

SUMMARY OF ADMINISTRATIVE MEETING

April 6, 2011, 3:00 p.m.

Civic Center – 340 Neill Avenue – Helena

1. Call to order, introductions, opening comments – Mayor Pro Tem Cartwright called the meeting to order. Commissioners Ellison, Elsaesser and Thweatt were present. Mayor Smith was excused. Staff present was: City Manager Ron Alles; Community Development Director Sharon Haugen; Public Works Director John Rundquist; Assistant Public Works Director Phil Hauck; Utility Maintenance Superintendent Kevin Hart; Water Meter/Maintenance Supervisor Jeff Feth; Water/Wastewater Superintendent Don Clark; Parks & Recreation Director Amy Teegarden; City Attorney David Nielsen; Community Facilities Director Gery Carpenter; Police Chief Troy McGee and City Clerk Debbie Havens.

Others attending all or a portion of the meeting included: HCC Representative Janet Hess-Herbert.

2. **March 23, 2011 Administrative Meeting Summary** – The March 23, 2011 administrative summary was approved as submitted.

3. **Commission comments, questions -**

A. Upcoming Appointments – Mayor Smith is recommending the following: Appointment of Melinda Barnes and Kyla Wiens to NMTAC. Terms will begin upon appointment and expire March 31, 2014. Reappointment of Jeff Kurtz to the TBID. Term will begin upon appointment and expire April 20, 2015.

4. **City Manager's Report**

A. Manager Alles reported NovusAgenda is up and running. He asked for commission feedback. Manager Alles reported Director Teegarden will travel to Washington DC to testify in front of the Congressional Appropriations Committee. She was invited to speak on the impact the ACHIEVE Grant will have on the City of Helena.

Manager Alles requested the Missouri River Treatment Plant Project Findings be moved up on the agenda.

Community Facilities

MRTP Project Findings – Community Facilities Director Gery Carpenter reported the Public Works and Community Facilities Departments are planning a project at the Missouri River Water Treatment Plant (MRTP) which consists of three elements. The first element is remodel of the current space on the second level of the plant building into locker room facilities, storage room space, conference room space and an office. The second element consists of construction of a garage/shop area on the north side of the facility. The third element encloses the settling pond on the east side of the facility with walls and a roof. The operation of the plant cannot be interrupted and the plant process cannot be compromised during any phase of this project. In addition, security to the facility must be maintained. Awarding projects on secure City complexes to the lowest responsible bidder without any other consideration may not be in the City of Helena's best interest, due to the fact that disruption of plant operation or the contamination of the water supply might occur.

Staff is proposing to provide a detailed written finding to the City Commission demonstrating the requirements of §18-2-502, MCA, have been met to enable the City of Helena to proceed with the alternative project delivery contract method. This includes an RFQ followed by an RFP, with a selection process to follow. The final step will be the awarding of a general contractor construction management contract to the successful respondent. The awarding of a general contractor construction management contract can be based on criteria that would include background, special capabilities, specific experience, proposed project team, methodology for cost estimating, value engineering, planning and scheduling of construction work, project communication, project safety and ability.

Staff is recommending adoption of the detailed written finding demonstrating that an alternate project delivery contract meet the requirements of §18-2-502(2), MCA.

Director Carpenter outlined the process that will be used prior to awarding the actual project contract.

Commissioner Ellison asked how big is the project and when will the work be done. Director Carpenter stated it is estimated at \$850,000 and the work will be done this summer, July through October. Commissioner Ellison asked for other projects where this process has been used besides the 15th street garage. Director Carpenter stated the garage is the first time the city has used this process. It has been allowed since 2005/2006.

City Attorney Nielsen explained under this process, the city hires the general contractor and they in return are responsible for hiring all of the sub-contractors. Director Carpenter explained the contractor will be the general manager of the project.

Commissioner Elsaesser stated he is comfortable with this process and thought it worked well with the

garage. He asked if there is a need for the facility to be upgraded to include an office and conference room. Assistant Public Works Director Phil Hauck noted this project is funded through STAG funding and is in the FY2011 budget. The majority of the project is the garage, specifically for the storage of chemicals; the pre-treatment cover is very integral to the operations of the plant. The conference room already exists; however, it would be remodeled with this project. This project would be one of the final projects at the MRTP.

Mayor Pro Tem Cartwright stated he shares Commissioner Elsaesser's concerns with the continuing maintenance of the improvements. Manager Alles stated the ongoing costs are covered and the remodel does not increase the M&O costs.

Mayor Pro Tem Cartwright asked if the MRTP is taken down for construction how would that affect the fire season. Public Works Director Rundquist stated the construction of the actual plant will happen after it is shut down in the fall. Director Rundquist further explained how the project will improve the operations of the MRTP.

Commissioner Ellison stated it would behoove the commission to move quickly on this if staff wants to award the contract by July.

5. Committee discussions

a) ADA Compliance Committee, Audit Committee, Board of Health, Civic Center Board, Montana League of Cities and Towns – Mayor Smith – No report given. Mayor Pro Tem Cartwright asked where the CTEP contract is for the ADA Broadway Intersection project. Public Works Director Rundquist reported the Broadway Intersection project contract has been approved by the MDT; it will now be forwarded to Federal Highways for review. Commissioner Elsaesser asked how the drains are designed on the project. Director Rundquist explained the drainage design of the project.

b) Audit Committee, Board of Adjustment, Non-Motorized Travel Advisory Committee, Intergovernmental Transit Committee – Mayor Pro Tem Cartwright reported the Board of Adjustment met April 5th to discuss a height variance request for an office building at the corner of 14th Street and Last Chance Gulch. The variance was approved by the Board of Adjustment. NMTAC continues to work on Centennial Trail; Mayor Pro Tem Cartwright asked if staff has heard from MDT. Director Rundquist stated MDT has concurred the plans can be amended to incorporate different phases of the project. Staff has a draft contract with MDT and wants to make sure it matches what staff is proposing. The appraisal for the railroad easement property is currently taking place. Mayor Pro Tem Cartwright stated NMTAC agrees with staff that it is important get something on the ground; although the preferred build was to the west. It might be less complicated to build to the east and not have to get an easement from the railroad.

Commissioner Elsaesser asked if the bridge over Henderson is still a priority. Mayor Pro Tem Cartwright concurred it is a priority; however, it is a MRL easement and not yet resolved. Another interesting project is the Chair of NMTAC Bruce Newell and Transportation Coordinator Allen Cormany selected nine identified locations; members of NMTAC then took a map and went out and figured out how best they would get from one location to another. This project will outline the difficulties pedestrians and bikes have traveling from one location to another. The Transit Committee has not met; the transit facility will open as soon as the asphalt is installed. Assistant Public Works Director Hauck noted the asphalt plant opens April 18th and hopefully by mid-May the move will be complete.

Commissioner Elsaesser asked what happened with the vandalism and if the city recovered the costs of the damage. City Attorney Nielsen stated the contractors insurance covered the damage.

City Manager Alles reported the city of Helena has been chosen by the Sustainable Communities Building Blocks Program to participate in a Walkability Audit sometime in June. Part of the reason the city was chosen for this program is the location, which has been identified is the Midtowne/Sixth Ward Area.

c) Helena Chamber of Commerce, Information & Technology Services (IT&S), Montana Business Assistance Connection (MBAC), Pre-Release Screening Committee – Commissioner Ellison reported he has attended a couple of the Chamber board meetings; the banquet and awards luncheon were both successful. The IT&S Board has not met since he was appointed to the board. MBAC continues to meet monthly and he attends the executive committee meetings. Commissioner Ellison stated he is concerned with their loan default rate; it is higher than the goal they have set. MBAC has funding for loans; however, no

applications have been submitted. MBAC held their annual meeting and are very excited with the expansion of ACS. The Pre-Release Committee meets weekly to screen for residency.

Commissioner Elsaesser stated he too had similar concerns on MBAC and the loan default rate and thanked Commissioner Ellison for paying attention to this. He noted the city and county commission might have to look at MBAC's structure. Manager Alles spoke on the operation of MBAC and stated they have requested funding from the city to assist them with operations. Manager Alles noted he has declined the request for funding. The city of Helena has deeded property to MBAC.

Commissioner Ellison reported that he and Commissioner Elsaesser attended the Hometown Helena meeting and the most interest he received was when he announced he was going to look at what the city could do to ban the use of cell phones while driving. He asked that this be put back on the matrix and get staff's comments. Commissioner Thweatt concurred with Commissioner Ellison's request. He would like to hear about the public safety benefits.

City Manager Alles noted he will put the cell phone issue back on the matrix.

d) Audit Committee, City-County Weed Board, Public Art Committee, TCC – Commissioner Elsaesser reported the TCC continues to be updated on construction projects and he appreciates NMTAC comments. He attended the weed board meeting and will attend quarterly. MDT and the Forest Service were both represented at the weed board and the interim forest service director spoke on their upcoming projects. The weed ordinance is moving forward.

e) BID/HPC, City-County Admin Building Board, City-County Parks Board, TCC - Commissioner Thweatt reported he has attended the BID meetings and there are conversations taking place of making Last Chance Gulch a two-way street from Helena/Neill Avenues up to the corner of 6th and Last Chance Gulch and installing a four way stop sign at the corner of Lawrence and Last Chance Gulch. Commissioner Thweatt stated he had a tour of the City-County Building and has not yet attended a regular meeting. The Parks Board met today and discussed the methodology for implementing users' fees. Commissioner Elsaesser clarified the two-lane traffic would not be on the walking mall. Public Works Director Rundquist stated this is included in the Helena Area Transportation Plan and there are a couple of alternatives several to fix the five-way intersection at of Last Chance Gulch, Cruse and Helena/Neill Avenues; one would be a round-about and the other would be to re-configure the access from 11th Avenue. Staff is requesting budget approval to hire a transportation engineer to design these types of projects to present to the public for comment.

Commission Comments - Commissioner Elsaesser reported he welcomed the Big Horn Hockey Team back to Helena and invited representatives from the team to attend the April 11th city commission meeting.

Commissioner Elsaesser stated he has received comments on the expansion of the growth policy service boundary map and he will be offering an amendment to expand the boundary line as it was recommended by the Planning Board.

Commissioner Elsaesser reported on the Solid Waste bills that have been passed at the legislative session. It is his understanding the city will openly compete with private companies on newly annexed properties. He believes the bills may threaten the city's assessment methodology. City Manager Alles stated staff will analyze the legislation and report back to the commission.

Mayor Pro Tem Cartwright asked that any amendments to the Growth Policy be submitted prior to the May 9th city commission meeting. He noted that several commission members are interested in discussing an "airport affected area". Community Development Director Sharon Haugen explained the airport affected area technically would be an implementation; what language that would be drafted would be enabling that potential. There is also draft legislation that authorizes "military affected areas". Mayor Pro Tem Cartwright stated there needs to be language in the Growth Policy that addresses "airport affected areas". Commissioner Thweatt stated he attended the legislative hearing on the proposed bill and there was a lot of discussion regarding helicopters and military affected areas. Community Development Director Haugen noted part of the difficulty is helicopters normally do not have defined flight paths, unlike airport affected zones have defined runways and Fort Harrison has not provided staff any information on any defined runways that they may have. It may be better to set the stage in the Growth Policy instead of implementation stage until Fort Harrison gets

additional information to staff to make it more feasible to move ahead. Mayor Pro Tem Cartwright stated he would support Director Haugen's suggestions. Commissioner Ellison noted it is not only helicopters that use Fort Harrison, there are planes that fly at a fairly low altitude for training purposes.

Commissioner Ellison suggested that a date certain be established on when amendments on the Growth Policy should be submitted in order for staff and other commissioners to have time to review them. The Growth Policy will be on the May 9th city commission meeting agenda. Commissioner Ellison suggested the commission get any amendments submitted by April 21st. City Manager Alles stated he will review the calendar and send out an email to the commission.

City Manager Alles stated the county commission has asked to discuss interim zoning at the joint work session. Commissioner Elsaesser mentioned he does not want to be an adversary with the county commission over the boundary map.

f) Helena Citizens Council – HCC representative Janet Hess-Herbert reported sub committee continues to work on the integration of city boards. The three boards include the Helena International Affairs Council, Public Art Committee and Urban Wildlife Advisory Committee. The HCC has submitted a new application for a VISTA, there is a new category that addresses healthy futures and education.

6. Department Discussions

Public Works

Backflow Ordinance – Public Works Director John Rundquist and Utility Maintenance

Superintendent Kevin Hart reported Helena has adopted several ordinances that address the installation of backflow devices to protect the city's public water supplies from contamination. These codes also speak to prevention of cross connection of potable water supplies with non-potable supplies in order to protect public health. What is currently lacking is a program to consistently provide for ongoing testing and maintenance of installed devices mentioned in the codes. There is a general requirement in state and federal drinking water rules that Helena, as a purveyor of public drinking water, take steps necessary to protect the quality of water delivered by monitoring distribution system connections, identifying hazards and taking necessary steps to provide a distribution system free of contamination sources. However, there is no current mechanism to provide coordination and oversight of the various code requirements with the specific purpose of protecting the quality of drinking water within Helena's water system. The lack of a central coordination function to monitor the installation, testing and maintenance of such devices is evident in the water rules. Explicit authority for the water utility to ensure protection of the drinking water supply from backflow and cross-connection hazard is necessary.

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 backflow devices installed at points of service and to eliminate cross connections of nondrinking water with the Helena water system. This program will focus on identifying and controlling backflow situations or eliminating cross connection hazards that pose a threat to the quality of Helena's drinking water.

Additions to 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.

The program will implement adopted portions of existing plumbing, building, and fire code with require annual testing and maintenance of installed devices. This requirement may result in the additional costs of approximately \$75 dollars per year per device for testing if this is not already being done by commercial property owners. Cost to business properties that have hazards to the public water supply but have no protections according to code may be required to install and maintain devices designed to protect the public water supply. The costs for such situations cannot be determined in advance. However, a cooperative and educational approach will be adopted to gain compliance prior to any mandated requirements being imposed.

Commissioner Thweatt asked what a practical example of a backflow situation is. Water Superintendent Kevin Hart explained with pressure differential there is potential for fluids to flow backwards and without a device in place to stop that a lot of stuff could flow back into the city water system. Examples include: a hose in a bucket of dirty water and if there is a loss in pressure the dirty water would flow back into the city water system. The decrease in pressure is what causes the backflow. There are backflow events that are currently occurring in the city, the current meters provide some reference when backflow event occurs. Commissioner Thweatt asked for other examples. Director Rundquist gave the example of when a well driller was drilling an irrigation well and using mud as a lubricant during drilling and when there was a decrease in pressure the mud actually went back into the city mains.

Commissioner Elsaesser asked if current residential houses have backflow devices. Superintendent Hart stated currently there is no requirement for a backflow device where there is not a risk of a hazard and most residential irrigation system do have them. The residential risk is lower than commercial. Commissioner Elsaesser asked what the cost would be for a backflow device. Staff estimated the cost of inspection would be \$65-\$75 per device. The recommendation is the backflow device would be inspected and not the internal devices. Director Rundquist explained the different types of backflow devices.

Commissioner Ellison stated he is having a hard time wrapping his arms around this issue. He gave the example of living in a single family house with an irrigation system and asked if the system would require a backflow device. Director Rundquist stated the sprinkler system would require a backflow device and noted it is already a plumbing code requirement. Staff would not be inspecting and testing residential sprinkler systems.

Commissioner Ellison asked how many devices are installed within the city. Water Meter /Maintenance Supervisor Jeff Feth estimated approximately 350-400 devices are installed and have not been inspected.

Commissioner Elsaesser asked if any of these devices come with a safety option that would notify the city when there is a failure. Water Meter/Maintenance Supervisor Jeff Feth stated no; if a system fails, it will dump the water on the ground. As a safety precaution, staff needs to inspect to make sure the devices are working correctly.

City Manager Alles noted staff has identified hook-ups with the highest degree of risk. Staff has recognized that they do not want to inspect the residential systems. However, staff would want to inspect those businesses and large apartment complexes that have a high risk of backflow incidents.

Commissioner Thweatt asked what staff meant when referring to "opening a can of worms" Superintendent Hart noted backflow is a difficult issue and can happen to anyone. Staff has tried to take a reasonable approach by targeting the high hazard/risk areas and inspect those backflow devices.

Commissioner Elsaesser asked why the current meters cannot trigger backflow when it occurs. Superintendent Hart noted the meters will tell staff when a backflow event occurs; however it does not give specifics. To his knowledge there is not a meter with an alarm system. There was an incident at Central School where the boiler water was pulled back into the drinking fountain due to a backflow incident.

Director Rundquist explained the proposal includes hiring a private contractor to conduct the inspections of the backflow devices.

Commissioner Ellison asked for further examples of high risk buildings/businesses. Staff stated hospitals, medical clinics, dentist offices and photo processing businesses are three of the higher risk businesses.

Commissioner Elsaesser asked why staff is recommending annual inspections and not less frequent. Staff looked at all the information including fire and plumbing codes and went with the recommended annual inspections.

Mayor Pro Tem Cartwright noted it would be helpful for staff to have specific examples available. He asked how many events have occurred in the last few years, how complicated is it to install and replace the backflow equipment and the average costs of the device. The residential device is approximately \$100 and \$200 for the larger buildings. Mayor Pro Tem Cartwright asked if the affected

businesses have been notified of the proposal. Staff has not solicited feedback from any business. There are plumbers who have been asking when the city is going to adopt a backflow ordinance.

Mayor Pro Tem Cartwright stated he is inclined to support the recommendation; however, with all the questions, the commission may want to consider tabling it for a couple of weeks. Staff clarified that first passage of the ordinance is on the April 11th city commission meeting agenda and the public hearing has been legally advertised.

Mayor Pro Tem Cartwright commented staff has indicated that they would target the high risk businesses and not residential; however, the rules do not specifically say that. The rules say "code" and residential irrigation is code. City Attorney Nielsen stated the plumbing code does not differentiate between high hazard and residential; the plumbing code is enforced across the board. The plumbing code already requires backflow devices, what it does not have is the enforcement mechanism of what the city would do if we do not have a backflow preventer that was supposed to be installed and tested and there is a problem. Mayor Pro Tem Cartwright commented on what the commission is being asked to adopt is not what staff is indicating will happen. He suggested the intent of not inspecting residential and just the high hazard businesses should be included in the rules. City Attorney Nielsen noted the city does not have much input on the Montana State Plumbing Code. Therefore when the city does an ordinance that touches on the plumbing code, there cannot be language that states the city will not do things that are required by the plumbing code.

Further discussion was held on the language that is currently in the plumbing code versus the language in the ordinance. Mayor Pro Tem Cartwright stated this might open up controversy and how will staff determine what residential structures will be inspected.

Superintendent Hart noted this is a complex issue and he believes the educational portion of the program will be beneficial to the residential side. The high risk will be concentrated to the commercial and large buildings.

Commissioner Ellison stated he has concerns and believes staff should have notified the affected businesses. At this time he is not comfortable with moving forward and would suggest the outreach be done prior to the commission taking action.

Commissioner Elsaesser stated this is first passage of the ordinance and he would like the outreach to be done prior to second passage. Meter/Maintenance Supervisor Jeff Feth stated there are businesses that already have their backflow devices inspected. Commissioner Elsaesser stated he is comfortable with the proposal and is interested in what else can be done to protect the city's water supplies. Meter/Maintenance Supervisor Jeff Feth explained how the current meter system notifies staff of a backflow incident.

Mayor Pro Tem Cartwright noted the commission has the option of tabling the public hearing or the implementation time could be lengthened. He is glad that staff is moving forward with the ordinance; how it is implement is very important. Superintendent Hart noted it is easier for staff to educate the public if the commission were to approve first passage of the ordinance.

Manager Alles reminded the commission they have the authority to amend the ordinance prior to first and second passages. The commission also could approve first passage and then schedule second passage for a later date.

Director Rundquist suggested the commission hold the public hearing on April 11th and continue second passage until staff has had the opportunity to hold a public meeting to educate the affected businesses and general public.

7. **Review of agenda for April 11th meeting** – No discussion held
8. **Public Comment** – No public comment received.
9. **Commission discussion and direction to City Manager** – No discussion held.
10. **Adjourn** – Meeting adjourned at 5:00 p.m.