

SUMMARY OF ADMINISTRATIVE MEETING
January 8, 2014 – 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, Haladay and Haque-Hausrath were present. Staff present was: City Manager Ron Alles; Executive Assistant Sarah Elkins; Police Chief Troy McGee; Public Works Director Randall Camp; Assistant Public Works Director Phil Hauck; City Engineer Ryan Leland; Engineer David Knoepke; Community Development Director Sharon Haugen; City Attorney Jeff Hindoi; Community Facilities Director Gery Carpenter; Human Resources Director James Fehr; Parks & Recreation Director Amy Teegarden and City Clerk Debbie Havens.

Others in attendance included Independent Record reporter Al Knauber, MBAC Executive Director Chris Shove, Jamie Hould, Park Manager at Spring Meadow Lake, Matthew Cramer, Sarah Sadowski and Curt Chisholm

2. December 11, 2013 Administrative Meeting Summary – The December 11, 2013 Administrative Meeting summary was approved. Commissioner Elsaesser noted he had asked that the discussion on the evaluation of the blue bag be included in the December 11th summary. The summary was adopted as amended.

3. Commission comments, questions – Mayor Smith welcomed Commissioner Haladay to the commission.

Commissioner Haque-Hausrath referred to a letter regarding the parking times on the 400 Block of Last Chance Gulch and the impact to local businesses. Manager Alles noted this was an action of the Parking Commission. The commission and staff meet with the BID/HPC Board quarterly to discuss these types of issues and prior to the change; there were complaints that the 2-hour parking was too long.

Mayor Smith commented that he too has heard some complaints. Commissioner Haladay will be the commission representative on the BID/HPC. Discussion was held on the comments received from other businesses in the area.

Manager Alles noted the commission can anticipate some complaints on the newly installed automated equipment at the parking garages. The new equipment will require anyone using the garages to pay up to 8:00 p.m.

Commissioner Elsaesser asked if the city had reserved a table for the Chamber of Commerce Banquet. Mayor Smith asked anyone interested in attending to contact City Clerk Havens.

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

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| ADA Compliance Committee | Appointment of Marty Crennen, representing the Disabled Community, on the ADA Compliance Committee. The term will begin upon appointment and expire September 1, 2016. |
| City-County Planning Board | Appointment of Dick Thweatt as a city representative on the City-County Planning Board. Term will begin upon appointment and expire September 1, 2016. |
| Public Art Committee | Reappointment of Carol Swanson and Carl Montgomery to second terms on the Public Art Committee. Terms will begin upon appointment and expire December 31, 2016. |
| Zoning Commission | Appointment of Ed Stevenson to a first term on the Zoning Commission. Term will begin upon appointment and expire September 30, 2016. |

B. 2014-2015 Commission Appointments – Mayor Smith referred the commission to his recommendation memo that was included in the packet.

City Manager Alles noted MBAC recently changed their governance structure with 11-board members and the executive director. The majority of the members are still elected officials consisting of

six members the other five are members at-large. The city has one seat and the city commission member will be the voting member of MBAC. Manager Alles offered any assistance to Commissioner Ellison, if needed.

Commissioner Ellison stated he may have concerns with the proposal of MBAC to purchase real estate. He commented his concern is MBAC coming to the city of Helena asking for \$500,000 financial guarantee and at the same time, the city's representation on the board has been reduced. His concern is not being a member of MBAC and would recommend that both he and the city manager attend the meetings. In the future, the commission may want to discuss the structure of MBAC and forward a recommendation.

Commissioner Elsaesser commented on the recent change of MBAC governance structure; going from a board of over 40 to an eleven member board of directors.

4. **City Manager's Report** - City Manager Alles reported on the following items:
1. Manager Alles noted 2014 will be a busy year for both the city commission and staff;
 2. The solid waste division will be picking up Christmas tree; and
 3. He offered to meet with Commissioner Haladay to review various city policies.

5. **Department Discussions**

Public Works

CTEP Report and Henderson Bridge Update - City Manager Alles introduced the discussion of the Henderson Bridge timeline and noted staff is prepared to submit preliminary engineering plans to MRL/BNSF on January 15, 2014.

City Engineer Leland gave a PowerPoint presentation to include the following bullets:

- What is Involved in Completing a Infrastructure Project
- Current CTEP Allocations and Status
- Centennial Trail Master Plan Phasing
- Current CTEP Allocation Map
- Centennial Trail Phase I Design Status
- Henderson Bridge Status
- LeGrande Cannon Boulevard Connection Status
- Capital High School Pedestrian Crossing Status
- Helena Middle School Rodney Street Crossing Status
- Billings-Broadway-Centennial Trail Connectivity Project Status

City Engineer Leland referred the commission to the following questions that have been asked and staff's responses:

- Why was Henderson Bridge not included in Phase I
- What are current timelines for allocating and spending CTEP funds
- How much does it cost to design and construct a bridge
- What is the total funding picture for Centennial Trail
- How long will it take to get the easement approved by the railroad
- What are current timelines for allocating and spending CTEP funds
- How long will it take to design and approve the Henderson Bridge
- What is the approval process for getting the approval for the bridge from the Railroad and MDT
- Can the existing CTEP funds go to the Henderson Bridge
- What are the matching funds for CTEP for the Henderson Bridge
- What are the funding options for the Henderson Bridge
- Where is the city at in the approval process
- Are there any risks or problems with reallocating the CTEP funds from the projects that were approved by the commission in July 2013 to the Henderson Bridge
- What are the MDT requirements for using the BNSF land donation as match

City Engineer Leland then gave the following summary on the bottom line:

- At best it will take 9 to 12 months to get the easement approved through the Railroad
- Henderson Bridge needs approval from MRL, BNSF and MDT

- Phase I can be bid in February of 2014 and constructed in the summer of 2014
- At best the construction of Henderson Bridge will begin in 2015
- The \$1,000,000 of CTEP funds cannot be reallocated to Henderson Bridge
- The additional \$315,000 of CTEP from the other four commission approved projects will not cover the cost of Henderson Bridge
- Addition Funding Sources will need to be identified for Centennial Trail Phase I and Henderson Bridge
- The Henderson Bridge is a very good stand along project for MAP-21 funding or TSEP funding
- Four additional pedestrian projects will get completed in 2014 without having to identify additional funds.

Staff Recommendations:

- Centennial Trail Phase I Design
 - Move forward with bidding and construction
- Henderson Bridge
 - Move forward with ROW acquisition. Once ROW is acquired or granted then move forward with securing funding
- LeGrande Cannon Boulevard Connection
 - Move forward with design and construction
- Capital High School Pedestrian Crossings
 - Move forward with design and construction
- Helena Middle School Rodney Street Crossing
 - Move forward with design and construction
- Billings-Broadway Connectivity Project
 - Move forward with design and construction

Commissioner Ellison noted a former CTEP project was a pedestrian walkway from the Guardian Block to the parking lot adjacent to Park Avenue and asked for the status of the project. Engineer Leland stated the project has been on hold due to the architectural firm committing to pay the extra costs of the project. Commissioner Ellison asked is there any factor that will cause the \$38,000 to go away. Engineer Leland stated if the project is not completed by 2017, the CTEP funding will not be available.

Commissioner Elsaesser introduced Spring Meadow Lake Supervisor Jamie Hould; who addressed the commission regarding the connectivity between Centennial Trail and Spring Meadow Lake. There is great interest to connect the two and advance the existing trail that is adjacent to Spring Meadow Lake.

Commissioner Elsaesser asked why is just today that Henderson Bridge is not qualified for CTEP funding. Mayor Smith stated the commission got the recommendation from staff in October/November and concurred at that time.

City Manager Alles spoke on the moving parts of construction of the Henderson Bridge due to the location and type of bridge. Manager Alles noted he made the decision to shut down the design of Henderson Bridge until the right of way is secured. Staff made the recommendation in July to go east of Centennial Park and the commission approved the recommendation.

Commissioner Elsaesser stated when he voted on the CTEP projects, he asked if Henderson Bridge was part of the project and was told yes. He commented the Henderson Bridge was an approved CTEP project. Manager Alles noted the commission approved it as a CTEP project; however, MDT did not approve it as a CTEP project due to not having MRL and BNSF approval.

Commissioner Elsaesser asked if there is shortfall in the CTEP funds where would the funding come from. Engineer Leland noted once the bids are received and the total amount exceeds the one-million dollars, staff will make a recommendation to remove some of the projects within Phase One or find additional funding.

Manager Alles noted one component of the project is to build sidewalks for the homeowners along the route; staff has not come to a final recommendation on the funding for the sidewalks.

Commissioner Elsaesser asked where the match would come from for the LeGrande project. Engineer Leland stated the match is from trail maintenance due LeGrande Cannon being adjacent to the trail.

Commissioner Haladay noted MRL has indicated it will take nine to twelve months for right of way

approval and asked when that time would begin. Engineer Leland stated the conversation was held today, so January 8, 2014 would be the start date. Commissioner Haladay asked if the easement could be approved by MRL by September 2014 could CTEP funds be allocated before the easement is obtained. Engineer Leland stated according to MDT, that approval has to come after the easement is approved.

Commissioner Haque-Hausrath stated her experience in working with the railroads is to have certain people call to the railroad representatives. Manager Alles stated the President of MRL is in support of the project, however, all the required paperwork takes time. After MRL approves it, BNSF has to approve.

Commissioner Ellison noted the former chair of NMTAC, Sarah Sadowski, is present and had forwarded NMTAC's concerns on why Henderson Bridge is not moving forward. Commissioner Ellison stated he shares NMTAC's concerns with the consultant of Anderson Montgomery. He was under the impression that Anderson Montgomery was the consultant for the city; he was not aware he had been hired to work with the railroads obtain the necessary easements. Manager Alles stated he has indicated the consultant will work for the city of Helena and not for the NMTAC Committee or directly with the railroads.

Mayor Smith commented that he recognized going forward that it will take time to work with the railroad. It would be his preference to move forward with Phase I and put Henderson Bridge on hold until the right of way is received.

Commissioner Elsaesser stated he would like to review the information received today and make a decision at the next administrative meeting on how to move forward.

There was consensus to wait two weeks for final commission direction and allow NMTAC the opportunity to meet and forward their recommendation.

Commissioner Haladay asked if it would harm any deadline if the commission waits two weeks. Engineer Leland noted the consultant is on hold until the commission makes a decision on the bidding package. Commissioner Haladay stated he would support waiting two weeks; however, will support moving forward with Phase I in two weeks unless new and different information is received. He did ask staff to prepare a best case scenario on moving forward with Centennial Bridge, including budget amounts and timelines.

Further discussion was held on other CTEP funding requests and NMTAC's recommendations.

City Attorney

MBAC Authorization to use RLF for Caird – City Manager Alles gave the history of the City's Revolving Loan Fund and how they have been allocated in the past. He and Executive Director Shove recently have had discussions on how the RLF works. City Attorney Hindoien stated per the City Manager's request, he prepared a draft "Resolution" for review and discussion by the Commission concerning MBAC's Authorization to use RLF for Caird. As you are aware, Director Haugen has spent a considerable amount of time and effort in gathering up and reviewing the historical documentation concerning the creation and current structure of the City of Helena's economic development Revolving Loan Fund (RLF). I have also reviewed those materials, and Director Haugen's and my general assessment and observations are as follows:

- The City's RLF dates back to 1994, and presently consists of various funds that were initially received and distributed through the CDBG program but that have since been repaid and perhaps even re-lent and repaid again through the RLF program.
- The City initially entered into a Sub-Recipient Agreement with Gateway Economic Development Corporation (Gateway) in 1999 that authorized Gateway to provide management and administrative services for RLF, and that Sub-Recipient Agreement has since been amended twice. The currently operative Sub-Recipient Agreement is dated January of 2003.
- Montana Business Assistance Connection, Inc. (MBAC) is the successor-in-interest to Gateway, and currently provides the management and administrative services for the City's RLF in accordance with the terms of the 2003 Sub-Recipient Agreement.
- The Sub-Recipient Agreement requires that all City of Helena RLF income, principal and interest be used for RLF loans "unless otherwise approved by the City Commission." Thus, any use of

the RLF funds by MBAC itself for purposes of direct property acquisition will require formal approval by the City Commission – that is the purpose of the attached draft Resolution.

- The Sub-Recipient Agreement also requires that MBAC “comply with [the RLF] Policies [and Procedures] as approved by the City and the Department of Commerce.” The RLF Policies and Procedures will need to be amended to facilitate the use of the RLF funds for the purpose of direct property acquisition by MBAC. However, the City Commission has already authorized (via Resolution No. 11445) the amendment of the RLF Policies and Procedures through appropriate corporate action by Gateway / MBAC and “upon review and approval of the City Manager.” Thus, no further action by the City Commission will be required to facilitate any necessary amendments to the RLF Policies and Procedures.
- Based on Director Haugen’s dialogue with the Montana Department of Commerce and our review of what we understand to be the applicable CDBG program materials, it is our understanding that the use of the RLF funds for this purpose by MBAC will not be contrary to any CDBG-related requirements, so long as the gesture complies with the terms of both (1) the Sub-Recipient Agreement and (2) the applicable RLF Policies and Procedures. The intention in having the City Commission pass a Resolution along the lines of the attached draft and in undertaking any necessary amendments to the RLF Policies and Procedures will be to ensure that those bases are appropriately covered.
- The Resolution – as presently drafted -- also contemplates that MBAC’s use of the RLF funds for this purpose will be undertaken through a written Loan Agreement and that you, as City Manager, will be responsible for establishing, approving and entering into the terms of the Loan Agreement and its accompanying security instrument. Those terms would include such items as the repayment term, interest rate, etc. on the underlying promissory note, and I would envision at this point utilizing a commercial trust indenture as the security instrument for MBAC’s performance of its obligations under the promissory note and the Loan Agreement. That structure is consistent with the structure that was utilized in 1988 for the loan arrangement between Gateway’s / MBAC’s predecessor (HAEDCO) and the City of Helena for the acquisition of the Phoenix Building (“Small Business Incubator”), and consistent with the collateral requirements under the RLF Policies and Procedures.

As discussed, there are numerous issues that remain to be worked through with MBAC to facilitate the possible use of the RLF funds for this purpose, including (but not limited to) the necessary revisions to the Policies and Procedures and the development of an appropriate Loan Agreement and security instrument. However, in strict terms of actions required by the City Commission itself to facilitate this process as it has been discussed to date, the approval gesture contemplated by the attached draft Resolution would be the only one necessary.

Commissioner Haque-Hausrath stated on page two of the resolution the dollar amount is blank and asked what the amount should read. Manager Alles stated that amount will be \$500,000; there currently is \$670,000 in the Revolving Loan Fund. The source of funds is from repayment of loans from the Great Northern Town Center and Summit Aeronautics. Commissioner Haque-Hausrath asked if there are any restrictions on the use of those funds. Manager Alles explained that is outlined in the sub-recipient agreement. Currently, MBAC cannot lend money to themselves. The \$500,000 is the amount of the buy-sell agreement and that offer is contingent upon commission approval to use those RLF funds.

Commissioner Ellison complimented Attorney Hindoien for the memo in the packet. He asked what the source of the funding was in 1994 when the City’s Revolving Loan Fund was originated. City Attorney Hindoien and Community Development Director Haugen explained they are federal funds that were administered through the Montana State Department of Commerce, Community Development Block Grant program. The city received the grant funding and then lent it to local businesses.

Director Haugen noted one of the larger loans was for the Great Northern Best Western Hotel in the amount of \$360,000 and the other was for Summit Aeronautics in the amount of \$360,000. The recipients of the funding had provisions where it would show benefits for low to moderate income, job creation and neighborhood revitalization.

Commissioner Ellison referred to the three options for the environmental clean-up costs and asked if they could be mitigated through the Brownfields grant. If so, would the funds come through as a loan or a grant and is there a required match. City Manager Alles stated \$200,000 would be a Brownfields grant and anything above that would be a loan. The grant would go directly to MBAC and not the city. Commissioner Ellison confirmed there would be no match required by the city of Helena. City Manager Alles concurred.

MBAC Executive Director Shove addressed the commission on the proposal to move forward and offered to answer any questions.

Commissioner Haque-Hausrath asked if the buy-sell agreement is contingent upon receiving the Brownfields grant. Mr. Shove stated no. Commissioner Haque-Hausrath then asked how certain is MBAC that they will receive the Brownfields grant. Mr. Shove stated it is very unlikely that MBAC would not receive the funds; in fact he would put the likeability of receiving them at 99%. The contingency plan would be to go back to EPA, if the funds were not received.

Commissioner Haque-Hausrath asked what type of Brownfields grant MBAC would be receiving for the \$200,000. Executive Director Shove stated the Brownfields funds could be used for any portion of the clean-up except for land acquisition.

Mayor Smith commented in the last few years there was an earmark received from Representative Rehberg for the clean-up of the Caird property and asked if those funds were still available. Director Haugen noted that earmark was specifically for Rocky Mountain Development Council when they were trying to purchase and develop the property.

Commissioner Haque-Hausrath asked if the proposal is to do the \$281,000 clean up and has MBAC done an analysis for the need for just commercial development and not mixed use. Executive Director Shove noted the amount available in the Brownfields funds will not cover the clean-up for mix use.

Commissioner Elsaesser asked if the value of the property would increase if mixed use was allowed. Executive Director Shove stated according to the appraisal the value would not increase. Mr. Shove noted when he arrived in Helena he was looking for economic development opportunity and he identified Caird property as a great opportunity. As of today, he has not received any negative objections and has received positive feedback from the Sixth Ward Neighborhood Association and others. Mr. Shove thanked city staff for putting together staff's memo.

Mayor Smith asked if all this happens and the property is ready to sell and it doesn't sell, then what. Is MBAC ready to hold the property. Mr. Shove stated financially they could hold the property; however, he has been contacted with interest from two national firms and one local firm.

Commissioner Elsaesser stated in the past when this property was being considered for development the city had asked for additional right-of-way for a roundabout at mal-function junction; he asked if that was still being considered. Manager Alles noted those details could be identified prior to any development. The last time this conversation was held MDT stated they would not need or want easements for a roundabout.

Mr. Shove stated he met with EPA and they indicated once the clean-up on the Caird property begins it becomes a catalyst and would qualify for a grant for an area wide plan through the US Department of Transportation.

Commissioner Elsaesser noted the current transportation plan includes a roundabout at mal-function junction as a top priority. Mayor Smith commented if MDT has made a decision that a roundabout is not warranted, why would the city say it is a priority. Commissioner Elsaesser recognized it would be MDT's ultimate decision to install a roundabout; so he would like to see the right of way secured. Manager Alles clarified that MDT had indicated they would not need any additional right of way at the intersection.

Commissioner Ellison referred to the appraisal that is for a 2.7-acre site and asked if this encompass the entire Caird property. Ms. Haugen did not have the information in front of her; however, the former proposal included additional property in back of the Caird property. Mr. Shove noted the entire property is 2.7-acres.

Commissioner Haque-Hausrath spoke on the property being used for residential versus commercial and asked if you cannot sell it as commercial, could another brownfields grant be applied for to clean it up for residential. Executive Director Shove noted the appraisal is for what the property is currently zoned. Mr. Shove offered to provide the entire appraisal to the commission.

Commissioner Haladay asked if the \$280,000 Brownfields grant has a time limit on it. Mr. Shove stated not that he is aware of.

Mayor Smith referred to Commission Ellison's previous statement on the restructuring of the MBAC board and noted he was unaware of the restructuring and does not have an opinion on the change and is not troubled by the change.

Commissioner Ellison stated his concern is the city of Helena is being asked to put up a large loan and at the same time the city's influence on the board has been significantly reduced. He recognized that MBAC is in place to assist start up business. However, MBAC is now coming to the city to ask for a zero interest loan for a number of years. The city of Helena is doing its due-diligence before saying yes to the loan. He is not opposed to the proposal for the Caird property; however, if the city makes the loan, does it have the proper level of influence for the decision making on the board.

Manager Alles noted the best document to protect the city is the sub-recipients agreement and MBAC would have to follow it. This is a safe guard to protect the city's funding. If there were any changes, MBAC would have to notify the city manager's office and he would notify the commission.

Commissioner Elsaesser stated even though there are six elected officials, he may have concerns with the city of Helena and Lewis and Clark County losing a vote on the board of directors. He is very interested in the proposal for the Caird property; however, he would like to see the full proposal prior to approval. City Manager Alles noted this will come before the commission on January 27th.

Mayor Smith referred to Commissioner Ellison's comments and asked if Lewis & Clark County is being asked to under-write the financial guarantee. Commissioner Ellison noted what he was referring to earlier was the change of the governance board and that both the city and county lost a voting member with the restructuring. Commissioner Elsaesser noted the Brownfields grant will be filtered through the county.

Commissioner Haque-Hausrath asked if MBAC has the 20% match that is required. Executive Director Shove stated this grant does not require a match.

Commissioner Haladay echoed Commissioner Ellison's comments that this seems to be moving fairly fast. He would like to see the option of getting the property cleaned up for both commercial and residential uses. He noted he is not familiar with how the MBAC board works; however, he is somewhat concerned with the city losing some control on the board and would want to assure the city is not losing control over the loan.

Mr. Shove summarized the review of the MBAC governance has been ongoing; Manager Alles sat on the sub-committee that developed the recommendation to the entire board. He also spoke on the cost difference to clean the property up for commercial use versus residential and the property appraisal. However, the reality is there is only so much money for the clean-up and if the extra cost to clean up the property is spent, it will bring the costs for the property above the appraised value and MBAC may have to decline.

Mayor Smith asked if the commission is any type of ex-parte situation. City Attorney Hindoien stated no.

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 – Commissioner Ellison reported NMTAC is prepared to submit a recommendation to the Commission making the Henderson Bridge Project their #1 priority.
- 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 – Commissioner Thweatt spoke on the BID Board.
- 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 January 13, 2014 City Commission meeting – No discussion held.

8. Public Comment – NMTAC member Sarah Sadowski addressed the commission on previous correspondence from NMTAC on the proposed CTEP projects. She encouraged the commission to begin acquiring the right of way from private property owners on the west side of Helena for Centennial Trail. She also advocated that the city spend the allocated CTEP funds for the identified projects. Ms. Sadowski stated she too originally had had concerns with including Henderson Bridge as a project when

the right of way has not been secured.

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

10. Adjourn – Meeting adjourned at 6:00 p.m.