

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

- Time & Place*** A regular City Commission meeting was held on Monday, July 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 Jim McCormick 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 July 11, 2011 were approved as submitted.
- Presentations*** PRESENTATIONS:  
A. Confirmation of Police Officers Scott Finnicum & Josh Ray  
  
Police Chief Troy McGee introduced Officers Finnicum and Ray and gave their education and work history. Chief McGee announced both Officers had completed their one-year probation and recommended their confirmation with the Helena Police Department (HPD).  
Officers Finnicum and Ray introduced family members in attendance and thanked the Commission for the opportunity to work for the HPD.  
Mayor Smith and Commissioner Ellison commended Officers Finnicum and Ray for their service to the citizens of Helena.
- Motion*** **Commissioner Ellison moved approval of the confirmation of Scott Finnicum and Josh Ray as Officers with the Helena Police Department.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.
- Consent Agenda*** CONSENT AGENDA:  
A. Claims  
B. Acceptance of the June 2011 pledged collateral report  
C. Adoption of the official zoning map update for the City of Helena with a revision date of July 25, 2011  
D. Time extension for meeting the conditions of preliminary plat approval for the Simmons Minor Subdivision  
E. Utility bill insert – Water/Wastewater rates & charges  
  
City Manager Ron Alles recommended approval of the claims and the consent agenda.  
Commissioner Cartwright asked item D be removed from the consent agenda for further discussion.
- Public Comment*** Mayor Smith asked for public comment, none was received.

- Motion** **Commissioner Cartwright moved approval of items A, B, C and E on the consent agenda.** Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Item D TIME EXTENSION FOR MEETING THE CONDITIONS OF PRELIMINARY PLAT APPROVAL FOR THE SIMMONS MINOR SUBDIVISION
- Commissioner Cartwright noted the applicant had run into financial difficulties and originally asked for a 10-year extension for final plat approval; staff has recommended an extension until January 1, 2012. He noted banks and contractors don't give 10 year extensions yet the City of Helena is regularly asked to give fairly long extensions with no guarantee or knowledge of what will happen. He commended staff's recommendation of one year.
- City Attorney Nielsen explained staff's recommendation of one year instead of 10 years. He noted most major infrastructure has been installed and the applicant now needs to submit and install the as-built improvements on streets that have already been constructed. At the end of the extension, state statute may allow the applicant to apply for another extension under a new law.
- Commissioner Ellison commented the Growth Policy is updated every five years so a 10 year extension does seem excessive. He noted the proposed extension is until January 1, 2012, which is 6 months from now. He asked Attorney Nielsen if staff is confident the applicant can complete their as-built improvements within that timeframe. Attorney Nielsen stated yes.
- Public Comment Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Cartwright moved approval of item D on the consent agenda.** Commissioner Ellison seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
- Commissioner Elsaesser invited citizens to attend the "Running Water for Helena" race on Saturday, July 30, 2011. The event benefits the Tenmile Watershed Group and Montana Discovery Foundation to help with education and stewardship in the Tenmile Corridor; more details can be found online at [www.ci.helena.mt.us](http://www.ci.helena.mt.us).
- Mayor Smith discussed recent events attended by various Commission members.
- Report of the City Attorney** REPORT OF THE CITY ATTORNEY  
No report was given.
- Report of the City Manager** REPORT OF THE CITY MANAGER  
No report was given.
- Report from the Helena Citizens Council** REPORT FROM THE HELENA CITIZENS COUNCIL
- HCC Chair Jim McCormick reported the HCC's next regular meeting is this Wednesday, July 27, 2011 at 7:00p.m. in City/County Building-Room 326. He gave an overview of the agenda and noted City Manager Alles would be attending the meeting to discuss the newly budgeted HCC Coordinator position.

**Regular Items**

REGULAR ITEMS:

- A. CONSIDER A SIDEWALK VARIANCE FOR 129 SOUTH HOWIE.

Staff Report

City Engineer Ryan Leland reported the property at 129 South Howie Street is currently undeveloped. The owners would like to build a home in the future. The property is adjacent to South Howie Street, which is undeveloped. The owner of the property, Pat Therriault, is requesting a sidewalk variance to defer the installation of sidewalk, drive approach, curb and gutter until South Howie Street is constructed to City Standards.

Mr. Leland noted staff has no recommendation on the proposal.

Discussion

Commissioner Cartwright asked what mechanism would guarantee the sidewalks would be installed when the street is improved. Mr. Leland explained there is no mechanism to guarantee sidewalk installation as there is no waiver of right to protest; however, if the applicant were to refuse installation at the time the street is installed, staff would notify the Commission and the Commission can order the sidewalks in.

Commissioner Elsaesser asked if staff foresees this street being improved any time soon. Mr. Leland stated no and explained pedestrian use in the area.

Mayor Smith asked for the status of development of the property. Mr. Leland noted the applicant is very close to submitting a building permit application, if it hasn't already been submitted. He noted the action before the Commission is not a permanent variance, only to defer sidewalk installation to a later date.

Public Comment

Mayor Smith asked for public comment, none was received.

**Motion**

**Commissioner Ellison moved approval to defer the installation of sidewalks, drive approaches, curb and gutter, for the property at 129 South Howie until such a time the streets are constructed to City standards.** Commissioner Cartwright seconded the motion.

Discussion

Commissioner Cartwright stated he does not like deferring installation of sidewalks but believes in this situation it is in order. He encouraged the applicants to keep the area graded and pedestrian friendly.

**Friendly amendment**

**Commissioner Elsaesser made a friendly amendment to add the following language: or adjacent pedestrian amenities are developed following the word "standards".** Commissioners Ellison and Cartwright accepted the amendment.

**Vote**

All voted aye, motion carried.

- B. CONSIDER PRELIMINARY APPROVAL OF A LOT LINE RELOCATION SURVEY OF LOT #1 AND LOT #2, IRVING MINOR SUBDIVISION, SECTION 25, TOWNSHIP10 NORTH, RANGE 4 WEST FOR THE PURPOSE OF PROVIDING VEHICULAR ACCESS TO THE AFOREMENTIONED PARCELS

Staff Report

Natural Resources Coordinator Brad Langsather reported Brent Thompson, the owner of Parcel #2 - Irving minor subdivision, has requested preliminary approval of a proposed lot line relocation survey which would effectively result in the exchange of approximately 200 square feet of property derived from Irving Minor Subdivision Lot #1 and Lot #2 for approximately 200 square feet of City of Helena Open Lands property. The purpose of this exchange would be to provide vehicular access to said undeveloped lots.

Mr. Thompson is requesting preliminary approval of a lot line relocation survey proposal prior to investing in the actual survey. The objective of the proposed survey would be to provide legal vehicular access on an existing road that currently crosses a small segment of city owned open space property prior to entering Irving Minor Subdivision Lot #1.

Mr. Langsather recommended approval of the lot line relocation as it would provide off street parking opportunities and the city would be promoting inner-city development.

Discussion

Commissioner Elsaesser asked for confirmation that this is only preliminary approval and will require final approval by the Commission. Mr. Langsather stated yes, the applicant asked for preliminary approval so they would not fund the survey and then find out the Commission was not amenable to the proposal. Commissioner Elsaesser stated he would like to see a plan from the Helena Open Lands Management Advisory Council (HOLMAC) regarding how the existing trail on the property will be accommodated once these lots are developed.

Public Comment

Mayor Smith asked for public comment.

Brenda Elias, applicant, Lot 2; urged the Commission to support preliminary approval of the relocation survey.

Motion

**Commissioner Cartwright moved preliminary approval for a lot line relocation survey of Irving Minor Subdivision Lot #1 and Lot #2, Section 25, Township 10 North, Range 4 West.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

C. CONSIDER A RESOLUTION OF INTENTION TO ANNEX TRACTS A1 AND B2 SHOWN ON COS #3203658, AND THE FULL WIDTH OF THE ADJACENT PORTIONS OF THE CUSTER AVENUE, INTERSTATE 15, AND THE NEW FRONTAGE ROAD RIGHTS-OF-WAY, INTO THE CITY OF HELENA.

Staff Report

City Planner Dustin Ramoie reported the applicant wishes to annex the subject property to allow for sustainable commercial development utilizing city water, wastewater, and other services. For the City of Helena to consider annexation, the owner of the property to be annexed must petition for annexation. The Greyn Family LLC is requesting the annexation of Tract A1 and Tract B2 of COS#3203658. State law always requires the annexation of the adjacent rights of way at the time of annexation. The affected rights of way would include Custer Avenue, portions of I-15 (including right of way (ROW) for the new interchange) and the adjacent portion of the Frontage Road.

Mr. Ramoie recommended approval of the annexation as it is in accordance with city policy, the 2011 Growth Policy, and the future land use map. It will also allow development to occur utilizing city water, wastewater and other services in an area that is slated for major road improvements and higher intensity uses.

## Discussion

Commissioner Elsaesser asked if the old frontage road would remain accessible for use as an exit for the property. Mr. Ramoie deferred the question to the applicant.

Commissioner Cartwright referred to the staff report and asked how this property would be defined as a sustainable development. Mr. Ramoie stated by using municipal services and annexing into the city the property will develop in a more sustainable way than using well and septic systems. Commissioner Cartwright stated that is technically true but a generous use of the term sustainable for an auto-oriented, commercial district.

Commissioner Cartwright asked for more information on the old Frontage Road ROW. Public Works Director John Rundquist pointed out the location of the ROW and on-ramp for the Interchange. He noted all ROW for the Custer Interchange has been acquired.

Commissioner Elsaesser stated for the record that the City Wastewater Treatment Plant is located in the area and noted it is not the intent of city leadership to move the plant.

## Public Comment

Mayor Smith asked for public comment, none was received.

## Motion

**Commissioner Ellison moved approval of a resolution of intention to annex Tract A1 and Tract B2 on COS #3203658 and the full width of the adjacent rights of way for Custer Avenue, Interstate 15 and the Frontage Road in Lewis & Clark County, as shown on the vicinity map and establishing conditions for annexation.**

Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Res #19854**

D. CONSIDER A RESOLUTION OF INTENTION TO CLARIFY AND SET THE FEES CHARGED BY THE HELENA CIVIC CENTER FOR MULTIPLE PERFORMANCES AND LONG-TERM USE

## Staff Report

Civic Center Manager Diane Stavnes reported the current civic center fee schedule was adopted in July 2010. This spring the City Attorney's Office suggested clarification of the fee schedule and inclusion of information used in actual practice, but not specified in the document. After review and discussion by Civic Center staff and Civic Center Board approval at their July 14, 2011 meeting, the proposed amendment is ready for Commission consideration.

The amendment will clarify the fee schedule for the Civic Center for the 2011-2012 event season. The proposed document includes a series rate charged to auditorium promoters who use the facility for four or more events from September through June. It also includes a proposed summer room rental rate for auditorium events at the Civic Center scheduled for July and August.

Manager Stavnes recommended approval of the amendment as the yearly review of the schedule allows for clarification to the fee schedule, while allowing the Civic Center to keep at market value with

the other area facilities. Building rental fees will remain the same as last year. He noted increased use of the building will increase energy use, which will be reimbursed by auditorium event users.

Discussion

Commissioner Cartwright noted he had received comments from constituents urging the Civic Center to open the ballroom in the summer. Ms. Stavnes explained there is no way to efficiently cool the ballroom; however, the proposed resolution of intention will allow for more efficient cooling and use of the auditorium during the hot summer months.

Commissioner Elsaesser indicated he would support the resolution of intention and concurred with Commissioner Cartwright's comments supporting the use of the ballroom in the summer.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

**Commissioner Elsaesser moved approval of a resolution of intention to modify the fee schedules for the Helena Civic Center and set a public hearing date of August 8, 2011.** Commissioner Ellison seconded the motion. All voted aye, motion carried. **Res #19855**

**Public Hearings**

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION AMENDING RESOLUTION NO. 19818 THAT CREATED SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 222 TO ALTER THE BOUNDARIES AND ADD FIVE LIGHTS IN SILD NO. 222

Staff Report

City Controller Glenn Jorgenson reported the City Commission approved the creation of Special Improvement Lighting District No. 222 (SILD) on March 14, 2011 for Antelope Trace and Craftsman Village of Crossroads at Mountain View Meadows Subdivision. R&D Partners submitted a petition to amend the original lighting district to include a portion of Antelope Trace Phase 2. The Commission approved the resolution of intention to amend SILD 222 on June 27, 2011. Notice was published twice in the Independent Record and mailed to every property owner within the proposed amended boundary.

The amended portion of SILD 222 will consist of 5 lighting units with underground wiring, fiberglass or metal poles with 16-foot mounting heights, and Lexington Colonial luminaries with 100-watt high-pressure sodium vapor lamps. There will be 69 lights in the entire SILD 222 boundary if the amendment is approved.

The estimated cost of maintenance, electrical energy, and administration for the first year in the amended portion is \$4,288.80 with the full district being assessed \$52,334.88. This will result in the estimated cost being \$.0442 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.

Mr. Jorgenson recommended approval of the resolution as it will result in the area having one contiguous lighting district.

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 Ellison moved approval of a resolution amending Resolution No. 19818 that created Special Improvement Lighting District No. 222 to alter the boundaries and add five lights in SILD No. 222 in the City of Helena, Montana.** Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res #19856**

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE PREZONING TO B-2 (GENERAL COMMERCIAL) THAT PROPERTY LEGALLY DESCRIBED AS TRACTS A1 AND B2 SHOWN ON COS #3203658 PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA.

**Staff Report**

City Planner Dustin Ramoie reported the applicant wishes to pre-zone the subject property prior to annexation to B-2 (General Commercial) District. The B-2 District pre-zoning is being proposed to accommodate future commercial development on the property. City ordinance requires that a property be pre-zoned prior to annexation.

Mr. Ramoie recommended approval of the adoption of an ordinance pre-zoning to B-2 (General Commercial) District as it will allow the applicant to develop the property with a higher density and utilize city water, wastewater, and other services. The property is within the "Urban Standards Area" as outlined in the 2011 Growth Policy.

**Discussion**

Commissioner Cartwright referred to traffic in the area and asked for the difference between levels of service C and E. Public Works Director Rundquist explained Level C indicates a vehicle can make it through the intersection in one light signal and Level E indicates a vehicle may need two light signals to get through an intersection.

**Public Testimony**

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

John Davidson, applicant; urged the Commission to approve the proposed pre-zoning. He noted the old section of frontage road is now owned by MDT and will be removed.

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

**Discussion**

Mayor Smith asked Mr. Davidson if they anticipate their commercial development of the parcel would interfere with the schedule for the construction of the Custer Interchange. Mr. Davidson stated the Greyn family does not anticipate performing any development on the subject property during the same time period.

**Motion**

**Commissioner Ellison moved approval of an ordinance pre-zoning to B-2 (General Commercial) District, amending City of Helena Ordinance No. 2359 and the official zoning map after the property is annexed, for property legally described as Tract A1 and B2 of COS #3203658, all in Lewis & Clark County, Montana.** Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3145**

**Public  
Communications**

PUBLIC COMMUNICATIONS

No public communications were given.

**Meetings of  
Interest**

MEETINGS OF INTEREST

The next Administrative Meeting is August 3, 2011 and the next Commission Meeting is August 8, 2011. The City/County Joint Work Session and the annual Volunteer Appreciation Event will be held on August 4, 2011.

**Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 7:20 p.m.

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Mayor James E. Smith

ATTEST:

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Clerk of the Commission