requiring installation, maintenance and annual inspection of backflow prevention devices by amending Chapter 2 of Title 6 of Helena City Code.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3143**

**Bond Regulations** D. CONSIDER A RESOLUTION ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE IN ADVANCE OF THE PROPOSED ISSUANCE OF REVENUE BONDS BY THE CITY OF HELENA WATER SYSTEM (DNRC DRINKING WATER REVOLVING LOAN PROGRAM).

Staff Report Administrative Services Director Tim Magee reported Internal Revenue Service (IRS) regulations require that bond issuers cannot reimburse itself from bond proceeds for expenditures made prior to the bond issuance unless it declares its intent to do so; the proposed resolution declares that intent. Staff is recommending the Commission authorize the issuance of \$1,100,000 of State of Montana, Department of Natural Resources (DNRC) Water Revolving Loan Program bonds to match federal STAG grant awards for the Missouri River Treatment Plant. This resolution will allow the city to be reimbursed from the bond proceeds for expenditures currently being made on the projects.

The projects budgeted for in the fiscal year 2011 budget are: MRTP support facilities (\$850,000); backwash recycle system (\$1,036,000); SCADA system (\$200,000); and flocculation, flow monitor, and flash mix upgrades (\$40,000). The city has been awarded STAG grants that require a 45% city match. The bonds will be used as match for the unspent grant proceeds of \$1,016,524.

Director Magee recommended approval of the resolution as it will allow the city to begin the projects prior to bond closing and receive reimbursement.

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

**Motion** **Commissioner Elsaesser moved approval for a resolution relating to financing of certain projects; establishing compliance with reimbursement bond regulations under the Internal Revenue Code in advance of the proposed issuance of revenue bonds by the City of Helena Water System (DNRC Drinking Water Revolving Loan Program) to provide funds to pay for the costs of MRTP STAG grant projects.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res #19824**

**Plat Extension** E. CONSIDER A REQUEST TO EXTEND THE REVIEW PERIOD FOR A MINOR SUBDIVISION/PRELIMINARY PLAT, LOT 1, BLOCK 1, OVERLOOK ESTATES.

Staff Report Community Development Director Sharon Haugen reported on March 14, 2011 the City Commission approved an extension of the 35-working day subdivision review period until April 26, 2011 for applicant Robert Kolar. He has proposed a minor subdivision/preliminary plat to

create 5 lots from Lot 1 (1.7 acres), Block 1, Overlook Estates located in the R-3 (Residential) District.

The property has been developed with 4 foundations to create 8 dwelling units on one un-subdivided lot that contained onsite parking to serve the buildings. During the subdivision review process, staff determined the proposed subdivision would create lots that do not conform to the City's zoning regulations and had a problematic utility design.

The applicant's architect and engineer met with city staff on April 4th to present an alternative design concept and to discuss options. In order to provide sufficient time for the applicant to submit a preliminary plat that complies with City requirements and enough time for staff to review any revisions, the applicant has requested to extend the subdivision review period for 60 days to June 13, 2011.

Director Haugen recommended approval of the extension as it will allow the applicant to submit a preliminary plat that complies with city requirements and enough time for staff to review any revisions to the proposed subdivision.

Public Comment

Mayor Smith asked for public comment.

Bob Kolar, applicant; spoke in support of the extension of the review period.

Discussion

Commissioner Cartwright spoke of updating the landscaping ordinance and recommended the Commission require an annual follow-up on new landscaping to see if it's still alive and compliant.

Motion

**Commissioner Cartwright moved approval of extension of the subdivision review period for a minor subdivision/preliminary plat to June 13, 2011.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

**ROW Annexations**

F. CONSIDER A RESOLUTION OF INTENTION TO ANNEX CONTIGUOUS GOVERNMENT PROPERTY BEING THE FULL WIDTH OF A PORTION OF THE BENTON AVENUE RIGHT-OF-WAY INTO THE CITY OF HELENA, MONTANA

Staff Report

City Planner Dustin Ramoie reported the City of Helena wishes to annex the full width of a portion of the Benton Avenue right-of-way to better facilitate emergency services, provide contiguous roads and access to properties in the City of Helena, and to provide consistency in the City of Helena boundary. For the City of Helena to consider annexation of contiguous government land, the owner of the property to be annexed must request annexation. The City of Helena is requesting the annexation of a portion of Benton Avenue.

The process for annexing adjacent government property is a multi-phased process that first involves a request from the government body that owns the land. Once a request is received, a Resolution of Intent to Annex is passed by the City of Helena. At that point the city will advertise on two occasions, for a twenty day comment period. Once the comment period has been fulfilled, the City Commission can make a final consideration on annexation.

Mr. Ramoie recommended approval of the resolution of intention as annexation of this right-of-way is consistent with city policy, and will better facilitate emergency services, provide contiguous roads and

access to properties in the City of Helena, and provide consistency in the City of Helena boundary.

Discussion

Commissioner Ellison asked if the adjacent sections of Benton Avenue have been previously annexed. Mr. Ramoie stated yes. Commissioner Cartwright referred to property in the area that is wholly surrounded by the city. Mr. Ramoie stated staff continues to hold discussions with the property owners regarding annexation.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

**Commissioner Ellison moved approval for a resolution of intention to annex the full width of a portion of Benton Avenue in Lewis & Clark County, as shown on "Exhibit A".** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19825**

G. CONSIDER A RESOLUTION OF INTENTION TO ANNEX CONTIGUOUS GOVERNMENT PROPERTY BEING THE FULL WIDTH OF PORTIONS OF WOODWARD AVENUE, COONEY DRIVE, BLAINE STREET, BILLINGS AVENUE, AND 20TH STREET RIGHTS-OF-WAY INTO THE CITY OF HELENA, MONTANA

Mr. Ramoie stated the City of Helena also wishes to annex the full width of portions of Woodward Avenue, Cooney Drive, Blaine Street, Billings Avenue and 20<sup>th</sup> Street rights-of-way into the City of Helena, Montana. Annexation of these rights-of-way will better facilitate emergency services, provide contiguous roads and access to properties in the City of Helena, and to provide consistency in the City of Helena boundary. For the City of Helena to consider annexation of contiguous government land, the owner of the property to be annexed must request annexation. Lewis & Clark County passed Resolutions #2011-50, #2011-51, #2011-52, and #2011-53 requesting the annexation of portions of Woodward Avenue, Cooney Drive, Blaine Street, Billings Avenue, and 20th Street.

The process for annexing adjacent government property is a multi phased process that first involves a request from the government body that owns the land. Once a request is received, a Resolution of Intent to Annex is passed by the City of Helena. At that point the city will advertise on two occasions, for a twenty day comment period. Once the comment period has been fulfilled, the City Commission can make a final consideration on annexation.

Mr. Ramoie recommended approval of the resolution of intention as annexation of this right-of-way is consistent with city policy, and will better facilitate emergency services, provide contiguous roads and access to properties in the City of Helena, and provide consistency in the City of Helena boundary.

Discussion

Commissioner Cartwright noted the city's street maintenance department will have to take over and fund maintenance of the newly-annexed streets.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Cartwright moved approval for a resolution of intention to annex the full width of portions of Woodward Avenue, Cooney Drive, Blaine Street, Billings Avenue and 20<sup>th</sup> Street in Lewis & Clark County, as shown on attached "Exhibit A", and schedule a public hearing for May 23, 2011.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19826**

***Public Communications***

PUBLIC COMMUNICATIONS

No public communications were given.

***Meetings of Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is May 4, 2011 and the next Commission Meeting is May 9, 2011. The City/County Joint Work Session will be held Thursday, May 5, 2011.

Commissioner Ellison reminded citizens final approval of the Growth Policy will take place on May 9, 2011.

Commissioner Cartwright noted budget work sessions will begin the week of May 16, 2011.

***Adjournment***

There being no further business to come before the Commission, the meeting was adjourned at 7:02 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission