

**SUMMARY OF ADMINISTRATIVE MEETING**  
**January 3, 2018– 4:00 p.m.**  
**Room 326, City-County Building**  
**316 N. Park Avenue, Helena**

**1. Call to order, introductions, opening comments** – Mayor Collins called the meeting to order. Commissioners Farris-Olsen, Haladay, Noonan and O’Loughlin were present. Staff present was: City Manager Ron Alles; Executive Assistant Sarah Elkins; City Attorney Thomas Jodoin; Deputy City Attorney Iryna O’Connor; Police Chief Troy McGee; Fire Chief Mark Emert; Community Development Director Sharon Haugen; Senior Planner Dustin Ramoie; Parks and Recreation Director Amy Teegarden; Human Resource Director James Fehr; Public Works Director Randall Camp; Community Facilities Superintendent Troy Sampson; Civic Center Manager Byron Dike; Parking Director Dave Hewitt; Administrative Services Director Glenn Jorgenson; Deputy City Clerk Katya Grover and City Clerk Debbie Havens.

Others in attendance included: IR Reporter Thomas Plank and HCC Representative Sumner Sharpe.

**December 13, 2017 Summary** – The December 13, 2107 administrative meeting summary was approved as submitted.

**3. Commission comments, questions –**

**Upcoming Appointment** – Mayor Collins recommended the appointment of Chanelle McDuffie to the Tourism Business Improvement District Board to an unexpired term. The unexpired term will begin upon appointment and expire on April 20, 2019.

Mayor Collins also referred the commission to the 2018-2019 commission appointments and noted both the TBID and 2018 commission appointments are on the January 8<sup>th</sup> city commission meeting agenda.

**4. City Manager’s Report –**

**Snow Pilot Projects Progress Summary** – Manager Alles referred the commission to the summary report and asked Director Camp to review the information.

Director Camp updated the commission on the use of ice slicer; plowing to the curb on 6<sup>th</sup> Avenue, Broadway Avenue and 11<sup>th</sup> Avenue from Davis to Montana Avenue; the use of door hangers asking for voluntary effort not to park on the street during, and for 24 hours after any storm; flexible shift start times; review of designated snow routes and call log.

At this time, there has been no ice slicer applied to the streets; however, staff is recommending applying it to the steeper portions of Broadway, 6<sup>th</sup> Avenue, 11<sup>th</sup> Avenue and Reeder Village Drive. Director Camp noted staff has been contacted by concerned citizens regarding the use of the ice slicer.

Manager Alles addressed the potential of slush and why the city crews do not plow the slush to the side of the road due to it freezing at night and creating a solid ice berm.

Commissioner Farris-Olsen asked has there been a direct effect with the flexible shift work, any notable outcome with the staff changes. Director Camp stated staff has not implemented the flexible shifts at this time due to the timing of the storm; employees have been able to flex around the storm and worked during the daylight hours. Manager Alles reported staff plans on removing snow from the downtown area in the next couple of weeks. This will happen once all the residential streets have been plowed. Various departments are involved with the removal of snow.

Commissioner Farris-Olsen noted the commission received complaints last year when the snow melts, the water running directly on the sidewalk and into businesses along Last Chance Gulch.

Commissioner O’Loughlin asked what the timeline is for the review of the designated snow routes. Director Camp stated staff is looking at the matrix and re-evaluation of the snow routes; some of criteria being evaluated are the vehicle counts, steepness of slopes and the location of school bus routes. Staff will bring forward a recommendation within the next two to three weeks.

Commissioner Haladay asked that the written progress report be posted on the city web site. Commissioner O’Loughlin asked for clarification on what hills staff is recommending applying the ice slicer on. Director Camp stated the recommendation is for the steeper portions of Broadway, 6<sup>th</sup> Avenue, 11<sup>th</sup> Avenue and Reeder’s Village Drive.

Commissioner O’Loughlin asked if there are other communities in Montana that use the ice slicer and the process staff used when selecting to use it. Director Camp commented almost every community has a plan to use a form of the ice slicer; however, ice slicer is very expensive and is supposed to be the most environmental friendly product on the market. Staff researched the various products and recommended the use of ice slicer.

Commissioner Haladay asked when the curb cuts and domes will be cleared of snow. Director Teegarden stated staff is focusing on clearing the curb cuts adjacent to all of the parks properties and then the downtown area. She noted although staff is trying to be of assistance, it is still the adjacent property owner’s responsibility to clear the curb cuts.

**Street Maintenance Assessment** - Manager Alles referred the commission to GIS photos of two properties and spoke of the impact the street maintenance assessment has on commercial properties when a portion of the property has a building on it and rest is vacant land. He reviewed the following street maintenance assessment:

<u>Class of Property</u>	<u>Proposed Maximum Assessment Rate and Method</u>
Vacant or Residential	Flat rate of \$160.71 per lot or parcel of land
Mobile Home Park	\$ 64.27 per manufactured home or mobile home site
Commercial lots with an area of less than 6,000 square feet	\$176.10 flat rate per lot or parcel
Commercial lots with an area of 6000 square feet or more	\$0.02935 per square foot for the first 1 million square feet per lot or parcel

Manager Alles stated due to how the properties are assessed, both property owners are paying the commercial rate for the entire platted lot; however, a portion of the lot is undeveloped. Manager Alles stated what he would like to propose is the city finds a way to section off the portion of the lot that is being used versus the unused portion. The two properties shown as examples have buildings on a small percentage of the property and are being charged as the entire parcel is being used. Manager Alles asked if there is interest from the commission for staff to pursue a recommendation on how to address these types of situations.

Commissioner Noonan asked how many properties would be involved. Manager Alles stated he does not know the true number. Manager Alles stated what he doesn’t want to get into is negotiating an assessment with the property owners.

Mayor Collins asked how we would make the assessment uniform. Manager Alles stated he cannot answer that at this time, we need to have a standard that would be applied to everyone. Manager Alles again stated he believes the current assessment is unfair to the property owners with this type of situation.

Commissioner Haladay asked what we do when someone owns a warehouse and has low traffic flow but has buildings on the entire lot, would they continue to be assessed for their entire property. Manager Alles stated it would depend on the developed piece of the property and the building footprint. Commissioner Haladay stated city code allows the commission to pick a uniform assessment that needs to be applied wholesale to everyone. One of the methods allowed in the special districts is vehicles per day, based on any of the literature we use with regards in determining trips per day, when considering annexations or planned use parking lots, etc.. This would be a serious undertaking as someone would have to go review every single commercial property in the city. Commissioner Haladay stated this would be the safest way to review the assessment to assure it remains consistent for all properties and would eliminate individual property owners requesting an exemption to the assessment. Manager Alles stated Commissioner Haladay’s comments are fair and noted the answer staff gives property owners today is that is the way the assessment is. He again asked if the commission wants staff to explore some type of solution.

Commissioner Haladay commented if the property owners would subdivide the property and

leave a portion as undeveloped their assessment would be zero on that portion. Manager Alles concurred; however, there are property owners who cannot afford to go through the subdivision process. Manager Alles noted when a property owner subdivides, they have to meet certain conditions, including building infrastructure.

Manager Alles stated the street maintenance assessment for vacant property is the same as the residential assessment. He asked if there is commission consensus to have staff pursue an equitable assessment. Commissioner Noonan asked if the proposal is to work on the methodology language that would explain the assessment. Manager Alles stated at this time, he does not have any draft language to present to the commission. He acknowledged it will take some time to develop a proposal for commission consideration.

Commissioner Farris-Olsen stated he has the same concerns as Commission Haladay, he doesn't see how we do this fairly unless it is by trips per day and that doesn't make sense. Over the last few years, the commission has intentionally made sure the commercial users pay their fair share of the street maintenance assessment. He asked how much time it will take for staff to develop a recommendation. Manager Alles stated staff could take a little bit of time to explore what other communities do and develop a recommendation. He then noted the large commercial users would not get a break because they use the entire footprint of their property.

Mayor Collins stated if the assessment is based on trips per day, churches may suffer. Director Haugen commented staff would look at the traffic generation and develop a methodology that is zone based and take a certain percentage and assume the number of trips per day, for the identified zone. This is based on the actual mix of zoning districts and ITE is the standard for generating traffic. Manager Alles stated this may be a futile effort to find an equitable solution.

Manager Alles noted one of the properties he showed as an example is a church that has submitted a complaint directly to him for the last ten years.

Commissioner Noonan noted this seems like a lot of work to go through, for what might not be a practical end; he would support staff looking at what other cities do.

Commissioner Haladay stated if we are not going to go the route of traffic generation, we ask the city attorney's office to give a cursory look at what happens to our determination when we begin picking and choosing out of what we have declared to be standard. He believes it is defensible when we look at a map of the entire city, when we have been told we can assess on square footage, and we are going to treat everyone equally. The moment we start making exceptions, the decisions have to be defensible. Manager Alles concurred any change to the assessment has to be defensible.

Commissioner Haladay stated he too would be okay looking at what other communities do; however, he does not want put too much extra time into it. Mayor Collins concurred.

**Commission/Director Orientation** – Manager Alles introduced the agenda item and referred to Attorney Jodoin to give an overview of the following topics:

1. Role of the City Commission and Mayor
  - a. City Charter Overview
  - b. City Commission By-Laws overview
2. Role of the City Manager
3. Role of the City Attorney
4. Role of the City Departments
5. Open Meeting Laws
  - a. What is a meeting
  - b. Notice requirements
    - i. Consent Agenda
    - ii. Regular Items
    - iii. Public Hearings
  - c. Public participation requirements
    - i. When can someone be removed from a public meeting
  - d. Official action limited to agenda items
  - e. When can a meeting be closed
  - f. Special Meetings
  - g. Public Records and Minutes Requirements
    - i. All emails are public

6. Requirements when acting in Quasi-Judicial Capacity
  - a. Prohibition on Ex-parte Communications
7. Conflict of Interest Issues/Ethics Requirements
8. Ordinance vs. Resolution
9. Liability and Insurance Coverage
10. Commission-City Employee Interaction
11. Role of City Boards
  - a. Administrative
  - b. Advisory
  - c. Appeals
  - d. Independent
12. City Contracts

Commissioner O'Loughlin asked who is responsible for setting the administrative and regular city commission meeting agendas. Manager Alles stated it is his responsibility to set the agendas; however, if there is direction from three commission members, the item is placed on the agenda. Manager Alles explained how certain agenda items are on the regular city commission meeting agendas versus the administrative meeting agendas. Attorney Jodoin asked the commission to refrain from email discussions among themselves; it can easily become an unnoticed meeting. Manager Alles requested the commission contact him prior to a meeting that they will be asking a question; this allows staff the time to research the question and have an answer ready to give the commission.

Commissioner O'Loughlin noted the administrative and regular city commission meeting packets are available on the city's web page; however, how is the material that is handed out at the meetings handled and is it available to the public. Manager Alles stated the material handed out at meetings is not included in the packet; however, is available upon request. The minutes of the administrative and regular city commission meetings are also posted on the web site.

Commissioner O'Loughlin asked if a commission member receives an email; how that is handled and is it entered into the record. Attorney Jodoin noted if public comment is received on a quasi-judicial action, those comments are entered into the record and included in the minutes of the meeting where action is taken on the item. General email is not entered into the record; however, all email is kept for email retention. Commissioner O'Loughlin asked if there is one central email address for the commission. Clerk Havens noted the public can send one email to [mayorandcommission@helenamt.gov](mailto:mayorandcommission@helenamt.gov) and noted she is working on getting that email address and a public comment page posted on the city's web page.

Commissioner O'Loughlin asked if the firefighter's contract expired in June 2018 and is currently being negotiated. Deputy Attorney O'Connor stated the contract expired in July 30, 2017; negotiations are continuing and just finished with fact finding. Once the contract is settled, the expiration date will be June 30, 2020.

Commissioner Haladay commented this is the 3<sup>rd</sup> time the issue of employees talking to commission members has come up. It is his opinion unless there is federal laws prohibiting it, he does not believe it violates the city charter for any commission member to communicate with city staff, whether in a union or not. There may be practical consideration given to some of these situations; however, unless there is law he does not see it as an issue.

Manager Alles concurred with Commissioner Haladay's comments to the point of visiting with commission members; however, depending on the issue an employee wants to visit about, he would encourage the employee to respect the chain of command. Commissioner Haladay acknowledged the city commission is at the top of the chain of command. It is important that staff has the right to visit with commission members, if they choose to do so.

Commissioner Farris-Olsen and Mayor Collins concurred with Commissioner Haladay's comments. Manager Alles stated when an employee has come to meet with him; he has referred them back to the supervisor.

Mayor Collins stated an employee who is not comfortable talking with their supervisor or the manager should be able to talk to the commission. Commissioner Haladay again stated he believes employees should be able to visit with commission members. Commissioner Farris-Olsen recognized there may be issues when active negotiations are occurring; however, employees should be able to visit with city commission members. Attorney Jodoin noted there is no federal law regarding an employee contacting a commission member; however, the city charter does address how we operate, Section 2.03 lists the exceptions. Attorney Jodoin stated the way he views that is the commission should contact city staff through the city manager, who will defer to the directors. Attorney Jodoin noted there is some very important considerations that should be given when an employees is contacting a commission member.

Deputy City Attorney O'Conner concurred there is no specific law and a lot of this is practical considerations; however, there are unique circumstances that occur during negotiations and there is the potential for unfair labor practices when you are in good faith negotiations. If there are questions, please contact the city attorney's office for guidance and advice.

**5. Department Discussions**  
**Community Development**

**Westside Annexation Update** – This agenda item will be discussed at the January 4<sup>th</sup> City-County joint work session.

6. **Review of agenda for January 8, 2018** - No discussion held.
7. **Public Comment** – No public comment.
8. **Commission discussion and direction to the City Manager** – No discussion held.
9. **Adjourn** – Meeting adjourned at 6:00 p.m.