

SUMMARY OF ADMINISTRATIVE MEETING
May 4, 2011, 4:00 p.m.
Room 326, City County Building – 316 N. Park Avenue, Helena

1. Call to order, introductions, opening comments – Mayor Smith called the meeting to order. Commissioners Cartwright, Ellison, Elsaesser and Thweatt were present. Staff present was: City Manager Ron Alles; Executive Assistant Clinda Feucht; Community Development Director Sharon Haugen; Planner Kathy Macefield; Administrative Services Director Tim Magee; Community Facilities Director Gery Carpenter; Human Resource Director Rae Lynn Nielsen; City Attorney David Nielsen; Public Works Director John Rundquist; Assistant Public Works Director Phil Hauck; Fire Chief Steve Larson; Fire Captain Sean Logan; Police Chief Troy McGee; Urban Wildlife Coordinator Brad Langsather and City Clerk Debbie Havens.

Others attending all or a portion of the meeting included: HCC Representative Chris Goss; IR Reporter Allyson Maier; Planning Board Member Marshal Gingery;

2. **April 20, 2011 Administrative Meeting Summary** – The April 20, 2011 administrative summary was approved as submitted.

3. **Commission comments, questions -**

A. Upcoming Appointments – Mayor Smith is recommending the appointment of Ryan Morton to an unexpired term as the alternate member on the Board of Adjustment. The term will begin upon appointment and expire October 1, 2012.

4. **City Manager's Report**

A. Growth Policy Amendments – City Manager Alles noted the submitted amendments and the three maps are included in the commission packet.

Commissioner Thweatt asked Mayor Smith how he intends the meeting to proceed during the Growth Policy item. Mayor Smith stated with the public hearing being held and closed on March 28th; he will not accept any further public comment. He anticipates a motion/second will be offered to adopt the Growth Policy; amendments will then be offered by motions and a vote will be taken on the individual amendments; once all amendments have been presented and voted on, a final vote on the Growth Policy as amended will be called for.

Mayor Smith suggested some of the amendments could be packaged and voted on at one time. Commissioner Ellison noted he will present a package of amendments regarding Fort Harrison.

Commissioner Ellison stated he has several other amendments and asked if they would need to be offered individually or as a package. Mayor Smith suggested other amendments could be packaged; however, any substitutive amendments should be offered individually.

Mayor Smith asked Commissioner Ellison for clarification on the amendment to Chapter 4: Housing and asked if he had visited with staff regarding the stats. Commissioner Ellison noted he had not changed any numbers within the document. Director Haugen stated the proposed amendment is appropriate and the stat number had not been changed.

Commissioner Cartwright referred to an amendment referring to the boundary line being a “soft” line or “hard” line and recommended the commission act on this amendment first and then address the boundary lines. Proposed amendment to Chapter 10: Land Use 4. ~~Limit future extension of services and annexations to the Urban Standards Area.~~ Replace with: 4. Give priority for future extension of services and annexations to property located within the Urban Standards Boundary area.

Further discussion was held on the order the individual amendments will be offered at the meeting on May 9th.

Commissioner Thweatt referred to the map regarding fire service response times to the northeast quadrant. Fire Chief Larson stated this map was created during the Fire Service Review showing fire response time from Station 1, Station 2 and a proposed Station 3. Commissioner Thweatt asked if the existing fire service would have a response time of less than five minutes to the northeast quadrant. Fire Chief Larson stated the response time would not be less than five minutes with the road structure that was in place when the map was developed. However, the road structure since the map was developed has changed. The map was created in 2008 and will be updated due to GIS capabilities. Commissioner Ellison asked what would the response time be on the west side of the freeway out to Munger Road. Fire Chief Larson noted access to Munger Road would be on the Frontage Road and the response time would be greater than the five minutes. Commissioner Ellison commented the location of the interstate is somewhat immaterial; the current response time on either the east or west of the interstate is more than the five minutes. Chief Larson concurred. Commissioner Cartwright stated there are areas of the valley on the west side of the interstate that would have a five minute response time. The area on the east side has a longer response time.

City Manager Alles noted this map does not include the upgrades to the Frontage Road nor the Custer Avenue Interchange. Commissioner Thweatt acknowledged the map does not include the new subdivision on the southeast side of the city either.

Commissioner Elsaesser asked for clarification on Commissioner Cartwright's comments on a longer response time on the east side versus the west side. Commissioner Cartwright showed Commissioner Elsaesser the area on the map he was referring to.

Commissioner Thweatt summarized the northeast quadrant is a disconnected area with many issues needing to be addressed; not only fire response time but street connectivity; schools and infrastructure capabilities.

Commissioner Elsaesser stated he believes it is reasonable to include the areas of Tenmile and Pleasant Valley subdivisions, as was originally recommended by the Planning Board. He noted there are other environmental criteria the commission would have to consider with any new development.

Commissioner Elsaesser asked Chief Larson for his comments on the possibility of relocating one of the current fire stations. Chief Larson noted the consultant that worked on the Fire Service Review recommended a third fire station near the north side of the city limits. Chief Larson stated he concurs with the recommendation of the third station; however, that is a decision the commission will have to consider and ultimately make.

Commissioner Elsaesser stated he is comfortable with the emergency service response time throughout the city.

Commissioner Cartwright addressed all city services and noted the further distance an area is that receives services, the more it costs to maintain services. It is cheaper to provide fire service to those houses on the south side of Custer Avenue than it is on the north side. Commissioner Cartwright asked the commission to keep this in mind as all of the services have an impact on the city's bottom line and he will address this at the May 9th meeting. Mayor Smith asked Commissioner Cartwright to explain his comment on the "bottom line". Commissioner Cartwright stated his bottom line is how much the commission believes the community can afford to maintain services at a certain level. The more spread out the community is, the higher the costs are to maintain those services.

Commissioner Ellison pointed out the current map being discussed and noted the map the commission adopted does not include Pleasant Valley; however it goes all the way out to Sierra Road. If there are concerns with providing services to Pleasant Valley; there should be concerns with going all the way out to Sierra Road. Continued discussion was held on the various proposals on the service boundary map.

Director Haugen noted the purpose of the Growth Policy is for future planning and that is what the Planning Board worked toward. Mayor Smith thanked Director Haugen for her comments and noted all commission members should keep this in mind. Commissioner Cartwright commented this is a good point and it addresses why he is willing to cut back the area. At the peak of the proposed subdivisions, there were approximately 7,000 new lots being available, that does not include the lots to the north.

Mayor Smith stated his decision on the map will depend on what the county commission is committed to working with the city on. If it is business as usual, he will support a more restrictive area. Commissioner Thweatt concurred with Mayor Smith's comments and noted the county needs to adopt zoning and that takes time.

B. HATS Building – Community Facilities Director Gery Carpenter reported the facility is almost completed and hopefully the grand opening will be May 25th.

City Manager Alles noted there have been discussions on how the new facility should be named. At the current time, there is no policy on the naming of buildings. He asked if there is a process the commission would be interested in using to name the building. There was commission concurrence to leave the name of the facility as is. A plaque acknowledging those who helped with the funding could be displayed inside the building.

City Manager Alles noted he would be absent for a portion of the May 9th city commission

meeting.

5. Department Discussions

City Attorney

Cell Phone Restrictions – City Attorney Nielsen and Police Chief McGee noted the City Commission has expressed an interest in considering adoption of an ordinance prohibiting drivers of vehicles from certain types of uses of mobile telephones. Staff has reviewed SB 251, which failed legislative approval, and ordinances on this subject from other Montana cities. Below is a list of decision points on options that could be included in an ordinance proposed by the Commission:

1. The type of devices that would be regulated:
 - a. Mobile telephones, which include cellular, analog, wireless, or digital telephones capable of sending or receiving telephone communications without an access line for service.
 - b. Mobile electronic devices, being any hand-held or other portable electronic equipment capable of providing data communication between two or more persons, text messaging in devices, pagers, personal digital assistants, laptop or notebook computers, equipment that is capable of playing a video game or a digital video disk, equipment on which digital photographs are taken or transmitted, or any combination of those functions.
 - c. Two-way radios, audio equipment, or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistant to the operator of the motor vehicle, or video entertainment to the passengers in the rear seats of the motor vehicle.
 - d. Hands-free accessories, being an attachment, add-on, built-in-feature, or addition to a mobile telephone, whether or not permanently installed in a motor vehicle, that when used allows the vehicle operator to maintain both hands on the steering wheel.
 - e. Hands-free mobile telephones, being a hand-held mobile telephone that has an internal feature or function or that is equipped with a hands-free accessory, whether or not permanently part of the hand-held mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate, or initiate a function of the telephone.
2. The types of vehicles to which the restriction would apply:
 - a. Motor vehicles, which are vehicles propelled by their own power and designed or used to transport persons or property upon streets, alleys, and other public rights-of-way, except those moved by animal power or used exclusively upon stationary rails or tracks. This would be cars, trucks, motorhomes, motorcycles, quadricycles, and medium-speed electric vehicles (A medium-speed electric vehicle is one which has a maximum speed of 45 MPH, is propelled by an electric motor or other device that transforms electrical energy into motion, stores electricity in batteries, ultracapacitors, or other devices charged from a power grid or renewable electrical energy sources, is fully enclosed with at least one door for entry, and has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater.)
 - b. Motorized nonstandard vehicles, which are vehicles propelled by their own power using an internal combustion engine or an electric motor and has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches. This includes motorized skateboards and pocket rockets.
 - c. Electric personal assistive mobility devices, which are devices that have two non-tandem wheels, are self-balancing, and are designed to transport only one person with an electric propulsion system that limits the maximum speed to 12 ½ mph.
 - d. Bicycles, which are: 1) vehicles propelled solely by human power, have two tandem wheels, and a seat height of more than 25-inches from the ground; and 2) vehicles equipped with two or three wheels, foot pedals to permit muscular propulsions, and an independent power source providing a maximum of 2 brake horsepower, with a piston or rotor displacement of not more than 3.05 cubic inches, 50 centimeters.
 - e.

3. The type of mobile phone or mobile electronic device use:
 - a. Engaged in a call, which is talking into or listening on a hand-held mobile telephone that is held by the user and in immediate proximity to the user's ear, but not including holding the mobile telephone to activate, deactivate, or initiate a function of the telephone. (Immediate proximity is distance that permits the user to hear telecommunications and may, but does not require physical contact with the ear.)
 - b. Data communication between two or more persons, including text messaging and paging.
 - c. Operating a mobile electronic device.
 - d. Operating navigation equipment, whether portable to or permanently installed in the vehicle.
4. Type of vehicle use to which restrictions apply:
 - a. Vehicle is actively moving
 - b. Vehicle is temporarily stopped on street, alley, or public right of way, such as waiting for signals or train crossing.
 - c. Vehicle is parked off driving lane on street, alley, or public right-of-way, but engine is running with transmission engaged.
 - d. Vehicle is parked off driving lane on street, alley, or public right-of-way, but engine is running with transmission disengaged.
 - e.
5. Use exceptions:
 - a. Emergency calls to police, fire, or medical
 - b. When on duty, law enforcement, fire fighters, and ambulance and medical responders.
6. Punishment:
 - a. Misdemeanor, maximum fine of \$500 and/or 6 months in jail.
 - b. Misdemeanor, fine only not to exceed \$100.
 - c. Municipal infraction (not recommended).
7. Signs on entrances to Helena warning of ordinance.

Mayor Smith stated this has been an issue that a couple of commissioners have been interested in and asked if this is a path the commission wants to pursue. At this time, he does not believe the commission should pursue cell phone restrictions. He noted there are many things that distract drivers and he is concerned with the enforcement of the ordinance.

Commissioner Thweatt stated he would like to have Senator Kaufman address the commission regarding SB251. He does not believe the city needs to re-invent the wheel; however, he supports looking into prohibiting the use of mobile telephones. Commissioner Thweatt suggested inviting Senator Kaufman to a future administrative meeting to talk about SB251.

Commissioner Cartwright asked if the accident reports indicate cell phone is the cause of the accidents. Police Chief McGee stated in 2010 there were seven accidents contributed to cell phone usage in the city limits. He did note that those seven accidents were the only ones that were directly contributed to cell phone usage. The stats do not show cell phone use is an issue in the cause of accidents.

Commissioner Cartwright asked if the city has some type of ordinance that allows a driver to be pulled over for distracted driving if they are using a cell phone. Chief McGee stated at this time there is not an ordinance that addresses cell phone usage; however, if a driver is driving carelessly they could be pulled over and issued a citation for a basic rule.

Commissioner Cartwright asked Chief McGee what rights do pedestrians have if they strike a car after almost being hit. Mayor Smith asked if Commissioner Cartwright is referring to the citizens' right of self defense between a pedestrian and auto. Chief McGee stated if a pedestrian is struck by a vehicle, they have the right to protect themselves; however, if the vehicle cuts it close, the pedestrian does not have the right to strike the vehicle.

Commissioner Thweatt asked if staff researched national statistics on accidents contributed to the use of cell phones. Chief McGee stated staff has looked at a number of studies showing how drivers are

distracted during the use of a cell phone device; specifically the Utah study which is available on line.

Commissioner Elsaesser asked if a driver is cited for distracted driving, would another offense have to occur. Chief McGee stated the officer would have to have probable cause to pull a vehicle over and cite them for distracted driving.

Chief McGee noted if the commission passes an ordinance, the police will enforce it. However, it will not be on the top of the priority list. He noted by having the ordinance in place, it may encourage citizens not to use a cell phone.

Commissioner Ellison stated he believes this issue needs to be pursued. He referred to several studies where people were using simulators and it showed distracted drivers by using cell phones had more wrecks than those driving under the influence of alcohol. Commissioner Ellison noted there are 57 countries, nine states and many municipalities have banned the use of cell phones. Commissioner Ellison stated this is an important issue and would recommend moving forward on adopting an ordinance prohibiting the use of cell phones.

Commissioner Cartwright stated this issue may not be one of the highest priorities the commission takes on. He asked if the police could be given the authority to look at the cell phone records when they are investigating an accident. Chief McGee stated legally the Police Department could; however, the cell phone companies are not cooperative.

Commissioner Elsaesser asked if staff has contacted the City of Billings regarding the enforcement of the city's ordinance. Chief McGee stated in Billings there have been mostly warnings given out for cell phone and texting. Commissioner Elsaesser stated he supports bringing this issue forward.

Mayor Smith stated he would be interested in looking at a couple of the studies referred to and inviting Senator Kaufman to attend an administrative meeting to discuss SB251.

City Manager Alles stated he will invite Senator Kaufman to attend an administrative meeting. He also noted it is already city policy that cell phone use is prohibited in city vehicles.

Public Works

Citywide Projects Update – Public Works Director and Assistant Public Works Director Phil Hauck referred the commission to the map with the following city projects marked:

Public Works Department Projects:

Sanders Street Extension

Westside tank connections

LeGrande Cannon reconstruction and paving

K-Mart Ponds

Sewer main slip line projects

Brady Street signal

CTEP Projects:

Broadway/LCG raised intersection (start in September 2011)

Barney Park, Selma Held Park and Pioneer Village Park sidewalk installation

Centennial Trail

Benton Street reconstruction – Lewis & Clark County CTEP funding

Guardian Building ADA ramp

Helena Avenue bike lane

Benton Trail fence

Chip & Seal projects

Missouri River Treatment Plant upgrades

Tenmile Water Treatment Plant

MDT Projects:

Custer Avenue Interchange

Frontage Road connection

Pedestrian bridge over Capital Interchange

Parks & Recreation Department Projects

Tenmile Flume Fuel Reduction project
Herbst Fuel Reduction project
Archery Range fence project
Mount Helena City Park fuel reduction projects
Centennial Park

Community Facilities Department Projects

Safety projects in the Civic Center auditorium
City-County Building energy projects
HATS Building
Lighting upgrades – Fire Stations; city shop and water utility building

Marshall Gingery thanked staff for the presentation and suggested it be given at Hometown Helena. City Manager Alles concurred and stated he would contact Jim Cottrill to get on an upcoming agenda.

Human Resources

Union Contracts – Human Resources Director Rae Lynn Nielsen reported all five union bargaining contracts have an expiration date of June 30, 2011. The City and Firefighters Union have successfully negotiated a three year contract. The Police Officers and Dispatcher's contracts are both open and meetings are on-going. The Parking Commission employees have sent the letter requesting the contract be opened. The water department bargaining unit with EBEW has petitioned to decertify; not negotiations meeting will be scheduled until the outcome of the vote is known.

Captain Logan noted the firefighters are very excited about settling the three-year contract, there was a team approach to get the contract settled in a timely manner. Chief Larson recognized and thanked Captain Logan and Director Nielsen for their work and dedication in getting the contract settled.

6. Committee discussions

- a) ADA Compliance Committee, Audit Committee, Board of Health, Civic Center Board, Montana League of Cities and Towns – No report given
- b) Audit Committee, Board of Adjustment, Non-Motorized Travel Advisory Committee, Intergovernmental Transit Committee – No report given.
- c) Helena Chamber of Commerce, Information & Technology Services (IT&S), Montana Business Assistance Connection (MBAC), Pre-Release Screening Committee – No report given.
- d) Audit Committee, City-County Weed Board, Public Art Committee, TCC – No report given.
- e) BID/HPC, City-County Admin Building Board, City-County Parks Board, TCC – No report given.
- f) Helena Citizens Council – HCC representative Chris Goss reported the HCC approved the MOU for a six month trial period to integrate the following three boards into the HCC structure: Helena International Affairs Council, Public Art Committee and the Urban Wildlife Advisory Committee.

7. Review of agenda for May 9th meeting – Commissioner Cartwright noted there is request for the enlargement of water and wastewater service area on the agenda. He stated he is not certain this is the best place to build and extend services. City Manager Alles noted the property is platted and a request has been received to extend services.

Commissioner Cartwright noted although the area is platted, it is outside the service area.

8. Public Comment – No public comment received.

9. Commission discussion and direction to City Manager – Chief McGee reported on an incident that occurred at the Probation and Parole office where a Helena Police Officer fired one shot at the suspect

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that fled the scene. Chief McGee stated he will not be releasing any further information until a full investigation has taken place.

10. Adjourn – Meeting adjourned at 6:05 p.m.