

**CITY OF HELENA  
REGULAR CITY COMMISSION MEETING  
September 14, 2015  
6:00 P.M.**

***Time & Place***

A regular City Commission meeting was held on Monday, September 14, 2015 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 Elsaesser, Ellison, Haque-Hausrath and Haladay were present. City Manager Ron Alles, City Attorney Thomas Jodoin and Deputy City Clerk Robyn Brown were present. Others present were Dick Sloan 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***

**Commissioner Haladay moved approval of the minutes of the regular City Commission Meeting of August 24, 2015, as amended; and the summary of the July 29, 2015 Executive Session, as submitted.** Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

***Board Appointments***

**BOARD APPOINTMENTS:**

A. Board of Adjustment, Bill Roberts Golf Course Advisory Board, Business Improvement District/Parking Commission, Helena Regional Airport Authority, Tenmile/South Helena Forest Restoration Collaborative Committee & Tourism Business Improvement District

Mayor Smith recommended the following board appointments:

**Board of Adjustment**

Appointment of Anna Lindstrand (current alternate member) to the Board of Adjustment. First term will begin on October 2, 2015 and expire on October 1, 2018.

Appointment of George McCauley as alternate member on the Board of Adjustment. Term will begin October 2, 2015 and expire October 1, 2018.

**Bill Roberts Golf Course Advisory Board**

Appointment of Pete Aspinwall to the Golf Course Advisory Board. First term will begin October 31, 2015 and expire October 30, 2018.

Reappointment of Dave Bauer to the Golf Course Advisory Board.

Second term will begin upon appointment and expire October 30, 2018.

**Business Improvement District/ Helena Parking Commission (BID/HPC)**

Reappointment of Al Roy and Judy Merickel to the BID/HPC. Terms will begin upon appointment and expire October 31, 2019.

**Helena Regional Airport Authority Commission (HRAA)**

Appointment of Rick Hays, as the joint member, to the Helena Regional Airport Authority Commission. Term will begin upon appointment and expire September 1, 2018.

Tenmile/South Helena Forest Restoration Collaborative Committee  
Appointment of Cory Kirsch, Jefferson County Commissioner, to the  
Tenmile/South Helena Forest Restoration Collaborative Committee.

Tourism Business Improvement District (TBID)  
Appointment of Jennifer Kaiser to the TBID. The unexpired term will  
begin upon appointment and expire April 20, 2019.

Public comment

Mayor Smith asked for public comment.

Larry Lambert, Helena; stated he had submitted an application  
for appointment to the TBID and commented he is very passionate about  
tourism and would like to be considered for future openings.

**Motion**

**Commissioner Ellison moved approval of appointments to  
the Board of Adjustment, Bill Roberts Golf Course Advisory Board,  
BID/HPC, HRAA, Tenmile/South Helena Forest Restoration  
Committee and TBID as listed above.** Commissioner Haladay  
seconded the motion. All voted aye, motion carried.

***Consent Agenda***

CONSENT AGENDA:

- A. Claims
- B. Adoption of the Tri-County Regional Community Wildfire  
Protection Plan

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 Elsaesser moved approval of items A and B  
on the consent agenda.** Commissioner Ellison seconded the motion.

Comment

Commissioner Elsaesser thanked all parties involved in updating  
the Tri-County Wildfire Protection Plan (Item B) and commended its  
adoption. He announced the plan is available to the public via the City's  
website: [www.helenamt.gov](http://www.helenamt.gov).

**Vote**

All voted aye, motion carried.

***Communications***

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser provided an overview of the following  
items discussed at the September 9, 2015 Administrative Meeting:  
proposed improvements using Urban Funds (Safe Routes to School  
concept implementation for Henderson to Custer, congestion alleviation  
on Benton Avenue, resurfacing of 6<sup>th</sup> and 11<sup>th</sup> Avenues, and the South  
Helena Gateway Project); options for the City's new recycling program;  
and an update on the Railroad Quiet Zone.

He announced there will be a celebration of Centennial Trail  
West to recognize the various parties that made it a realization; the event  
is tentatively scheduled for September 29<sup>th</sup> at noon and is being  
organized by Lewis & Clark County.

Commissioner Elsaesser commented it is very helpful to have  
the Administrative Meeting packets available online and thanked staff for  
making that possible.

**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 member Dick Sloan reported the Council would like to be contacted by the Commission and City staff if there are any specific issues they would like the HCC to provide input on. He indicated the HCC will revisit the proposed curbside recycling program to provide updated comment and also review the list of projects associated with the City's allotted Urban Funds.

Commissioner Elsaesser encouraged the HCC to provide input on the new ADA overlay requirements for sidewalk installation.

**Regular Items**

REGULAR ITEMS:  
A. CONSIDER CONVERTING THE TWO-WAY STOP TO AN ALL-WAY STOP AT THE INTERSECTION OF BOULDER AVENUE AND ROBERTS STREET.

**Staff Report**

City Engineer Ryan Leland reported currently the intersection of Boulder Avenue and Roberts Street is a partially controlled intersection. The width of the intersection is 46 feet. It does not currently meet the warrants for an all-way stop intersection. No improvements to this intersection are noted in the 2014 Long Range Transportation Plan or in the 2014 currently proposed facility recommendations. On-Street parking is allowed on all legs of this intersection. Observations of the intersection are that a majority of drivers slow down for the intersection. No traffic calming application has been received. Typically, to calm traffic, one of the various traffic calming measures outlined in the Engineering Standards would have more of an impact than adding stop signs where they are not warranted. Between January 1, 2012 and December 31, 2014, there have been five reported accidents.

A local resident has requested that an all-way stop intersection be installed at Boulder Avenue and Roberts Street. The resident states "It needs to be done to slow traffic".

The intersection does not meet warrants for all-way stop installation, and compliance issues could be a concern. Pedestrians expect traffic to stop at stop signs. When warrants are not met, users have a tendency to ignore the stop sign thus putting pedestrians in danger. All-way stop controlled intersections are not effective in reducing speeds. Engineer Leland recommended denial of the proposal.

**Discussion**

Commissioner Haque-Hausrath stated the Commission has discussed traffic calming, more globally, for Boulder Avenue in the past and asked if there is a formal process to begin improvements in the area. City Engineer Leland stated staff has researched several options for traffic calming in the area and is ready to discuss their ideas with the Commission once scheduled. Commissioner Haque-Hausrath spoke in support of reviewing those options fairly quickly and requested Commission concurrence to ask Manager Alles to schedule the item for an Administrative Meeting.

Commissioner Elsaesser asked how citizens could approach the City to request traffic calming for the area. Engineer Leland explained how to apply for a traffic calming study via petition. He explained once the study is done, staff would approach the residents to present the results of the study, associated options and gauge their interest in financial participation.

Commissioner Haladay referred to the Montana Department of Transportation's (MDT) discussion to close the turn bay for traffic approximately two blocks from the subject intersection, noting it should reduce traffic in the area. Engineer Leland confirmed MDT has discussed that option and explained it could possibly reduce traffic depending on how traffic patterns change.

Commissioner Haladay asked if MDT is planning to close Boulder Avenue during construction on I-15. Engineer Leland reported it is anticipated it will be partially closed.

Commissioner Ellison requested the locations of schools in the area. Engineer Leland identified the schools on a map.

Public comment

Mayor Smith called for public comment.

Leroy Beeby, 1620 Townsend Avenue; urged the Commission to approve the request being proposed, due to congestion created by schools in the area.

Motion

**Commissioner Elsaesser moved to table the installation of an all-way stop intersection at Boulder Avenue & Roberts Street to the call of the City Manager.** Commissioner Haque-Hausrath seconded the motion.

Discussion

Commissioner Elsaesser recommended tabling the item in order to explore alternative options for enhancing traffic flow in the area. He stated he does not want to deny the request because he is afraid it will send the wrong message to the public. Instead, he recommended tabling the item in order to discuss options available and provide funding next fall when Commission reviews the budget.

Commissioner Haladay commented while he agrees with Commissioner Elsaesser's comments on the proposal, he would recommend denial of the proposal due to the fact that stop signs are not effective for traffic calming. He stated now that the Transportation Plan has been adopted, the Commission needs to move forward with addressing the entire area.

Commissioner Ellison concurred with both Commissioner Elsaesser and Haladay's comments.

Commissioner Haque-Hausrath stated she too would vote for denial of the proposal; however, traffic issues in the area need to be addressed. She reiterated she provided comments for the Transportation Plan regarding this area but they were not included in the final edition of the plan.

Mayor Smith indicated he would support either tabling or denial of the request, since there are issues that need to be addressed.

Vote

Motion failed 1-4, with Mayor Smith and Commissioners Ellison, Haladay, and Haque-Hausrath voting no.

- Motion** Commissioner Ellison moved to deny the installation of an all-way stop intersection at Boulder Avenue & Roberts Street.  
Commissioner Haladay seconded the motion.
- Comment** Commissioner Elsaesser urged budget amendments and funding for other capital projects be brought forward at the Commission's Monday night meetings so they don't get lost between the Administrative Meeting discussion and formal action.
- Vote** Motion carried 4-1, with Commissioner Elsaesser voting no.
- B. CONSIDER A VARIANCE FROM SECTION 12-2-18 C OF CITY CODE TO PERMIT WASTEWATER SERVICE FROM A MAIN NOT LOCATED IN AN ADJACENT RIGHT-OF-WAY (ROW) OR EASEMENT FOR PROPERTY GENERALLY LOCATED NORTH OF LEWIS STREET, WEST OF HARRIS STREET, AND SOUTH OF GALLATIN AVENUE WITH A PROPERTY ADDRESS OF 1534 LEWIS STREET.
- Staff Report** City Planner Lucy Morell-Gengler reported an amended plat, boundary line relocation, and aggregation of Lots 12 thru 14, Block 47, Northern Pacific Addition was submitted to the city for review and approval. The property is under single ownership but contains two separate residential structures. One of the properties, 1534 Lewis Street, is currently connected by a private service line to a public wastewater main that is not adjacent to the property. City Code Section 12-2-18 C states "Plats and certificates of survey may not be certified or approved for filing unless the lots or parcels created thereby have legal and physical access to public ways, and are served by water and sewer wastewater mains located in adjacent public rights-of-way or city held easements, and all required stormwater facilities have been provided." The property owner has submitted a variance request for this code section.
- The variance request is for proposed Lot 13A, containing 4,506sf and the existing residential use at 1534 Lewis Street. This proposed lot is adjacent to Lewis Street but the wastewater main serving the existing structure is in Harris Street and not adjacent to the subject property. The applicant is requesting a variance to Section 12-2-18 C. to permit altering the lot boundaries without extending the wastewater main in the adjacent Lewis Street ROW.
- There are two existing residential uses and related structures on three lots, adjusting and aggregating the old lots into two lots makes the property lines match the existing conditions. Planner Gengler noted staff did not have a recommendation for the proposal.
- City Engineer Leland explained this proposal involves "shared services" and stated there are numerous situations such as this that will be coming before the Commission for resolution. He then discussed financial options that could be used to solve this issue.
- Manager Alles reported he had discussed this topic with Public Works Director Randall Camp and City Engineer Leland in order to form a policy to remedy these issues where the City could participate in some form or fashion. While the burden falls on the homeowner, given the fact the City allowed this shared service, he feels the City owns some of the

problem. He noted many of the shared service connections did not go through the City when connected.

He stated his intent is to form a policy to install the mains as City Ordinance requires, and still share some of that burden with the adjacent property owners.

#### Discussion

Commissioner Elsaesser asked if this variance is associated with construction on the property. Planner Gengler stated no, it is being requested to resolve issues with lot lines on the property. She reiterated these situations are becoming more and more evident as properties age and change hands.

Commissioner Haladay asked if there are any existing written agreements allowing these situations. Engineer Leland stated with the exception of condominium association documents, he is not aware of any written authorizations.

Commissioner Haque-Hausrath asked who would be financially responsible for the street opening and repair should an issue arise with the service line to the property. Engineer Leland explained the City's preference would be to install the main and require the properties to hook in correctly. Permission to re-connect into the shared service line would be evaluated on a case-by-case basis involving the City Manager and City Attorney; the City's preference would be to correct the connection entirely.

Manager Alles commented in some cases the service lines are crossing private properties and the property owners are not allowing those connections to be remedied or are asking for a \$4,000 or \$5,000 easement to cross their property. While not specific to this case, it's another example of problems with shared service lines.

Commissioner Elsaesser asked who makes the determination of the "City approved agreement" listed in the conditions for approval. City Attorney Jodoin explained he, along with Public Works Department staff, would approve the agreement. The purpose of the agreement would be to make the affected properties aware that reparations will be their responsibility when the service line fails.

Commissioner Haladay asked for the length of the main, once installed. Engineer Leland stated it would be extended across the frontage of 1533 Lewis Street.

#### Public comment

Mayor Smith called for public comment.

Dave Clayton, applicant; stated the reason for his application for the variance is due to the fact he cannot receive an appraisal for his property due to the existing situation; the lot needs to be split for an appraisal to be performed. He urged the Commission to approve the variance.

Betsy Bauer, 1011 Floweree Street; stated they are on shared service and are currently not able to live in their house due to a sewer line backup. She stated she attended the meeting tonight since they have a similar situation to the variance being proposed and desire a variance for their property in order to fix the sewer line and move back into their house.

Jonathan Ries, Triple R Survey; indicated he performed the boundary line relocation investigation for the applicant's property.

Roger Little, 1019 Floweree; commented the service line to their property was installed across the Bauer's property and discussed issues associated with the connection.

John Kindrid, plumber for the Bauers; requested the Commission approve a variance for the Bauers, in addition to Mr. Clayton's request, to allow for repair to their property.

Discussion

Attorney Jodoin explained the difference between the variance on the agenda tonight and the Bauer's situation. He stated it is the decision of City Manager Alles and Public Works Department staff to decide how to approach the Bauer's situation.

Motion

**Commissioner Elsaesser moved to conditionally approve a variance from Section 12-2-18 C of City Code to permit wastewater service from a main not located in an adjacent right-of-way or easement for proposed Lot 13A, Block 47, Northern Pacific Addition generally north of Lewis Street, west of Harris Street, and south of Gallatin Avenue with an address of 1534 Lewis Street. The person or entity responsible for the shared private wastewater service line for 1534, 1536 and 1538 Lewis Street must be identified and a City approved written agreement noting the responsible party (ies) and their duties must be recorded simultaneously with filing the amended plat.** Commissioner Haque-Hausrath seconded the motion.

Amendment

**Commissioner Haque-Hausrath moved the following language be added as an amendment to the motion: "If the shared line fails, the applicant will connect to the main in Lewis Street."**

Commissioner Elsaesser resisted the amendment because of resulting equity issues with the surrounding properties.

Discussion

Commissioner Ellison asked Mr. Clayton for the age of his property's service line. Mr. Clayton stated it is cast iron but he does not know the exact age.

Commissioner Ellison asked Mr. Clayton if there is an easement or formal agreement with the adjacent property owners for the use of the shared service line. Mr. Clayton stated there is no agreement.

Amendment withdrawn

***Following discussion, Commissioner Haque-Hausrath withdrew her amendment.***

Commissioner Haque-Hausrath requested the Bauer's issue is addressed during the public comment section of the agenda.

Amendment

**Commissioner Ellison moved to add the following language to the motion by Commissioner Elsaesser: "the affected property owner shall be responsible to install and connect once the shared sewer line fails and a main is installed on Lewis Street."**

Commissioner Haladay seconded the motion.

Discussion

Thorough discussion was held on fiscal responsibility in relation to future Lewis Street sewer main installation.

Attorney Jodoin stated the installation of main would be triggered when current line fails or the Commission could order the main installed right now.

Commissioner Haladay gave an example of other property's lines failing and asked who then would be responsible. Attorney Jodoin explained it would not matter what address fails, the entire block would

be told they have to work together, come together, and hook into the main no matter which line fails.

Commissioner Haladay stated he would not like to put the entire onus on the applicant requesting this variance tonight or any singular property using a shared line.

Commissioner Haque-Hausrath agreed with Commissioner Haladay and commented the financial responsibility of the future failure of the line being placed on the applicant or one property owner is a draconian requirement.

Commissioner Elsaesser stated he would not support Commissioner Ellison's amendment due to financial responsibility being placed on a sole owner and spoke to the need of a deeper policy discussion on this issue.

Manager Alles explained in some instances of shared line failures, the City would perform and "own" the project and enter into a rebate agreement with the property owners.

Commissioner Ellison stated it is not his intention to place the entire cost of the installation upon Mr. Clayton and referred to the language included in the original motion which states the addresses contained on this block of Lewis Street will be responsible to enter into an agreement to come together to fund the installation and hook up once their shared line fails. He stated that is the intent of his amendment.

**Vote on Ellison amendment**

Motion failed 1-4, with Mayor Smith and Commissioners Elsaesser, Haque-Hausrath and Haladay voting no.

**Vote on original motion**

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

- C. CONSIDER A VARIANCE FROM SECTION 12-2-18 C OF CITY CODE TO PERMIT WATER SERVICE FROM A MAIN NOT LOCATED IN AN ADJACENT RIGHT-OF-WAY (ROW) OR EASEMENT FOR PROPERTY GENERALLY LOCATED SOUTH OF CHAUCER STREET AND WEST OF BEATTIE STREET WITH A PROPERTY ADDRESS OF 620 CHAUCER STREET.

**Staff Report**

Planner Morell-Gengler reported City Code Section 12-2-18 C states "Plats and certificates of survey may not be certified or approved for filing unless the lots or parcels created thereby have legal and physical access to public ways, and are served by water and sewer wastewater mains located in adjacent public rights of way or city held easements, and all required stormwater facilities have been provided".

An amended Certificate of Survey (COS) to relocate the boundary line between properties shown on COS #3268935 was submitted to the City for review and approval. The structure on proposed Lot A is connected by a long service line to a water main that is not adjacent to the property. The property owners have submitted a request for a variance from this section of City Code.

The existing buildings located at 620 Chaucer Street were not constructed totally within the boundary of the associated property shown on COS #3268935 or as described in the deed. The existing structures therefore encroach onto Parcel 2. The applicant has submitted an amended COS to relocate the property boundaries and eliminate the encroachment of the existing structures onto the adjacent property.

Planner Gengler provided no recommendation on the proposal.



Public comment Mayor Smith called for public comment.  
Harley Harris, representing the applicants; explained the background of the variance request and requested any conditions related to failure of infrastructure be discussed directly with the applicant.  
Marlow Conrady, applicant; urged the Commission to vote favorably on the variance request. She noted they currently use a private septic system.

Discussion Mayor Smith asked why wastewater service is not being extended to these properties. Planner Gengler explained a wastewater main is located adjacent to the properties; the applicant could be required to hook in if their septic system(s) fail or by request.

**Motion** Commissioner Elsaesser moved approval for a variance from Section 12-2-18 C of City Code to permit water service from a main not located in an adjacent right-of-way or easement for proposed Lot A generally located south of Chaucer Street and west of Beattie Street with a property address of 620 Chaucer Street.  
Commissioner Haque-Hausrath seconded the motion.

**Amendment** Commissioner Haque-Hausrath moved to amend the motion to add the following language "an easement to the City for access and maintenance of the adjacent wastewater main and any future main installation adjacent to the proposed Lot A must be obtained".  
Commissioner Ellison seconded the motion. All voted aye, motion carried.

**Vote on original motion, as amended** All voted aye, motion carried.

D. CONSIDER A REQUEST TO ENLARGE THE WATER AND WASTEWATER SERVICE AREA FOR LOT B-1 AS SHOWN ON THE PROPOSED AMENDED PLAT OF THE COURTHOUSE ADDITION.

Staff Report Engineer Leland reported the proposed enlargement of the water and wastewater service area is for the currently undeveloped Lot B-1, as shown on the proposed Amended Plat of the Courthouse Addition. The proposed Amended Plat is currently under review with the City of Helena Planning Division. The lot has both water and sewer mains to the property. The water pressure could be an issue with the building permit based on the location of the house and height of the structure.

The owners, Eugene B. Thayer and Ronald J. Iverson, request to enlarge the water and wastewater service area for Lot B-1 as shown on the proposed Amended Plat of the Courthouse Addition.

Engineer Leland did not provide a recommendation on the request.

Discussion Commissioner Elsaesser asked for more information on the water pressure issues in the area. Engineer Leland stated while there is adequate fire flow, the pressure needed for residential uses could be too low. He reiterated the building permit process will address these issues.  
Commissioner Ellison asked if review of the amended plat by the Planning Division is separate from this request for enlargement or as a

result of the request for enlargement. Engineer Leland indicated the latter.

Commissioner Haque-Hausrath asked if the proposed enlargement would have any negative impact to the City's mains. Engineer Leland confirmed there would be no impact to the City mains.

Commissioner Elsaesser asked if there is anything to preclude the applicants from using an adjacent public easement. Mr. Leland stated no, unless the applicant were to desire a shared service.

Mayor Smith asked if the proposal will be able to meet the City's road grade requirements. Engineer Leland answered as presented, the driveway will be able to meet the required grade.

Public comment

Mayor Smith called for public comment.

Greg Wirth, Engineer for the applicant and representing the applicant; requested the Commission approve the enlargement and notified the Commission he was available to answer any questions about the proposal. He thanked Engineer Leland for providing a thorough staff report on behalf of the applicants.

Motion

**Commissioner Haque-Hausrath moved approval for the enlargement of the water and wastewater service area for Lot B-1 as shown on the proposed Amended Plat of the Courthouse Addition.**

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

- E. CONSIDER CONVERTING MILLER STREET FROM A TWO-WAY TO A ONE-WAY STREET IN THE WESTBOUND DIRECTION BETWEEN SOUTH RODNEY STREET TO SOUTH WARREN STREET; AND TO SHIFT STOP SIGNS ON MILLER STREET AT EWING AND WARREN STREETS, RESULTING IN MILLER STREET BECOMING A THROUGH STREET REQUIRING TRAFFIC TO STOP AT MILLER STREET ON BOTH EWING AND WARREN STREETS.

Staff Report

Engineer Leland reported Miller Street is currently a paved two-way local road measuring 16 feet in pavement width. The south side of the roadway is signed "NO PARKING" from Warren Street to Rodney Street. Miller Street has stop signs at Rodney, Ewing and Warren streets. There are two signed handicap spaces located on the north side of the roadway between Warren and Ewing. There have been no reported accidents since 2006 based on the years 2002-2013. On July 14th City staff sent letters to the area residences and received four (4) letters in support and two (2) against the proposal.

The request is to convert Miller Street to a one-way street in the westbound direction and the stop signs at Warren and Ewing streets be switched to make Miller the through street.

Engineer Leland recommended denial of the proposal to shift stop signs, as residents would have reduced access and may encounter difficulties entering their driveways, thus increasing traffic on the adjacent roadways. One-way roadways tend to experience higher speeds and may have reduced sight lines. The one-way street may introduce confusion for some users, especially at the intersections. Pedestrians using one-way facilities tend to encounter difficulties because of the higher speeds and less cautious drivers. One-way streets are not in-line with the City's Complete Streets Policy. Shifting the stop signs to allow

for the through movement westbound without a stop at Warren Street could pose a danger for pedestrians in the neighborhood especially in the winter when icy conditions could be present. Also, Warren and Ewing streets carry more traffic, so shifting the stop signs could increase conflicts at those locations.

He provided no recommendation on the conversion of Miller to a one-way street.

Public comment

Mayor Smith called for public comment.

Betsy Bauer, Helena; spoke in support of the proposal to convert Miller Street to a one-way street. She recommended retaining the stop sign at Euclid and Miller.

Motion

**Commissioner Ellison moved to deny the conversion of Miller Street to a one-way facility in the westbound direction.**

Commissioner Haque-Hausrath seconded the motion.

Discussion

Commissioner Haque-Hausrath stated it seems most of the public concern relates to pedestrians and bicycle traffic; the solution would be better sidewalk connectivity instead of conversion of the direction of the road.

Commissioner Ellison concurred with Commissioner Haque-Hausrath's comments, noting he felt the proposal would make conditions for non-motorized traffic worse as it could increase the speed of vehicular traffic.

Commissioner Elsaesser spoke in support of denial of the proposal.

Vote

All voted aye, motion carried.

Motion

**Commissioner Ellison moved to deny the shifting of the stop signs at the intersection of Ewing and Warren Streets.**

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

F. CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA, PROPERTY LEGALLY DESCRIBED AS LOTS 1-2 IN BLOCK 2 OF THE HIGHLAND PARK SUBDIVISION AND ADJACENT STUART STREET AND GLEN AVENUE RIGHTS-OF-WAY, GENERALLY LOCATED AT 2541 AND 2575 STUART STREET, WEST OF GRANITE AVENUE AND SOUTH OF STUART STREET.

Staff Report

City Planner Dustin Ramoie reported the applicants have requested the annexation of Lots 1-2 in Block 2 of the Highland Park Subdivision and adjacent Stuart Street and Glen Avenue rights-of-way. The properties are adjacent to the city of Helena and are located within the "Urban Standards Boundary Area." It is in accordance with the 2011 Growth Policy to annex property that is adjacent to the city and within the defined "Urban Standards Boundary Area." The properties are developed with single dwelling units and the applicants have petitioned the city for annexation to attain all city services and to utilize the properties with an R-2 (Residential) zoning designation. With annexation, extension of the water and wastewater service boundary will occur. The subject property was scheduled for a pre-zoning public hearing on August 11, 2015.

However, a quorum of zoning commissioners was not present and the pre-zoning public hearing will be scheduled for the October 13, 2015 Zoning Commission meeting. The rescheduling of the meeting allows the Zoning Commission to establish a quorum for the public hearing as well as will meet the requirement that the properties must be pre-zoned prior to annexation into the City of Helena.

Planner Ramoie recommended approval of the proposal as annexation will allow for the existing properties to connect to City water and wastewater systems and discontinue use of their existing well for domestic water supply and abandon their existing septic systems. They will also utilize all other City services and infrastructure.

#### Public comment

Mayor Smith called for public comment.

Ron Marcoux, 2541 Stuart Street, applicant; gave the current sewer and water service status of the subject properties and urged the Commission to approve the proposed resolution of intention to annex. He indicated the engineer hired to review and submit their application for annexation recommended their property receive water from a main located in Granite Street rather than come up the hill and across a paved driveway to his property.

Dan Anderson, 2575 Stuart Street, applicant; indicated the reason behind their proposal for annexation is because it will be less costly to annex now rather than wait for Phase 3 of the Westside Annexation Project.

He referred to the conditions for annexation regarding the installation of the sewer main across the front of both properties and explained a hill lies directly in front of his property and the engineer hired to review their annexation does not believe its possible for that main to actually go all the way to the other side of their property and there is no one else that could hook into it due to elevation anyway. He referred to the condition related to extension of the water mains and requested it be waived until a larger number of residents of their neighborhood connect too.

Mr. Anderson thanked Planner Ramoie for his assistance throughout the application process.

#### Discussion

Mayor Smith asked Engineer Leland to explain the elevation issues referred to by Mr. Anderson. Engineer Leland indicated the elevation issues cannot be addressed until a survey is performed. Once that is done, the design process will decide how far the mains can actually go, or need to go.

Commissioner Ellison asked to be shown on a map where staff anticipates the water and sewer lines would be extended. Engineer Leland gave a detailed description including rebate information.

Commissioner Haladay asked if the City has the authority to indefinitely waive water connections without any kind of plan for putting in the services. Attorney Jodoin stated City Code requires that water and sewer be extended with annexation. He referred to Condition 1 in the resolution of intention for annexation and explained property owners are allowed to enter into a development agreement with the City for deferment of the improvements until a larger project is commenced.

Commissioner Haladay asked if the rebate resolution could apply to this proposal. Manager Alles stated yes, the City could work with the applicants using the rebate program, and the details of the agreement could be worked out at a later date, they do not have to be agreed to

prior to approval of the resolution of intent to annex. Manager Alles also confirmed deferment of water connection would not be indefinite if it is agreed to tonight.

Mayor Smith asked if Commissioner Haladay is referring to these properties only with his questions regarding the rebate program and development agreement. Commissioner Haladay answered yes.

Mayor Smith asked if the agreement to defer water connection would be amendable at a future date. Manager Alles stated yes.

Commissioner Elsaesser asked for more information on connecting into services using the south side of the properties. Engineer Leland explained the south side cannot be used due to an existing utility easement, wherein all space has been taken. He indicated Stuart Street would be a better location to provide service to the properties.

Commissioner Elsaesser asked how an exception would be made for the applicant to be allowed to not connect to City wastewater service. Engineer Leland explained if service is not possible and cannot be utilized due to/based on gravity or topography, the City will not require the applicants to extend the service to the edge of the property and it will be noted at the time of final annexation.

**Motion**

**Commissioner Haque-Hausrath moved approval of a resolution of intention to annex property legally described as Lots 1-2 in Block 2 of the Highland Park Subdivision and adjacent Stuart Street and Glen Avenue rights-of-way, generally located at 2541 and 2575 Stuart Street, west of Granite Avenue and south of Stuart Street, and establish the conditions for annexation.** Commissioner Haladay seconded the motion.

**Comment**

Commissioner Ellison indicated he would most likely vote in favor of this application for annexation and stated he generally supports proposals for annexation such as what is before the Commission tonight, and senses the rest of the Commission is supportive of this request.

He referred to the Commission's denial of a resolution of intention to annex at their August 24<sup>th</sup> meeting. He reported he had visited the property under consideration tonight, and it has no sidewalk, curb or gutter and gravel road. If approved, many details will be left to work out between the applicants and City staff; he noted he is okay with that. However, when the Commission denied the annexation application on August 24<sup>th</sup> that was consistent with the Growth Policy, located within the Urban Services Boundary and the developers were very much amenable to donate 60x the required amount of parkland, it was done not based on annexation criteria, but based on what might happen with a building permit later on. He stated he feels that was a terribly flawed decision which exposed the City to legal liability. Tonight, the Commission is set to approve this proposal with all kinds of loose strings attached to it; that is very concerning and inconsistent given the Commission's action two weeks ago. He reiterated he generally supports annexation proposal located within the Urban Services Boundary, such as the one being considered tonight and the proposal on August 24<sup>th</sup>; however, the Commission needs to apply annexation criteria when undertaking these decisions. He summarized he does not feel the Commission used that criteria two weeks ago and he hopes it is used tonight.

Commissioner Haladay asked Commissioner Ellison what "loose strings" he is referring to concerning the request for annexation by Mr.

Marcoux and Mr. Anderson. Commissioner Ellison responded approval will result in City staff having to work with the applicants about the conditions for annexation and whether the water line will be extended along Stuart or not, whether one of the applicants will continue to be allowed to use well water rather than city water- which is typically not allowed with annexation. There is the issue of elevation and whether or not the lines can be extended west along Stuart Street. Also, this will be annexed in without curb, gutter, sidewalk or being a paved street. These are quite a few loose strings out there if this annexation moves forward. Commissioner Ellison commented having said all of that, he is okay with the proposed annexation and will vote in favor of it.

Commissioner Haladay addressed Attorney Jodoin and stated the resolution of annexation requires extension of water and sewer lines across the frontage of the properties unless physical barriers completely impede it or the applicant were to come back and request some sort of variance prior to annexation. Either way it would come back before the Commission or physical barriers will block it, but annexation is not happening without one of those two. City Attorney Jodoin stated that is correct and reminded the Commission the proposal before them is the resolution of intention to annex. The proposal will come back before the Commission to determine whether the conditions have been met. The conditions are water and sewer mains across the frontage of the property, improvement of the street to city standards, including sidewalks. Realizing there is a need to defer that, City Code gives the option to enter into a development agreement to waive the right to protest an SID so when a larger project is constructed they can participate at that time, rather than one or two property owners shouldering the burden of installing all the infrastructure at once.

Commissioner Haladay spoke to water requirements and referred to earlier discussion of whether water hook up is required immediately. His understanding from the City Attorney's comments was that while it is generally required, City Code doesn't require it and it would seem that given the larger discussion and passage of the rebate resolution several months ago, there's been some recognition by the Commission as part of the overall plan for the Westside to sometimes permit delayed installation of water and sewer. Attorney Jodoin explained when annexation occurs, the City requires property owners to hook up to City water, but they can still use their well for irrigation. Commissioner Haladay asked if it would be a deviation to permit a longer term rebate agreement that allows delay of water other than for watering the garden. Attorney Jodoin stated that is correct, until the time the water main is installed. On the Westside, it is usually water or deferment because the property owner needs wastewater/sewer service immediately.

He asked if the Commission was presented with property for annexation that it determined was just far too wide going east to west, is it entirely within the Commission's power on annexation to require as a condition of annexation to request a north/south bisector be dedicated with the right-of-way for a future street? Attorney Jodoin stated possibly; that situation is very hypothetical and there are a number of factors- such as if there is a Transportation Plan indicating such a desire, the size of the lot and need for legal, physical and emergency access. Commissioner Haladay then asked if the City should've thought about that for it's emergency services growth plan, connection for those two streets, and part and parcel with that would be the city's option to

demand full on complete streets installation, or at least installation of sidewalks, etc. Attorney Jodoin stated that opens up a lot of other issues, i.e. major subdivision. He stated he recognizes these questions are somewhat related to the recent denial of a resolution of intention for annexation on August 24<sup>th</sup> and he would very much prefer that be directly discussed. Commissioner Haladay stated he just wanted to clear up that the City can require streets between other blocks and build up of those streets to City standards as part of the annexation process.

Mayor Smith commented the Commission can require the installation of streets and sidewalks as a condition of annexation for the properties under consideration tonight.

**Vote**

All voted aye, motion carried. **Res# 20213**

- G. CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA, PROPERTY LEGALLY DESCRIBED AS E 15' AND S 60' OF LOT 12, AND LOTS 13-19 IN BLOCK 163 OF THE SYNDICATE ADDITION AND ADJACENT LAUREL STREET, KNIGHT STREET, AND ALLEY RIGHTS-OF-WAY, GENERALLY LOCATED AT 904 AND 914 LAUREL STREET, GENERALLY LOCATED WEST OF LAUREL STREET AND SOUTH OF KNIGHT STREET.

**Staff Report**

Planner Ramoie reported the applicants have requested the annexation of E 15' and S 60' of Lot 12, and Lots 13-19 in Block 163 of the Syndicate Addition and adjacent Laurel Street, Knight Street, and alley rights-of-way. The property is adjacent to the City of Helena and is located within the "Urban Standards Boundary Area." It is in accordance with the 2011 Growth Policy to annex property that is adjacent to the city and within the defined "Urban Standards Boundary Area." The property at 904 Laurel Street is undeveloped and the property at 914 Laurel Street is developed with a single dwelling. The applicants have petitioned the city for annexation to attain all city services and to utilize the property with an R-2 (Residential) zoning designation. With annexation, extension of the water and wastewater service boundary will occur. These properties are within the phase one area of the Westside infrastructure extension and annexation plan.

The subject properties were pre-zoned to the R-2 (Residential) District by the Helena City Commission on March 9, 2015.

He recommended approval of the proposal, as annexation will allow for the existing dwelling to connect to City water and wastewater systems and discontinue use of their existing well for domestic water supply and abandon their existing septic systems and utilization of all other City services. It will also allow for development on the vacant property utilizing all City services and infrastructure.

**Public comment**

Mayor Smith called for public comment.

Dan Hill, applicant; spoke in support of his application for annexation and offered to answer any questions the Commission may have.

**Motion**

**Commissioner Haladay moved approval for a resolution of intention to annex property legally described as E 15' and S 60' of Lot 12, and Lots 13-19 in Block 163 of the Syndicate Addition, in Lewis and Clark County, Montana; with property addresses of 904**

**and 914 Laurel Street, and the adjacent Laurel Street, Knight Street, and alley rights-of-way, and establish the conditions of annexation.**

Commissioner Haque-Hausrath seconded the motion.

Comment

Commissioner Elsaesser spoke in support of the annexation. Commissioner Ellison pointed out the Commission continues to approve annexations, absent many of the criteria that is often used to deny them. Nevertheless, he expressed support for the proposal.

Commissioner Haque-Hausrath noted the City is getting a steady stream of Westside annexation requests which is good to keep in mind when thinking of the future implementation of the very large Westside Annexation Project; many of the people that were in favor of being annexed might well already be in the City limits.

She also commented on sidewalks and the subject annexation proposal; at the time of application for a building permit, if the property owner does not wish to install sidewalks, a variance will have to be requested from the Commission.

Vote

All voted aye, motion carried. **Res# 20214**

H. CONSIDER A RESOLUTION OF NECESSITY FOR THE HELENA RAILROAD DISTRICT.

Staff Report

Community Development Director Sharon Haugen reported the Helena City Commission has directed city staff to explore the possibility of creating an Urban Renewal District centering around the Sixth Ward/MidTowne/Railroad District area. The creation of the district could result in the potential of using tax increment financing (TIF) to make any needed public improvements that might encourage redevelopment and development of the area. On July 23, 2015, the City of Helena directed WGM Group, Inc. to identify and document blight factors within the Railroad District, encompassing an area straddling the Montana Rail Link tracks and bounded by Interstate 15 on the east and North Last Chance Gulch on the west. WGM Group has completed a Statement of Blight to document the existence of potentially blighted conditions that would meet the definition of blight as defined in MCA 7-15-4206 (2). Based upon the findings in the Statement of Blight, the Commission may want to consider the development of an Urban Renewal Plan for the area. These are prerequisites to allowing the City of Helena to exercise its powers under Title 7, Chapter 15, Parts 42 and 43 of the Montana Codes Annotated. The creation of the TIF district allows the City to use the increase in the tax base (tax increment) to help fund needed improvements in the area.

Director Haugen recommended approval of the proposed resolution as will result in the creation of an Urban Renewal Plan and will enable the use of TIF funds for redevelopment in the area. TIF is one of the few mechanisms that local governments have to encourage investment and to diversify tax base. TIF funds can be used to make infrastructure improvements that benefit the public and allow for orderly growth.

Public comment

Mayor Smith called for public comment.

MC Beeby, 1620 Townsend; spoke in support of the resolution.

Dan Hill, 505 South Roberts; urged the Commission to move forward with a plan to improve the area.



- Motion** Commissioner Haque-Hausrath moved approval for a resolution of necessity for the Helena Railroad District.  
Commissioner Elsaesser seconded the motion.
- Comment** Commissioner Elsaesser gave the history of the railroad district proposal and urged the City's support towards improvement of the area.
- Vote** All voted aye, motion carried. Res# 20215
- Public Communications** PUBLIC COMMUNICATIONS  
No public communications were given.
- Meetings of Interest** MEETINGS OF INTEREST  
The next Administrative Meeting is September 23, 2015 and the next Commission Meeting is September 28, 2015.
- Adjournment** There being no further business to come before the Commission, the meeting was adjourned at 9:06 p.m.

/S/ JAMES E. SMITH  
Mayor

ATTEST:

/S/ DEBBIE HAVENS  
Clerk of the Commission