

**SUMMARY OF ADMINISTRATIVE MEETING**  
**November 2, 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; City Attorney David Nielsen; Human Resource Director Rae Lynn Nielsen; Community Development Director Sharon Haugen; Public Works Director John Rundquist and City Clerk Debbie Havens.

Others attending all or a portion of the meeting included: HCC Representative Lora Behlmer and Independent Record reporter Piper Haugen. Chris Figureida with the American Heart Association, stated he is riding across America to educate young children on obesity and life choices.

2. **October 12, 2011 Administrative Meeting Summary** – The October 12, 2011 administrative summary was approved as submitted.

3. **Commission comments, questions** – Commissioner Elsaesser submitted a memo with the following comments/questions:

1. Dan Casey has asked that the city look into maintenance issues on property near his home on South Park near the entrance into Helena from Grizzly Gulch. Who is the owner of this property and if it is the city, what is the maintenance schedule for the property.

2. Payback of sidewalk revolving loan program – Most property taxes can be paid on a bi-annual basis, the sidewalk loan program is assessed in full once per year. Why does this program have an annual, rather than biannual assessment and would it be possible for participants of this program to pay on a biannual basis.

3. Cell phone use by city related or affiliated entities – There are entities affiliated with the city, such as the BID, Parks Commission, Library and others that have vehicles that would be associated with the city or county. Do we want to look at a communications policy for city vehicles outside of city limits (utilities) coordinating a policy with the county, coordinating a policy with other governmental or quasi-governmental agencies that are related to our city operations. This might look like: Employee on duty or driving a city vehicle will limit use of communication to job related duties, regardless of being hands free or not.

Attachments to Commissioner Elsaesser's memo included: 1) photos of S. Park area; 2) Elsaesser: Excerpt of September 20, 2011 email; 3) Elsaesser: memo from September 2009; 4) Article on distracted driving; 5: Elsaesser amendment to Ordinance 3146 – Distracted Driving.

A. Upcoming Appointments – Mayor Smith is recommending the following appointments:

**BID/HPC** Appointment of Al Roy to the Business Improvement District/Helena Parking Commission. First term would begin upon appointment and expire October 31, 2015.

**Golf Advisory Board** Reappointment of Peter Aspinwall to a first full term on the Golf Advisory Board. Term will begin upon appointment and expire October 30, 2014.  
Appointment of Lynn Staley to a first term on the Golf Advisory Board. Term will begin upon appointment and expire October 30, 2014.

**Helena Housing Authority** Appointment of Devin McGee to a first term on the Helena Housing Authority. Term will begin upon appointment and expire August 1, 2016.

Appointment of Mark A. Jankowski as a tenant representative on the Helena Housing Authority. The unexpired term will begin upon appointment and expire August 1, 2012.

Appointment of S. Renea Stanger as a tenant representative on the Helena Housing Authority. First term would begin upon appointment and expire August 1, 2013.

4. **City Manager's Report** – City Manager Alles reported the commission has received correspondence regarding traffic issues on Winne Street. He noted the neighborhood is organized and is currently working the HCC and the Police Department is also involved. Manager Alles noted with the upcoming update to the Helena Area Transportation Plan this area could be included. There are several options staff is looking at including street lighting and sidewalks.

Commissioner Cartwright stated it is good this area is being addressed; however, he does not concur that these individual neighborhood issues should be included in the Helena Area Transportation Plan. City staff and the neighborhood residents should be using the traffic policies to address specific issues.

City Manager Alles addressed the traffic volume changes in the area over the past few years and the installation and the removal of stop signs on Winne Street. Staff will continue work with the HCC and neighborhood group.

Commissioner Ellison thanked City Manager Alles for his comments and stated he understands the neighborhood's frustration regarding the traffic. He noted he does not agree with all the information provided in the letter the commission received. Officer Hagen and other officers have been patrolling the area. He is supportive of addressing the safety concerns of the neighborhood.

Commissioner Elsaesser stated he is glad there is a working group and there are options for the neighborhood to consider, including street lighting and sidewalks.

Commissioner Thweatt stated the main concern in the letter is the speeding traffic and asked for continued patrol. City Manager Alles stated the police department has stepped up the patrol in this area and a number of other areas in Helena.

Mayor Smith asked the commission if there is any appetite in ordering in sidewalks for this neighborhood. Commissioner Elsaesser stated it is his sense that there isn't the interest to install sidewalks from this neighborhood.

Commissioner Ellison asked for an overview of when sidewalks are ordered in and if the commission had ever ordered a property owner to install sidewalks. Public Works Director Rundquist noted the commission ordered in sidewalks on a business on Euclid Avenue. After receiving cost estimates for the installation of sidewalks, the business owner signed up to participate in the city's sidewalk program.

Director Rundquist and Attorney Nielsen noted the commission has the authority to order in sidewalks; if that were to occur, the property owners would receive a letter notifying them and giving them a timeline for completion. City staff would then work with the neighborhood on different funding options.

Commissioner Cartwright stated he isn't interested in ordering in sidewalks in a neighborhood, he would rather see the commission look at an area where there is a demonstrated need for sidewalks. Another option is to create an SID to pay for the installation of sidewalks.

City Attorney Nielsen noted the city could identify an area to order in sidewalks and then give the property owners the option of creating an SID or participate in the city's sidewalk program. Commissioner Elsaesser stated he would like to see sidewalks and would support the city assisting property owners.

Commissioner Ellison asked for an estimate on how much it would cost to install sidewalks for an average property owner. City Manager Alles stated it is approximately \$2,000; corner lots would be more expensive.

Commissioner Thweatt concurred with the other commissioners that the city should look at areas where there is public need. Manager Alles noted the HCC has been working with the Winne neighborhood group and Officer Hagen has attended the neighborhood meetings. HCC representative Lora Behlmer stated at the October HCC meeting, the HCC voted to ask the commission what their expectations of the HCC were on this issue. Ms. Behlmer noted the neighborhood recognizes the increase in traffic, speeding and people running stop signs. The neighborhood is interested in painting a pedestrian/bike path along Winne in lieu of sidewalks.

Mayor Smith asked that all interested parties be kept informed and that all options are researched and explained. He then stated he would be hesitant to order in sidewalks; however, if there is enough interest he would consider it. City Manager Alles noted staff will work with the HCC and report back to the commission. Commissioner Thweatt asked if there is a low-cost traffic calming device that could be installed for a short term solution. Director Rundquist spoke on the traffic circle at Butte and Sanders and noted it has been successful with slowing traffic down.

Commissioner Elsaesser spoke on the difference between a round-about and a traffic circle. Commissioner Elsaesser stated he concurs for the HCC to continue to work with the neighborhood and city staff. Commissioner Cartwright stated the HCC should work with the neighborhoods and noted they have been successful in the past.

Commissioner Thweatt asked an estimated cost for a traffic circle. Director Rundquist noted the traffic circle on Butte Avenue was approximately \$6,000 to \$7,000.

## 5. Committee discussions

a) ADA Compliance Committee, Audit Committee, Board of Health, Civic Center Board, Montana League of Cities and Towns – Mayor Smith stated all his boards are doing well. He is pleased with the ADA committee's continued work.

b) Audit Committee, Board of Adjustment, Non-Motorized Travel Advisory Committee, Intergovernmental Transit Committee – Commissioner Cartwright noted the Board of Adjustment is one of the best committees he has served on during his tenure on the commission. NMTAC is starting the cycle of reviewing CTEP projects to submit to staff; he asked when the traffic engineer position will be posted. Director Rundquist noted with the payout of Allen Cormany, there weren't funds to hire the position right away; however, the posting should be out in the next week or so. Public Works Director stated the position will be a transportation engineer. Commissioner Cartwright asked if this position will have emphasis on non-motorized transportation. City Manager Alles stated the position will concentrate on all transportation issues, motorized and non-motorized. Commissioner Cartwright reported the Transit Committee is still looking at the creation of a Transit District.

c) Helena Chamber of Commerce, Information & Technology Services (IT&S), Montana Business Assistance Connection (MBAC), Pre-Release Screening Committee – Commissioner Ellison reported the Chamber of Commerce brought in an motivational speaker and their annual meeting is scheduled for November 4<sup>th</sup>; IT&S meeting is scheduled for the 10<sup>th</sup> of November; the Pre-Release committee continues to be busy and the staff is getting the expanded space ready for occupancy; MBAC has had a tough year, they have money to lend, however no interest from the community.

Commissioner Ellison asked if the county jail planning committee has a city representative on it. Mayor Smith stated no; City Manager Alles stated Chief of Police McGee attends the planning meetings and noted he too would begin attending. Commissioner Ellison stated he would hate to see this group go down the road and assume a partnership between the city and county. Commissioner Cartwright suggested Chief McGee could give the commission an update on a regular basis. City Manager Alles stated he is hearing the next step would be to expand the existing committee and look at broader issues.

d) Audit Committee, City-County Weed Board, Public Art Committee, TCC – Commissioner Elsaesser spoke on the various districts being considered for the November 2012 ballot and noted the Transit District seems to be the one most likely to be ready. Commissioner Elsaesser stated there will be one more TCC meeting before the end of 2011; the murals by the Windbag have been completed and the art walk is on November 11<sup>th</sup>; the Weed Board continues to meet and is asking the city to work on the weed ordinance.

e) BID/HPC, City-County Admin Building Board, City-County Parks Board, TCC – Commissioner Thweatt reported the Parks Board met today and formed a sub-committee to work on the metropolitan park district; discussion was held on the parks fee schedule and Centennial Park will require re-seeding in some areas. Commissioner Thweatt reported he had a conversation with Tom McCarvel from Carroll College and their long term plan is to build some type of residential units on the slope adjacent to the park. Manager Alles stated once Carroll decides where the point access should be, city staff is ready to work with them.

f) Helena Citizens Council – Lora Behlmer brought up the request to rescind Resolution 19698 and incorporate the Urban Wildlife Advisory Committee into the HCC. Ms. Behlmer gave a summary of the discussion on the recommendation. Mayor Smith suggested City Clerk Debbie Havens, HCC Coordinator Shannon Henkel and HCC member Lora Behlmer look at the resolution and prepare a recommendation for the commission to consider.

Commissioner Thweatt noted Bob Ream has suggested as a city taxpayer, to cull deer every two years instead of annually.

## 6. Department Discussions City Attorney

**Distracted Driving Ordinance** – City Manager Alles and City Attorney Nielsen gave an overview of the ordinance that will be considered at the November 7<sup>th</sup> city commission meeting. Staff is recommending final passage of the ordinance prohibiting distracted driving by operators of motor vehicles, including bicycles, due to use of mobile telephones or certain other types of mobile electronic devices.

**Commissioner Ellison's amendments:**

**ENGAGE IN A CALL:** Talking into or listening on a mobile telephone, ~~whether directly or through hands free accessory or hands free mobile telephone~~ but not including holding a hand-held mobile telephone to activate, deactivate, or initiate a function of the telephone.

**HAND-HELD MOBILE TELEPHONE:** A mobile telephone with which a user engages in a call using at least one hand.

**HANDS-FREE MOBILE TELEPHONE:** 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.

**HANDS-FREE DEVICE:** ~~\_\_\_\_\_ A "hands free device" is an external device that connects to a wireless telephone, wireless communications device or electronic communications device that allows use of the device without touching the telephone or wireless or electronic communications device with one's hands and includes voice activated technologies that can be utilized without touching the device.~~

**IMMEDIATE PROXIMITY:** The distance that permits the operator of a hand-held mobile telephone to hear telecommunications transmitted over a hand-held mobile telephone, but does not require physical contact with the operator's ear.

**OPERATING:** Being in actual physical control of a vehicle, whether or not the vehicle is moving, while in a driving lane on any public street, ~~sidewalk~~ or highway right-of-way, riding a bicycle on a sidewalk, or being in actual physical control of a moving vehicle on an alley right-of-way. ~~Not including alleys if vehicle is not in motion.~~

**8-2-2 PROHIBITED ACTIVITIES:**

- A. Except as otherwise provided in this section, a person may not operate a vehicle while using a hand-held mobile telephone to engage in a call or while using a mobile electronic device.
- B. Subsection (A) does not apply to:
  1. the use of a hand-held mobile telephone for the sole purpose of communicating with any of the....
  3. the use of a hands-free accessory or hands-free mobile telephone.

Commissioner Ellison spoke on his proposed amendments and noted the intention of his amendments is to restrict hand-held devices and allow hands-free devices. Commissioner Ellison stated he has had many conversations regarding the hands-free versus hand held devices and the majority of those people support the use of hands free devices. Commissioner Ellison stated he intends to move his amendments at the November 7<sup>th</sup> meeting and ultimately approval for final passage of the ordinance as amended.

Commissioner Elsaesser noted his amendment to include the definition of hands-free is included within Commissioner Ellison's amendments. He asked if someone is riding a bike and using a hand-held phone in a bike lane are they in a driving lane or not and if they are in a cross-walk are they in a driving lane or not. Commissioner Elsaesser stated if bikes are going to be regulated as vehicles, they need to be identified in the ordinance. He noted he believes Commissioner Ellison's amendments cover bicycles.

City Attorney Nielsen stated the draft ordinance includes bikes being treated as vehicles if they are in a traffic lane; in addition bikes are also covered under sidewalks. Language addressing bikes in public right of way would not have to be added, as it is already addressed under a vehicle definition. Commissioner Elsaesser handed out information from [www.distraciton.gov/faq/index](http://www.distraciton.gov/faq/index) regarding a definition of distracted

driving.

Commissioner Ellison noted the ordinance as first passed includes hands-free devices; he asked Mayor Smith if he would be looking for a motion to approve final passage of the ordinance, consider amendments and then motion to approve final passage of the ordinance as amended.

Mayor Smith concurred and stated after the public hearing is closed he would look for a motion to approve final passage of the ordinance, any amendments would be offered and voted upon and then a motion to approve final passage of the ordinance as amended.

Commissioner Thweatt stated procedurally he is on board. Commissioner Thweatt stated he has several questions on the amendments being offered by Commissioner Ellison and he will contact City Attorney Nielsen for clarification prior to the commission meeting. Commissioner Ellison offered to meet with Commissioner Thweatt and City Attorney Nielsen.

### **Community Development**

**Zoning Updates** – Community Development Director Sharon Haugen stated there are two land use issues on the November 7<sup>th</sup> agenda. The first public hearing is for a Conditional Use Permit (CUP) for a casino on Sanders Street, north of Custer Avenue. Director Haugen stated the discussion for the casino will include traffic impacts and noted the convenience store/gas station generates most of the traffic; the casino generates less traffic than the other two uses. Commissioner Ellison commented this proposal is for a Town Pump and noted there will be two within a limited area. Director Haugen explained the CUP criteria are the same for all CUP's and all casinos no matter where they are located require a CUP. The property is in a B-2 district and there is not a residential component.

Commissioner Cartwright noted this area is going to be a major gateway to the city and having two casinos in close proximity may not make a favorable impression. Attorney Nielsen stated he will have to review the criteria. The commission needs to stick to the criteria when making a decision.

Director Haugen noted the other land use is the re-zone of the Caird property; the owners of the property have requested the re-zone to B-1. One letter of protest was received with attached petitions. However, the petitions were originally submitted for the NSP proposal. At this time there has not been 25% protests received; if that does happen then the super majority would be required. City Attorney Nielsen has reviewed the petition and noted it does not qualify due to it addressing the NSP application and not the zone change.

Mayor Smith asked if there is time line on when the commission has to act. Director Haugen stated under the law, there is not a specific time line; however, it does require action in a timely manner. The zoning commission voted 3-0 in favor of the zone change. Commissioner Thweatt asked what happened to the neighborhood plan that was being worked on. Director Haugen commented it has been 9 years since the neighborhood began the process of developing a neighborhood plan; however at this time, the neighborhood group has not submitted a common set of goals or objections for the neighborhood. The reason for the overall master plan was to include the mid-towne and sixth ward neighborhood and how to redevelop the commercial properties. The area mid-towne/6<sup>th</sup> ward neighborhood included from Montana Avenue to the interstate and from Prospect Avenue to Cedar Street.

Commissioner Ellison asked if the property owner is aware the petitions are not a viable document. Director Haugen stated yes. Commissioner Cartwright asked if the distance for protest is 150-feet or 300-feet. Director Haugen stated it is 150-feet.

Community Development Director Haugen reported the zoning commission will meet on November 8<sup>th</sup> to consider the proposed ordinances on Chapter 22, Parking and Chapter 24, Landscaping. The sign ordinance will be looked at after the first of the year.

Commissioner Cartwright asked where the Planning Board is on the subdivision regulations. Community Development Director Sharon Haugen reported the Planning Board met and moved adoption of the proposed regulations; however, there is additional language clean-up the Planning Board will consider on November 28<sup>th</sup>. City Manager Alles noted his recommendation is to have the commission consider it in January and not have the first reading in 2011 and 2<sup>nd</sup> reading in 2012.

Commissioner Cartwright asked what obligation the Planning Board has to follow the Growth Policy.

The Planning Board needs to be in compliance with the Growth Policy. Commissioner Cartwright spoke on the maximum block length of 1,000 to 1,400 feet being recommended in the subdivision regulations. Further discussion was held on the block length; it was noted the commission has the authority to amend the block length at the time they consider the subdivision regulations.

Commissioner Cartwright spoke on a walkable block length and inner-connection and noted if the subdivision regulations are adopted making it by right, a 1400-foot block would be allowed. Commissioner Cartwright expressed frustration that the proposed block length is not consistent with the Growth Policy. The larger issue is the connection between commission policy and what happens on the ground. He believes this is a governance issue and should be addressed.

Commissioner Thweatt noted he believes the proposed block length is way too long. He then asked if it would be inappropriate for the commission to weigh in with the Planning Board. City Attorney Nielsen stated he has no legal concerns with the commission members contacting the Planning Board members; however, it has been a tradition the commission does not weigh in until it is before them for consideration.

Community Development Director Sharon Haugen stated she would provide the proposed language on block lengths to Commissioner Cartwright.

Commissioner Elsaesser stated the Planning Board should be thanked for everything they have done on both city and county issues in the past couple of years.

7. **Review of agenda for November 7, 2011 City Commission meeting** – No discussion held.
8. **Public Comment** – Chris Figureida gave an overview and California's ban on cell phone use.
9. **Commission discussion and direction to City Manager** – No discussion or direction given.
10. **Adjourn** – Meeting adjourned at 6:00 p.m.