

SUMMARY OF ADMINISTRATIVE MEETING
September 19, 2012 – 4:00 p.m.
Room 326, City-County Building

1. Call to order, introductions, opening comments – Mayor Smith called the meeting to order. Commissioners Elsaesser, Ellison and Thweatt were present. Commissioner Haque-Hausrath was excused. Staff present was: City Manager Ron Alles; Executive Assistant Clinda Feucht; City Attorney Jeffrey Hindoien; Deputy City Attorney Thomas Jodoin; Fire Chief J.R. Feucht; Administrative Services Director Tim Magee; Community Development Director Sharon Haugen; Chief Building Official Brandt Salo; Public Works Director Phil Hauck; Utility Maintenance Superintendent Kevin Hart; Meter/Maintenance Supervisor Jeff Feth; Police Chief Troy McGee and Deputy City Clerk Robyn Brown. Others in attendance included: Helena Citizens Council member Janet Hess-Herbert.

2. **September 5, 2012 Administrative Meeting Summary** – The September 5, 2012 administrative summary was approved as submitted.

3. **Commission comments, questions** – Commissioner Ellison reported he would be out-of-the-country for three weeks in November. Per Montana Code Annotated (MCA) §7-4-4111, an absence of over ten days requires approval by the governing body from which you will be absent. He requested formal approval of his absence be given at a Commission Meeting so there is a record. City Manager Alles and City Attorney Hindoien concurred to place it on the October 15th meeting consent agenda for formal approval.

Commissioner Elsaesser stated the most recent plastics drive was a success and he would try to provide the amount of recyclables collected at Monday's Commission Meeting.

Mayor Smith announced he would be in Washington, D.C. for the First Special Service Force Reunion September 27 – 30, 2012.

He gave an overview of a recent meeting with the Regional Environmental Protection Agency (EPA) Director Jim Martin related to the Greening America's Capitals grant the city received. Manager Alles noted Director Martin was very impressed with the Water Treatment Plant.

Commissioner Thweatt announced he may be out of town for the September 24th Commission Meeting and stated he would notify the Commission via email if he will be absent.

A.) Upcoming Appointments – Mayor Smith recommended the following appointments:

City/County Planning Board – Appointment of Craig Charlton to an unexpired term on the City/County Planning Board; term would begin upon appointment and expire August 31, 2013. Also the appointment of Sarah Nicolai as the joint appointment to the Planning Board. Ms. Nicolai's appointment would be contingent upon approval of the Board of County Commissioners. Term would begin upon appointment and expire August 31, 2015.

Board of Adjustment – Reappointment of Jim Enyeart to a second term on the Board of Adjustment; term would begin upon appointment and expire October 1, 2015.

Non-Motorized Travel Advisory Council (NMTAC) – Appointment of Brett James to an unexpired term on NMTAC; term would begin upon appointment and expire March 31, 2013.

4. **City Manager's Report** – Manager Alles stated the upcoming Commission Meeting has a light agenda although staff is very busy. He spoke of the chip/seal project and noted the Street Department is having trouble finding potholes.

He reported the city was awarded the Community Transportation Safety Plan Grant to develop a safety plan to blend into the Transportation Plan. Also, the city will be contracting with the Health Department and a consultant to complete a grant related to integrating non-motorized transportation with the built community.

5. Department Discussions
Administrative Services

Ordinance to set all fees by resolution – Manager Alles gave the Commission the history of the agenda item and noted the proposal does not address changing any fee amounts, only the way the fee is set.

Administrative Services Director Tim Magee reported currently city ordinances provide for the setting or amending of fees and charges by either: 1) ordinance, or 2) resolution. Both ordinances and resolutions for fees and charges require public notices and hearings. Ordinances make fee and charge setting a more cumbersome and lengthy process, without any public advantage. The lack of a uniform procedure for setting fees and charges results in some procedural confusion.

Staff is proposing creation of a uniform procedure for all fees and charges by taking two concurrent Commission actions, to be finalized at the same regular Commission Meeting.

Action 1 - A single “housekeeping” ordinance is proposed, which would take all fees and charges out of existing ordinances, and provide for all fees and charges to be set by resolution.

Action 2 - A resolution is proposed, which would immediately reset all existing fees and charges that were in ordinance at their existing fee and charge amounts.

Adopting a uniform procedure would initiate the City Commission’s comprehensive review of all fees and ordinances. It would also create a complete current record of Commission actions which change or confirm each and every fee and change.

The next steps moving forward are:

1. Give the Commission a comprehensive overview of all existing city fees and charges along with a tentative schedule for Commission review of each group of fees and charges.
2. As scheduled, review each group/type of fees and charges, with the Commission.
3. By new Commission resolution, change or confirm each fee and charge.
4. Establish an ongoing schedule for revisiting all fees and charges with the City Commission on a regular basis (annually, biannually, etc.).

Discussion was held on the difference between the hearing requirements of ordinances and resolutions.

Commissioner Elsaesser asked for the minimum cost to process a fee. Director Magee stated it would vary by what the fee is associated with. Manager Alles noted sometimes what results from the fee is worth the cost to process it and gave the example of business licenses.

Mayor Smith asked if the water rates and/or court fees would change. Director Magee explained the water rates would remain set by resolution and court fees will fall under the new proposal.

There was Commission concurrence to move forward with the proposal.

Public Works

Backflow Program update – Manager Alles gave the history of the back-flow ordinance/program and noted the state has changed some of the plumbing codes associated with the ordinance so the city has decided to move forward with the program under rules related to protecting the city’s water system.

Utility Maintenance Superintendent Kevin Hart reported on April 11, 2011 the Commission approved within the water rules an ordinance requiring installation, maintenance and annual testing of backflow prevention devices and formally began a coordinated program to protect Helena’s distribution system (Title 6, Chapter 2, and Section 2, at Rule 25). The following report presents an update on the progress of this program and its proposed future direction.

Survey results: The survey of commercial connections was undertaken to determine the number and extent of high and low hazards existing in commercial potable water, irrigation and fire service connections to the city water supply. This “point of service” inventory was intended to categorize the water system into high and low hazard potential risks and whether or not the distribution system is protected at the point where the service line enters the building. That survey inventory is now complete.

| Table 1: Summary of "Point of Service" surveys conducted by the Utility Maintenance Division. | | | | |
|--|-------------------|-----------------------|-------------------|---------------|
| Number of metered services surveyed | 1794 | | | |
| Number of installed POS devices | 377 | | | |
| Number tested to date | 131 | | | |
| Number remaining to be tested | 246 | | | |
| Number fire services inventoried | 331 | | | |
| Number of testable fire services | 163 | | | |
| Number tested to date | 124 | | | |
| Number remaining to be tested | 39 | | | |
| Unprotected Hazards by Size and Level | | High Hazard | | |
| | <u>Fire Lines</u> | <u>Other Services</u> | <u>Low Hazard</u> | <u>Totals</u> |
| 3/4 inch | 0 | 315 | 385 | 700 |
| 1 inch | 0 | 142 | 396 | 538 |
| 1.5 inch | 0 | 35 | 95 | 130 |
| 2 inch | 2 | 20 | 14 | 36 |
| 3 inch | 0 | 6 | 2 | 8 |
| 4 inch | 100 | 4 | 2 | 106 |
| 6 inch | 51 | 1 | 0 | 52 |
| 8 inch | 14 | 0 | 0 | 14 |
| 10 inch | 1 | 0 | 0 | 1 |
| Totals | 168 | 523 | 894 | 1585 |

Table 1 above shows the results of the survey. This inventory tells staff how many commercial connections currently have protection and can be tested, and the number of connections where no protection is evident but some is warranted based on recognized hazard to the water system.

High hazard connections that have "no point of service" protection present the greatest concern. Follow up work is intended and must occur in much greater detail for these high hazard connections to determine the full extent of risks with internal plumbing systems and the appropriate level of protection needed against hazards to the city's distribution system. The Division is just beginning this second round of investigations and will develop a prioritized list. This follow-up effort will be a large part of the planned public and customer education program discussed below.

New Device Requirements: Based on submitted building plans all new connections are being reviewed and evaluated against the adopted plumbing code for cross-connection control and back-flow hazards. On service connections where conditions warrant and plumbing code defines, devices or assemblies are being installed. These devices are being tested as a condition of the water service being turned on. In remodel applications where code implies devices be installed, or in situations where inspections identify the need for water system protection, staff are meeting with affected owners and educating them on the potential hazards and the need for back-flow protection devices and testing. So far compliance has been achieved through voluntary means and success achieved in getting approved devices installed and tested where warranted. Coordination and cooperation with the Building Division has helped move forward to increase water system protection.

Testing accomplished and proposed: As noted in Table 1, there are 377 testable devices installed on commercial domestic and irrigation connections and 163 testable fire service lines (unmetered

connections) connected to the city system. While the testing program for existing devices has not officially begun, many owners have voluntarily begun testing. Of the known testable devices, 74 of them are installed on city owned property or buildings and are currently being tested by certified testers employed by the maintenance division. Since June of 2011, 57 new private devices have been installed and initially tested by testers on a city list of approved and certified testers. Annual fire service testing in this period has resulted in 124 devices being tested as envisioned under the program.

In the coming months the remaining 246 devices on commercial services and 39 devices on fire lines will be scheduled on an annual basis, bringing the total of installed and tested device in Helena to a total of 540. All testable devices would be tested annually under a formal testing program which is planned to start this fall. A series of letters will be used to remind businesses of the annual testing requirement with follow-up letters used to help attain compliance as needed.

Outreach and Education Component: The focus of this program element will be in two main areas: 1). general education and outreach on backflow and cross connection control aimed at residential customers and lower hazard commercial connections and; 2). Phase II of the inventory and voluntary compliance effort directed seeking voluntary compliance at high hazard commercial connections identified in the initial survey effort as currently having inadequate or no protection against hazards to contamination of the public water system.

Residential outreach will focus on educating the residential customers on the threat of indirect and direct cross connections in homes and the risks that backflow may cause to owner's health and the public water supply. The division plans a number of outreach efforts directed at information dissemination through such as tools as water bill stuffers and developing a series of classroom presentations through the Helena schools.

Phase II of the commercial survey and inventory will focus on the approximately 523 high hazard commercial services and 168 fire service connections that were identified as not having the appropriate device or "point of service" protection. The second round of surveys will be in-depth to determine the extent internal plumbing contamination hazards present. High risk services will be prioritized. Based on information gathered so far, an estimated 35% of high hazard services that includes hospitals, doctors, dentists, restaurants, manufacturing and irrigation uses, have heightened potential to contaminate potable water supplies because of what is done there and the equipment used. The remaining 65% of high hazard connections include service companies like gas stations and retail establishments where risks while rated in the high category are of medium priority. Offices are the lowest priority in the high hazard category.

Cooperation and coordination with entities responsible for plumbing and public health codes will be essential to help inform property owners of the risks and liabilities they may face as a result of inaction to address identified hazards. Educating them is the primary goal of this next effort.

Changes to adopted Ordinance: Helena's ordinance relies on language in state rules on public water supply systems (found in DEQ rules on this subject) and adopted plumbing, building and fire code. Shortly after adoption of the ordinance, Helena was informed that the State of Montana code enforcement bureau, under which the city operates its plumbing code enforcement program, had by administrative rule amended out the testing provisions from the state version of the adopted plumbing codes. While the adopted plumbing code contains many references to testing of devices and assemblies where required by the "authority having jurisdiction" specific reference to testing upon installation and annual testing thereafter is not currently a requirement of plumbing code. Because the intent of the Commission in passing the ordinance was to require testing of devices, the department recommends amendments to the ordinance to place testing requirements under the water rules.

The language of the ordinance would be amended as follows:

"RULE 25: When a backflow prevention device is required under the applicable fire, building, or plumbing code as adopted by the city to prevent the possibility of polluting the city's water supply, the approved backflow prevention device must be installed, maintained, replaced, repaired and tested ~~in accordance with the applicable uniform code.~~ Backflow prevention devices must be tested at the time of installation and at least annually thereafter. Testing must be performed by a certified backflow prevention assembly tester who holds a current certificate issued by a certification program of any state authorizing the person to test backflow prevention assemblies or who holds a current certificate from the American society of sanitary engineers or American backflow prevention association, ~~foundation for cross-connection control~~

~~and hydraulic research, or American water works association.~~ The results of testing must be submitted to the city not ~~more less~~ than thirty (30) days after the test. If the test shows that the device is defective or inoperative, the device must be repaired or replaced within thirty (30) days after the test and verification of the repair or replacement must be provided to the city no later than fifteen (15) days after the repair or replacement. If the results of required testing are not timely provided to the city or needed repairs or replacements are not timely made, the city may terminate water service to the property after providing a fifteen (15) day notice of its intent to do so, except if there is imminent threat of pollution to the water supply the city may immediately terminate water service without prior notice, but must provide notice of the reason for the termination within five (5) working days. For violations of this rule, the city may use any other remedy as authorized by law, including criminal prosecution and civil action.”

Next steps: The division plans to proceed with annual testing and begin mailing notices to property owners this fall and winter and spring. Work will also begin on the second round of surveys to collect additional more detailed information on the locations falling in the high hazard category to determine the measures necessary for protection of the water supply system. This will include more in depth site visits and discussion with property owners of hazards and what they can do to protect internal plumbing and the threats to the water supply system. Dissemination of cross-connection control and backflow prevention efforts will begin to educate residential property owners of steps they can take to prevent backflow.

Commissioner Elsaesser asked if the manufacturers typically suggest an annual test of the equipment. Superintendent Hart concurred. Commissioner Elsaesser asked if owners can test their own sprinkler systems. Superintendent Hart stated they cannot test their own; however, property owners should perform a visual examination annually.

Commissioner Elsaesser asked if solar heating requires a backflow device. Superintendent Hart explained there is a danger of contamination of potable water when using solar heating and the plumbing code may require a backflow prevention device.

Meter/Maintenance Supervisor Jeff Feth noted during phase II of the survey staff will be showing business owners where the hazards of contamination lie in their facilities.

Superintendent Hart recommended moving forward with the language revisions running concurrently with the ongoing program. He commented the city's focus should be education instead of heavy-handed enforcement and noted staff would report back to the Commission following phase II of the program. He clarified the program will involve commercial properties only, staff is recommending private plumbing systems not be included

Commissioner Elsaesser asked if the meters will alert the city if a backflow event occurs. Mr. Hart stated yes but unfortunately the alert is always after the fact. Commissioner Elsaesser commented on the importance of the ordinance.

There was Commission concurrence to move forward with the program as recommended by staff. Manager Alles confirmed amendments to the ordinance language will be placed on an upcoming Commission Meeting agenda.

6. Committee discussions

a) ADA Compliance Committee, Audit Committee, Board of Health, Civic Center Board, Montana League of Cities and Towns – Mayor Smith stated the Board of Health remains busy. He reported he would not attend the League Convention this year.

Discussion was held regarding the League's involvement with legislative issues this year. Manager Alles stated he would provide a report to the Commission on the subject following a meeting with the League on Thursday, September 20th.

b) IT&S, Non-Motorized Travel Advisory Committee (NMTAC), Board of Adjustment, Pre-Release Screening Committee – Commissioner Ellison reported NMTAC has integrated the issue of allowing bikes on the Walking Mall into their agenda. A program named MAP 21 will replace CTEP and Safe Routes to School grants; NMTAC will be providing the Commission with information on the issue. The Pre-Release Screening Committee remains busy while the Board of Adjustment was quiet over the summer.

c) Audit Committee, City-County Weed Board, Montana Business Assistance Connection (MBAC), TCC – Commissioner Elsaesser referred to the TCC and reported the Cedar Avenue

overpass may end up being three lanes instead of four lanes. MBAC is still working toward filling the position of Executive Director.

d) BID/HPC, City-County Parks Board, TCC, L&C County Mental Health Advisory Committee – No report given.

e) Audit Committee, City-County Administration Building (CCAB), Public Art Committee, Intergovernmental Transit Committee – No report given.

f) Helena Citizens Council – Janet Hess-Herbert stated the HCC is becoming involved in the update to the city's subdivision regulations. She thanked the city for working with the Winne Avenue neighborhood on speeding concerns. The HCC will hold a strategic planning session in October and more details will be provided to the Commission as it is organized.

Ms. Hess-Herbert announced HCC Coordinator Shannyn Henkel has resigned.

7. **Review of agenda for September 24, 2012 City Commission meeting** –No discussion held.
8. **Public Comment** – No public comment was given.
9. **Commission discussion and direction to City Manager** – No discussion held.
10. **Adjourn** – Meeting adjourned at 5:15p.m.