

SUMMARY OF ADMINISTRATIVE MEETING
December 12, 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 Ellison, Elsaesser, Haque-Hausrath and Thweatt were present. Staff present was: City Manager Ron Alles; City Attorney Jeffrey Hindoien; Fire Chief J.R. Feucht; Community Development Director Sharon Haugen; Human Resource Director James Fehr; Public Works Director John Rundquist; Assistant Public Works Director Phil Hauck; Police Chief Troy McGee; Parks & Recreation Director Amy Teegarden and City Clerk Debbie Havens.

Others in attendance included: IR Reporter Al Knauber, Jamee Greer and Shane Castle,

2. **November 28, 2012 Administrative Meeting Summary** – The November 28, 2012 administrative meeting summary was approved as submitted.

3. **Commission comments, questions –**

A.) Upcoming Appointments – Mayor Smith will be recommending the following appointments at the December 3, 2012 city commission meeting:

Building Board of Appeals Re-appointment of Jim Whaley to the Building Board of Appeals. Term will begin upon appointment and expire December 31, 2017.

Lewis & Clark City/County Library Board - Reappointment of Sandi Conrady to a second term on the Lewis & Clark City/County Library Board. Term will begin upon appointment and expire January 1, 2018.

City/County Parks Board- Appointment of Adam Kaupisch to a first term on the City/County Parks Board. Term will begin upon appointment and expire September 30, 2015.

Public Art Committee - Reappointment of Jim Gilman and Bobi Harris to the Public Art Committee. Terms will begin upon appointment and expire December 31, 2015.

Commission expressed their support for the recommended appointments.

Commission Comments – Commissioner Elsaesser asked if the sound in Room 326 will be improved for the December 17th meeting. City Manager Alles gave an update on how the meeting rooms will be prepared for the December 17th city commission public hearing on the non-discrimination ordinance.

Commissioner Ellison reported a citizen had contacted him regarding the meeting room; he has informed the citizens on what steps are being taken to accommodate the citizens who attend the public hearing.

Commissioner Haque-Hausrath requested any amendments being proposed be noted and discussed before the public hearing is held.

City Manager Alles asked that any amendments be submitted to City Attorney Hindoien prior to the public hearing for legal review.

Commissioner Elsaesser concurred to serve on the same boards for 2013. Commissioner Elsaesser asked the manager to consider that one engineering staff person is designated to work with the non-motorized issues. Manager Alles stated he will look at the details of the recommendation.

There was commission concurrence to serve on their current boards for 2013 and moving forward appointing for two-year terms.

4. **City Manager's Report**

a) Tax Abatement for Boeing – City Manager Alles stated the public hearing on the tax abatement for Boeing is on the December 17, 2012 city commission meeting agenda. The commission considered it at the November 19th commission meeting; however, the vote was 2-1 and on any commission action, it has to be approved by three votes.

Manager Alles noted representatives from Boeing, Helena College and MBAC will be at the public hearing on December 17th to testify in support of the tax abatement.

Commissioner Elsaesser stated he continues to support the tax abatement and believes it benefits the community at-large.

Commissioner Thweatt referenced 15-24-1402, MCA that addresses a termination option and a clawback/recapture mechanism if the company does not make the investment that they have indicated, the city be able to recover the taxes. Manager Alles explained the process on how a city could rescind the tax abatement and collect the taxes from that time forward. However, the city could not recover the taxes from the time the tax abatement was approved until it was rescinded.

Commissioner Thweatt stated that law troubles him if the city could rescind the tax abatement without cause. Manager Alles noted the law is available when a company does not follow through on what they committed to.

Commissioner Haque-Hausrath asked if the money used for the tax abatement would come out of the general fund. Manager Alles explained the city currently is not collecting any taxes for the proposed expansion; if the tax abatement is approved the portion of the taxes that would be abated would go into the general fund.

Commissioner Haque-Hausrath asked if there are any reporting requirements of Boeing. Community Development Director Haugen stated the commission could require Boeing to report on the jobs that are created. Commissioner Haque-Hausrath asked if Boeing has given a number on how many jobs will be created. Director Haugen stated they have indicated an additional 20 jobs will be created. She then asked if the School Board votes on the tax abatement. Director Haugen explained if either the city or county approve the tax abatement, the school taxes are automatically abated. The county commission approved the tax abatement and therefore the school district's taxes have been abated.

5. Department Discussions

Public Works

Engineering Standards – City Manager Alles introduced the engineering standards and noted they are an interrogate part of the subdivision regulations.

Director Rundquist stated it is staff's intent to re-issue the engineering standards once the subdivision regulations are adopted. Staff continues to collect public comment on the engineering standards and is prepared to do an outreach to the community for further comments.

Director Rundquist stated staff wants to incorporate complete street components into the engineering standards. He then reviewed the minimum street components that included driving lanes, bike/ped paths, curb and gutter, buffer strip, parking lane, bike lane, designated share the road bike routes, boulevard widths, utility corridors, bus lanes, bus stops, center medians, center turn, center turn lanes, storm water elements and traffic calming. He asked the commission to review the draft components and submit any comments to staff.

Commissioner Haque-Hausrath asked if staff has a timeline on when the commission should have their comments submitted. Director Rundquist asked that comments be submitted any time prior to subdivision regulations consideration; which is scheduled for January/February 2013.

Commissioner Elsaesser asked if there is anything driving the recommended 6-foot wide sidewalk. Director Rundquist stated no, the standard is 5-foot.

Commissioner Elsaesser stated he would support the commission complying with the complete street standards and he would be interested in reducing the width of the sidewalk and still be in compliance with ADA.

Mayor Smith asked if there are any statutory requirements the city adopt engineering standards. Director Rundquist stated not relative to streets; however, they are relative to water and wastewater engineering standards. Mayor Smith spoke of the process the commission used when the growth policy was adopted prior to the zoning ordinance. He asked if the engineering standards should be adopted prior to the subdivision regulations. Director Rundquist stated it is staff's intent to make the engineering standards compatible to the subdivision regulations. Commissioner Thweatt commented the subdivision regulations also have to be compatible to the growth policy.

Mayor Smith asked if there is anything coming forward after the commission considers the engineering standards. Director Haugen noted the re-write of the sign ordinance has been on the radar.

Commissioner Thweatt asked if the city could get by with narrower driving lanes, for example 8-feet. His ultimate goal is to approve narrower driving lanes; this would reduce the speed on the roads.

He then stated he supports a 5-foot boulevard sidewalk and a 5-foot boulevard; the recommended 7-foot boulevard seems excessive. Commissioner Thweatt asked if there is a need for the utility corridor. Director Rundquist stated there is a utility coordinating committee and these recommendations have come from the committee.

Mayor Smith recognized the Commissioner Thweatt's questions and asked if the commission would have an opportunity to discuss the engineering standards at an administrative meeting.

Mayor Smith reiterated the question if the driving lane could be 8-feet and not the recommended 10-feet for local roads, 11- feet for collector roads and 12-feet for arterial roads. Director Rundquist explained the recommendation comes from the ITE Standards and noted 10- feet is a very narrow lane; cars average 6-feet wide. Manager Alles stated with the 8-foot driving lane, it would not allow for a bike lane or share the road. Emergency access roads are a minimum of 20-feet wide. Fire Chief Feucht explained when the aerial truck is on scene and set up it takes 19' 4".

Manager Alles spoke on the various street widths and noted the city's obligation is to move traffic; there are some areas in town where the speed limit should exceed the 25/mph.

Commissioner Thweatt stated he does not believe the wide streets are necessary and asked what the widest piece of city equipment is. Director Rundquist stated he does not have the exact measurements of the larger equipment.

Commissioner Thweatt asked if there is a rational basis for the recommended sidewalk width. Director Rundquist noted 5-foot has been the standard sidewalk width; staff thought it would be safer to increase the width adjacent to commercial properties. Commissioner Thweatt asked if these standards apply to any newly constructed sidewalks. Director Rundquist stated the standards would apply to new construction/development and any sidewalk replacement.

Commissioner Elsaesser asked if there is an appeal process if a property owner cannot meet these standards. Director Rundquist stated there is a variance process a property can use when they cannot meet the standards

Commissioner Elsaesser stated if there are areas where there are 5-foot sidewalks, he would support leaving that standard alone. He suggested no parking on the street if the street width requirement was reduced and using traffic calming devices.

Manager Alles noted the areas where curb-side sidewalks are allowed and during the winter months, staff needs an area to put the snow and that automatically narrows the driving width.

Director Rundquist stated currently a standard local road could be built with 9-foot travel lanes with no parking on either side. He suggested a street could be designed for the anticipated use.

Commissioner Thweatt concurred with the comment for snow placement. He asked if there could be different standards for curb-side and boulevard sidewalks.

Commissioner Haque-Hausrath asked if the city is allowing curb-side sidewalks. Mayor Smith stated the boulevard sidewalk is the standard. Director Rundquist commented there isn't a standard boulevard width which creates problems when a street is built and there is only a one-foot boulevard.

Commissioner Haque-Hausrath asked if it will be staff's recommendation to require a 7-foot boulevard with these new standards.

Mayor Smith stated he is interested in the safe and efficient movement of all types of transportation; he is not interested in discouraging any type of transportation. Commissioner Thweatt spoke on the reasons why he would support the narrower street width requirements; slower traffic which is safer and efficient land use by requiring less right-of-way.

Commissioner Elsaesser stated he appreciates Commissioner Thweatt's comments and asked that they be an option when considering the engineering standards.

NMTAC representative Ms. Barnes asked that staff's recommendation be forwarded to NMTAC for a recommendation. The images currently show no bike lane on the arterials. She recommended no parking on the busier streets.

Commissioner Thweatt suggested this be brought back to a future administrative meeting. The subdivision regulations will be brought forward at the January 14th city commission meeting. However, they could be placed on the January 9th administrative meeting agenda for discussion.

Manager Alles concurred with Director Haugen's comments. There was commission concurrence to put the subdivision regulations on the January 9th administrative meeting agenda. Commissioner Haque-Hausrath asked that the edited subdivision regulations be provided.

Director Haugen commented staff will bring forward what there was commission consensus on and will work with the commission on any amendments. Commissioner Haque-Hausrath asked what the

timeline is to circulate the memo and regulations. Director Haugen stated she will send it out by December 14th for commission review prior to the January 9th administrative meeting.

6. Committee discussions

- a) ADA Compliance Committee, Audit Committee, Board of Health, Civic Center Board, Montana League of Cities and Towns – Mayor Smith reported the Audit Committee met and everything looks great again this year.
- b) IT&S, Non-Motorized Travel Advisory Committee (NMTAC), Board of Adjustment, Pre-Release Screening Committee – No report given.
- c) Audit Committee, City-County Weed Board, Montana Business Assistance Connection (MBAC), TCC – Commissioner Elsaesser reported MBAC recently held a retreat and they will be proposing to use the local revolving loan funds to create additional revenue to encourage the energy efficiency program. He will bring forward full report when it is ready.
- d) BID/HPC, City-County Parks Board, TCC, L&C County Mental Health Advisory Committee – Commissioner Thweatt reported the architects have been hired to design the crisis house which will be located either on Butte Avenue and closer to the existing Mental Health facility.
- e) Audit Committee, City-County Administration Building (CCAB), Public Art Committee, Intergovernmental Transit Committee – No report given.
- f) Helena Citizens Council – No report given.

7. Review of agenda for December 17, 2012 City Commission meeting – Mayor Smith commented he anticipates good behavior from the commission and the citizens at the public hearing on December 17th. Commissioner Thweatt concurred.

Commissioner Elsaesser stated he feels good about the draft ordinance; one concern he has heard is from the time from the Human Rights Bureau issues a decision and when a person would have to file a complaint with Municipal Court.

Commissioner Haque-Hausrath stated she will have several amendments to offer at the meeting;

1. Changing the time to file in Municipal Court from 30 days to 90 days in Section 1-8-7. Attorney Hindoién stated the ordinance could be amended from 30 to 90 days to file with Municipal Court.
2. Adding “punitive damages” as a potential remedy in Section 1-8-7. Attorney Hindoién noted there still is the \$12,000 cap, it doesn’t matter what the damages are characterized as. Further discussion was held on the proposed amendment.
3. Deleting the following language from Section 1-8-4: “However, in any place of public accommodation where users ordinarily appear in the nude, users may be required to use the facilities designated for their anatomical sex, regardless of their gender identity. Such requirement does not constitute unlawful discrimination for purposes of this Section 1-8-4.”
- 4) If Amendment 3 does not pass, removing the preceding language and replacing it with the following language: “Nothing in this title shall be construed to establish a claim of unlawful public accommodation discrimination based on gender identity or expression due to the denial of access to shared shower or dressing or other facilities in which being seen entirely unclothed is unavoidable, provided that the public accommodation provides reasonable access to adequate facilities that are not inconsistent with the person’s gender identity or expression. Nothing in this title shall be construed to require the construction of new or additional facilities.”

Mayor Smith asked for clarification on the alternative accommodations; would that require a separate area. Commissioner Haque-Hausrath stated yes.

Elsaesser asked if the proposed language would be in line with Missoula’s ordinance where it would not require new construction. Attorney Hindoién stated new commercial construction has the building code components where at some point it triggers the requirement to provide reasonable access to adequate facilities that are not inconsistent with the persons’ gender identity. He is not sure how that would carry over to a new health club; further research would be necessary.

Commissioner Elsaesser noted he will be looking a reasonable standard, it would not always require an owner to retrofit a current facility to comply. Attorney Hindoién stated he is not sure where that type of language would specifically be put in the ordinance. Commissioner Haque-Hausrath stated she would suggest putting the language in 1-8-4.

Commissioner Elsaesser stated he is open to alternative language as long as it has the same affect the current language. The ultimate goal is to protect against discrimination.

Commissioner Ellison complimented Mayor Smith on how he managed the December 3rd meeting. Commissioner Ellison noted the citizens of Helena know the role of government; however, some do not; it has been a couple of months since he received an anonymous letter. The ordinance is an important issue and he is anxious get to the end of this process.

8. Public Comment – Jamee Greer, Human Right Network, also thanked Mayor Smith on how he conducted the December 3rd city commission meeting.

9. Commission discussion and direction to City Manager – No discussion held.

10. Adjourn – Meeting adjourned at 5:50 p.m.