

SUMMARY OF ADMINISTRATIVE MEETING
January 9, 2013– 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; Deputy City Attorney Thomas Jodion; City Engineer Ryan Leland; Fire Chief Sean Logan; Community Development Director Sharon Haugen; Human Resource Director James Fehr; Public Works Director John Rundquist; Police Chief Troy McGee; Police Captain Corey Livesay; Parks & Recreation Director Amy Teegarden; Community Facilities Director Gery Carpenter; HCC Coordinator Kelli McLane and City Clerk Debbie Havens.

Others in attendance included: IR Reporter Al Knauber, HCC Representative Diane Papineau and Planning Board member Marshall Gingery.

2. **December 12, 2012 Administrative Meeting Summary** – The December 12, 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:

Tourism Business Improvement District – Appointment of Denise Trautman to an unexpired term on the Tourism Business Improvement District. Term will begin upon appointment and expire April 20, 2014.

Commission expressed their support for the recommended appointments.

Commission Comments – Commissioner Elsaesser reported he attended the HATS open house and filled out the survey; one point of discussion was how successful is the commuter route.

Commissioner Thweatt stated he had asked Amy Teegarden where the Forest Service is on their portion of the Tenmile watershed project. Director Teegarden has suggested the commission consider sending a letter to the Forest Service encouraging them to move forward with the project.

Mayor Smith and Commissioner Elsaesser spoke on the importance of completing the project and the funding the city has earmarked to assist with the project. Manager Alles stated the protection of the Tenmile watershed is one of the city's highest priorities and the city has vested and participated in moving it forward. A meeting with some of the members from the Tenmile Watershed Collaborative Group and Dr. Finney is scheduled for Tuesday January 15th at the Forest Service Office.

Further discussion was held on the importance of the Forest Service moving forward in the protection of their property. City Manager Alles concurred that a letter would be in order; however, he recommended not sending it until after the January 15th meeting.

Commissioner Elsaesser again addressed the importance of this project and the re-convening of the Tenmile Watershed Collaborative Committee. The city has a well-structured plan to protect the watershed.

Mayor Smith stated once the flume project is completed; he is more than willing to approach the Forest Service. Director Teegarden reported the flume project for city and private property is approximately 80% completed; this does not include the forest service property. The Forest Service property has not been treated at all.

Parks & Recreation Director Teegarden reported the city put in a grant application, (at the urging of FEMA) to do some fuel mitigation work in the watershed. However, FEMA is now saying the project would not protect infrastructure. City staff is working on a rebuttal, justifying that the reservoirs and water collection points are important infrastructure to the City's water delivery system.

There was consensus to have City Manager draft the letter after the January 15th meeting at the Forest Service office. Commissioner Elsaesser suggested the congressional offices be notified of the January 15th meeting.

Commissioner Ellison stated he too stopped by HATS and visited with the consultant. A report will be forwarded to the commission sometime in March/April.

4. **City Manager's Report**

City Manager Alles updated the commission on the following items:

1. **Franchise Agreement Extension** –City Manager Alles reported the second amendment to the Bresnan (Optimum) Cable Franchise Agreement is on the January 14th city commission meeting agenda.

The recommendation is to adopt the amendment which would provide 1) further amendment of the "Gross Revenues" and fee revenues definitions; 2) PEG (HCTV) support of \$0.35 per subscriber per month and a \$10,000 additional capital contribution for additional capital contribution for PEG; and 3) extend the term of the agreement by two (2) years, to December 31, 2016.

Commissioner Ellison asked what formal action the commission is being asked to take. Manager Alles stated the commission would approve the second amendment to the agreement, which would ultimately extend it until December 31, 2016.

Commissioner Haque-Hausrath referenced Section 3.14 B and asked if the \$5,000 limit is reasonable and does it expose the city to any additional costs. Manager Alles stated he does not believe the channel change will occur; however, if it does the \$5,000 is sufficient. Commissioner Elsaesser asked if the 7,000 customers are both residential and commercial. Manager Alles noted it is 7,000 subscribers.

Manager Alles reported he met with Stephen Maly and Kirsten Faubion with HCTV to discuss the amendments. They originally had concerns that have been mitigated. Commissioner Elsaesser asked if there is a restriction on the number of meetings that is put on HCTV. Manager Alles stated he does not have the answer; there are no restrictions for HCTV broadcasting via the internet.

Administrative Services Director Magee stated there are no restrictions on HCTV for broadcasting via the internet.

Mayor Smith asked for clarification on the \$.35 cents per month per subscriber. Manager Alles stated if the commission were to approve the amendment, staff would bring forward a resolution for consideration to increase the amount per subscriber per month for support of public education and government access programming to \$.35. When the commission considers the resolution, it will go through the public process of increasing a fee. The city of Helena received \$325,000 in franchise fees last year.

2. **Deer Culling** – 38 deer have been culled in the last five days.

3. **Distracted Driving Ordinance** – To date there have been 365 tickets issued for the use of a cell phone and \$12,270 has been generated in revenues.

4. **Snow Removal on Sidewalks** – 220 complaints have been received and processed; there have been 20 citations issued. Commissioner Haque-Hausrath asked if the property owner is notified of the complaint. Manager Alles stated yes and explained the process.

5. **Snow Removal** – For a typical storm the street division will have two operators begin at 4:00 a.m. with the potential to call in two additional operators; three operators arrive at 7:00 a.m. and two operators work the swing shift beginning at 3:30 p.m. Staff has the ability to call in additional operators, if needed. Commissioner Haque-Hausrath asked what the city's capacity is. Public Works Director Rundquist stated there are 10 plows and 2 pickup trucks with small plows.

Manager Alles noted staff tries to respond to all calls regarding driveways and sidewalks being plowed in.

5. **Department Discussions** **Community Development**

Subdivision Regulations – Community Development Director Sharon Haugen reported the revision to the City Subdivision Regulations has been prompted by several factors including:

- The recently updated Helena Growth Policy, a guiding document for city regulations, as adopted on May 9, 2011
- Other city documents have been adopted such as the Complete Streets Resolution, and revisions to the City of Helena Parks, Recreations and Open Space Plan and the City Zoning Ordinance.
- Changes were made to the Montana Code Annotated (MCA) that amended the Subdivision and Platting Act which affects local subdivision regulations.
- Recent court rulings regarding interpretation of the Subdivision and Platting Act.

Furthermore, a focus group, two community meetings, and numerous staff and Consolidated Planning Board work sessions, including a tour of various subdivisions to examine specific design features, were held to identify issues related to the current regulations and to solicit comments on the proposed amendments to the subdivision regulations. A public forum on the proposed revisions to the City Subdivision Regulations was held on January 19, 2012. The Consolidated Planning Board conducted several work sessions to review proposed changes.

The Planning Board then conducted public hearings on October 18 and November 1, 2011 and held an additional Planning Board meeting on November 29, 2011. The transmittal memos of the Planning Board meetings, public comments to the Planning Board and staff report were submitted to the City Commission at an administrative meeting and are available in the City Community Development office. After reviewing public comments, staff's recommendations and the City Growth Policy, the Planning Board recommended the changes that were included in the commission packet.

The City Commission met in work sessions on September 12 and October 17, 2012, to discuss the Consolidated Planning Board's recommended amendments to the City Subdivision Regulations. Per discussions at those meetings, there was consensus among the City Commission to propose changes to those recommendations. The City Commission consensus amendments reflect those proposed changes.

Director Haugen reported the Planning Board's recommendation has been on the city's web site since last fall; the amendments with commission consensus have been on the web site since December. In addition, Commissioner Thweatt has prepared amendments that he may propose.

Commissioner Haque-Hausrath asked if the consensus amendments are included in the packet. Director Haugen and Planning Morell-Gengler explained the consensus amendments follow each individual chapter. Discussion was held on how the document is put together for commission consideration.

Commissioner Ellison clarified the consensus amendments are included in the packet; however, Commissioner Thweatt's amendments are not. Staff concurred.

Mayor Smith noted there are six recommended motions, one for each chapter and asked if that is staff's recommendation to consider each individual chapter. Director Haugen stated yes.

Mayor Smith asked for public comment. The following persons addressed the commission:

Planning Board Chair Marshall Gingery spoke on the process and the recommendation forwarded from the Planning Board.

Karen Lane, Health Department, reported she was aware the Helena Citizens Council has submitted a letter requesting the commission consider postponing consideration of the subdivision regulations until additional public comment can be submitted.

Mayor Smith stated he had seen the request and forwarded it onto the City Manager, as he is the one who sets the agenda.

Diane Papineau, HCC, reported Manager Alles has responded and Chair McCormick was satisfied that there will be one month for public comments between first and final passage. Manager Alles addressed the commission and concurred there will be four weeks between first and final consideration and he did not see a reason to postpone consideration. The Planning Board submitted their recommendation in November 2011 and it is important to move forward.

Commissioner Thweatt thanked Ms. Papineau for her comments and asked the HCC to submit any comments as early as possible.

Paul Cartwright stated he generally concurs with the amendments; however, he referenced 12-4-2 (A) (2) and (3) – Minimum right-of-way widths. He referred to an email he had sent that outlined his concerns.

Commissioner Thweatt asked why staff's recommendation was to increase the present standard for street right-of-way. Ms. Morell-Gengler noted when looking at the standards, staff considered all components that could be included and was shown to the commission at one of the work sessions. Public Works Director Rundquist stated public works staff doesn't have a specific right-of-way recommendation; however, they do have a recommendation on what components will be considered so there is enough right-of-way to accommodate them.

Commissioner Haque-Hausrath stated she is also confused on the recommendation when she looks at a collector road that shows a 65-foot right-of-way and includes all the components of the complete streets. She stated the minimum right of way should not be set too wide until the commission

has had their policy discussion on what should be included in the engineering standards. The minimum in the statute should be 64-feet and can always be increased if needed.

Commissioner Haque-Hausrath stated she will be prepared to offer an amendment to lower the minimum right-of-way to 64-feet. Commissioner Thweatt asked if the commission were to adopt the narrower existing right-of-way widths and then go in and adopt the engineering standards for complete streets that is a wider right-of-way, would the subdivisions regulations have to be amended and what would be the costs. Director Haugen stated yes; the costs would include staff time and any required legal notices. Commissioner Thweatt stated he will review the diagrams; however, he continues to believe it is important not to require more right-of-way than necessary.

Commissioner Elsaesser stated he agrees with not requiring more right-of-way than what is needed. He then asked if the right-of-way could be conditioned to what is required under the Engineering Standards.

Paul Cartwright again referenced his email and asked when streets have features wider than existing right-of-way, how it is currently handled.

Mark Runkel, Mountain View Meadows, stated he will be preparing an email to the commission outlining his two areas of concerns and his recommendations. The two areas of concern include the block set lengths and water body set-backs.

Commissioner Haque-Hausrath asked if legally the city could require "a minimum right-of-way or as necessary to meet the engineering standards." Manager Alles spoke on the process to date and the initial recommendation of 76-feet; at that time, developers stated they want standards and the predictability of having a street width when developing the design.

Deputy City Attorney Jodion asked for clarification on the question. Commissioner Haque-Hausrath stated she is not talking about a specific development; could the ordinance be written with a minimum street right of way of 64-feet for collectors or to meet the regulations of the engineering standards. Deputy Attorney Jodion stated he believes the best way to accomplish that is to leave the right-of-way widths as is; they already meet the engineering standards. Staff needs to know exactly what is required when reviewing a subdivision. The commission normally does not look into the details of the amenities that would be required in the subdivision. Commissioner Haque-Hausrath stated more broadly she is concerned that the numbers being recommended do not have a rational basis and gave several examples of what she was addressing. Deputy Attorney Jodion noted the recommendation is the 76-feet to allow for all components of the complete street resolution. City Engineer Leland explained staff looked at the widths and used the current standards; and for an example if the issue if a bike lane is required or not, that is a ten-foot difference. Staff's recommendation was to do a maximum that would accommodate all components. Commissioner Thweatt stated the engineering standards need to set the right-of-way standards; he would support leaving them alone until the engineering standards are adopted.

Director Rundquist noted there are a lot of issues to address; he is not sure if minimum right-of-way standards are required in the subdivision regulations. The components define the right-of-way widths. Commissioner Thweatt concurred with Director Rundquist and noted he is prepared to offer an amendment that leaves the current right-of-way requirements in the subdivision regulations.

Commissioner Elsaesser asked for clarification from Commissioner Thweatt; is he recommending staying with the current right-of-way standards until the engineering standards are adopted. Commissioner Thweatt stated he would recommend staying with the current right-of-way requirements until the engineering standards, with the complete streets component, are adopted. Commissioner Elsaesser stated his concerns are being able to implement complete streets; the design of the street would condition the right-of-way width.

Commissioner Haque-Hausrath asked if there is any legal issue in eliminating the minimum right-of-ways widths and reference the engineering standards. Deputy City Attorney Jodion noted one concern is if it is not a standard applied across the board; it is probably considered a "takings". Standards need to be applied uniformly.

Commissioner Haque-Hausrath noted she would see this as a menu of options laid out in the engineering standards. The developer could then propose one of the menu options for the streets within the subdivision. She would argue that it is more of an issue of being arbitrary and capricious and a potential takings issue when you have a minimum right-of-way that requires more than what is needed. She would support leaving the existing right-of-way in the subdivision regulations.

Planning Board Chair Gingery commented the dynamics of this chapter has been changed and suggested sending it back to the Planning Board for review. Deputy City Attorney Jodion encouraged the

language the Planning Board recommended for 12-4-2 (A) and stated the commission may want to consider the language.

Mayor Smith asked if a specific chapter could be tabled; staff stated yes. Commissioner Thweatt commented this chapter is very important; a tabling motion might be an option. Commissioner Elsaesser stated he will work with the language as recommended by Deputy City Attorney Jodion.

Manager Alles encouraged the commission to set a minimum right-of-way standard. Director Haugen concurred with Manager Alles. The recommendation of Deputy City Attorney Jodion is a good solution and then move on to the engineering standards.

Police Department

Community Mental Health Update – Chief McGee gave opening remarks on the changes that have occurred in addressing mental health over the ten years. Law Enforcement has been trained for the Crisis Intervention Team. The ongoing issue now is what happens after the crisis has passed; law enforcement receives calls on a regular basis.

Captain Livesay gave an update on the current mental health advisory committee. There is a big shift from private resources to more government involvement. Lewis and Clark County contributes a large amount of money to pay for mental health services.

Captain Livesay spoke on the structure of the Mental Health Advisory Council; there is also an operational group that is confidential that works directly with consumers who are in crisis. The community partners are all working on the goal of helping those with mental illness.

NAMI is very active and has requested assistance from law enforcement to develop changes for legislative consideration. The construction of the new crisis house will begin in the spring of 2013. Discussion on the sustainability of services are also being discussed, which includes various funding mechanisms.

Mayor Smith thanked Captain Livesay for the report.

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) 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 – No report given.
- 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 – HCC Representative Diane Papineau gave her report during the Subdivision Regulations agenda item.

7. Review of agenda for January 14, 2013 City Commission meeting – No discussion held.

8. Public Comment – No comments received.

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

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