

SUMMARY OF ADMINISTRATIVE MEETING

August 13, 2014 – 4:00 p.m.

Room 326, City-County Building

1. Call to order, introductions, opening comments – Mayor Pro Tem Elsaesser called the meeting to order. Commissioners Ellison, Haladay and Haque-Hausrath were present. Mayor Smith was excused. Staff present was: City Attorney Jeff Hindoien; Assistant City Attorney Thomas Jodoin; Executive Assistant Sarah Elkins; Police Chief Troy McGee; Community Development Director Sharon Haugen; Parking Director Dave Hewitt; Administrative Services Director Tim Magee; Human Resources Director James Fehr; Community Facilities Director Gery Carpenter; HCC Coordinator Judy Garrity and City Clerk Debbie Havens.

Others in attendance included IR Reporter Al Knauber, Heritage Preservation and Tourism Council member Dick Alberts and Heritage Preservation Officer Pam Attardo.

2. July 30, 2014 Administrative Meeting Summary – The July 30, 2014 administrative meeting summary was approved as submitted.

3. Commission comments, questions –

Commission Comments – Commissioner Haque-Hausrath reported she returned the call from the citizen regarding curb to curb service and noted his concern was his son, who does not have the means to own a vehicle and has three young children now has to walk approximately one-mile to a fixed stop in order to get them to medical appointments. Commissioner Haque-Hausrath requested staff look at expanding the policy to include these types of situations of getting children to doctor appointments. Mayor Pro Tem Elsaesser stated he too talked to the citizen and discussed identifying fixed routes closer to where he lives.

Mayor Pro Tem Elsaesser stated he sent an email to City Manager Alles asking a similar question on what variations may be available in the future and that he would also like to address the concerns with senior citizens who do not qualify for the paratransit system. Commissioner Haque-Hausrath concurred with Mayor Pro Tem Elsaesser's request.

Commissioner Haque-Hausrath reported her family had a theft at their house; her husband's bike wheels were stolen. A police report was filed.

Mayor Pro Tem Elsaesser reported three commission members met with the IR Editorial Board to discuss the Non-Motorized District.

Mayor Pro Tem Elsaesser commented staff should begin looking at ways to expand city services not only on the west-side but also on the north-side of Helena. There is a lot of potential activity on the north side; he asked if this could be on the September joint work session.

4. City Manager's Report – Attorney Hindoien noted he and City Manager Alles have put together a fact declaration of a description of the city's efforts and structures including the Red Mountain Flume and Chessman Reservoir. This information will be provided to the State and Federal agencies to assist in their litigations. Both agencies plan on filing their briefs in opposition to the injunction in hopes the federal judge will rule on the injunction by the end of August. Manager Alles is still working on the information the commission requested on intervention versus participation.

Mayor Pro Tem Elsaesser asked if this would be discussed that the next admin meeting. Attorney Hindoien stated he did not know when this item would be back before the commission; ultimately it would be on an administrative or regular city commission meeting agenda.

5. Department Discussions

City Attorney

Central School/Quasi-Judicial Legal Opinion – City Attorney Hindoien referred the commission to his memo and opinion in reference to Helena City Code §§3-15-1 *et seq.* – Demolition of Historic Buildings, Legislative v. Quasi-Judicial Decision Processes and Miscellaneous Procedural Questions.

The research indicates this demolition permit is ex-parte discussion and quasi-judicial process. The commission members and Heritage Tourism Council should be drive communications into the organized structure of the public hearings.

Commissioner Haladay thanked City Attorney Hindoien for the two memos. He then referred to page three of the memo that listed four examples of the commission's consideration of various factors

attendant to any request for a demolition permit. He asked as if a commission member strongly supports and objects to the overall school district's bond, would that be in any way a factor when rendering the decision on the demolition permit for Central School.

City Attorney Hindoien stated it is a loose definition of the factual information the commission will receive and ultimately decide on the demolition permit. The element of if a commission supports or opposes the proposal is not part of what the ordinance calls to look at. Part of the dialog will be the costs estimates to restore/repair the structure versus the demolition will take place in the context of the demolition permit.

Commissioner Haladay stated he sent an email regarding disclosure of public comment and asked City Attorney Hindoien for his thoughts and what steps will be taken to distribute these communications and get them on the record. The practice in place doesn't meet the requirements of ex-parte communications.

City Attorney Hindoien stated staff will develop a process where the public can comment to one central email address specifically on the demolition permit and assuring the information the commission receives is also available to the public. The pre-application meeting is scheduled for August 19th; once the hearing is completed, staff will have a better sense of when the actual permit will be submitted.

City Attorney Hindoien stated staff will work diligently to get the process completed within the mandatory 60-day timeframe.

Commissioner Haque-Hausrath referred to Attorney Hindoien's opinion and asked if a commission member is on the public record and submitted comments on the School District's public policy, would that mandate them to recuse themselves on the demolition permit. She then asked what the commission's decision on the demolition permit will be based on. Attorney Hindoien noted staff will discuss this with the Heritage Preservation Council and School District to insure the demolition permit application includes as much information as possible. Even if the district does not submit the information, the commission has the right to ask specific questions on specific information, so long as the dialog during the public hearing process draws that out.

Commissioner Haque-Hausrath noted she has provided comments to the school district on the proposal; including comments of Central School being an historic structure and valuable building and should be preserved. Commissioner Haque-Hausrath stated she intends to participate in the decision on the demolition permit; however, she is struggling with the concept the process is Quasi-Judicial when she has gone on record to preserve Central School. Attorney Hindoien stated there are the same concerns with the members of the Heritage Preservation Council, as their members are very interested in the preservation of historic structures.

Attorney Hindoien stated it is important that the HPC and city commission hold the public hearings and make the decision on the information they have received and the application has received an open and fair hearing. If a commission member cannot be unbiased on the issue, then they need to declare it. **Attorney Hindoien also reiterated that he did not see any concern with any of the involvement in the Central School discussions that the city commissioners or the members of the Heritage Preservation Commission have had to date; although both need to follow quasi-judicial processes now that we know an application is forthcoming.**

Commissioner Haque-Hausrath commented the city commission adopted the ordinance to assure historic buildings would not be torn down without review.

Commissioner Ellison also thanked City Attorney Hindoien for the memos; he found them to be extremely helpful. Commissioner Ellison commented he has irritated friends and angered others when he asked them to share their comments with the entire commission.

Heritage Preservation and Tourism Council Chair Dick Alberts commented on City Attorney Hindoien's memo regarding ex-parte and how it pertains to the city commission as elected officials. However, the Heritage Preservation Council is a group of volunteers and not elected officials and should the members be treated differently; essentially are they under a gag order and cannot discuss this among themselves.

Attorney Hindoien stated the Heritage Tourism Council will conduct fact finding at the public hearing after receiving public testimony. The Heritage Preservation Council falls under the same guidelines of ex-parte communications as the city commission.

Additional discussion was held on the Legislative v. Quasi-Judicial decision process and the miscellaneous procedural questions that both the City Commission and the Heritage Tourism Council members are subject to. Attorney Hindoien advised the members of the Heritage Preservation Council not to attend other meetings where the demolition permit will be discussed.

Mayor Pro Tem Elsaesser commented the issue is if the process is not followed, the final decision is subject to legal review. Mr. Alberts asked how the Heritage Preservation Council could receive all the information they need to make an educated decision. Attorney Hindoien stated if the members of the Heritage Preservation Council feel additional time is needed prior to making a recommendation; the public hearing could be continued. However, once the demolition permit is received a final decision from the city commission has to be rendered within 60-days.

Mr. Alberts asked after the pre-application meeting can the council discuss the meeting. Attorney Hindoien stated once the pre-application is over the members of the Heritage Preservation Council should not have any further discussion until the public hearing. Mr. Alberts stated he continues to struggle with the members of the Heritage Preservation Council not being able to discuss this between the pre-application and the public hearing. Attorney Hindoien again reiterated the importance not to have discussions outside the public hearing process.

Mayor Pro Tem Elsaesser commented the memos from City Attorney Hindoien have been very helpful.

Consensus Director to City Manager – No direction to the City Manager.

Parking

Residential Parking Review – Parking Director Hewitt reported the residential parking areas exist in small pockets all over the city, some affect only one or two homes. All residential only parking districts provide exclusive right-of-way for those purchasing permits. Because the commission created restricted parking areas, the city is obligated to enforce those areas, which currently is not being done. It had not been feasible to enforce those areas with the permit structure (\$10/year). Enforcement is one issue; the other is the determination of an appropriate value on the exclusive use of public right-of-way. Staff has received four new requests from residents in different parts of the city to create resident-only parking districts.

- Resident-only parking districts were created through city code 8-14-7, allowing residents to request Type A or Type B residential parking districts and the city commission to approve and implement those restricted parking areas;
- In February 2014, the city commission passed Resolution 20071, consolidating all districts into one list and establishing criteria for requests for new parking districts;
- As demonstrated in the attached list, many districts do not participate at the 50% required level;
- There have been requests in some districts to withdraw the designation
- There was some confusion after letters were received by residents, but all questions have been answered and there has been very little response or feedback since the second letter was delivered in March 2014, when residents were offered the July 1st deadline for purchase of permits.
- In February 2014 residential permit fees were increased to \$20.00 for each vehicle and \$5.00 guest permit.

The proposal is to review current residential districts and propose withdrawal of designation in districts with low permit purchases to residents affected. Following the withdrawal of certain residential districts, staff will notify residents in those districts via flyer and/or letter that signs will be removed and any enforcement will be discontinued and reimbursement will be offered for permits purchased in the area if signs go away before January 1, 2015.

Commissioner Haque-Hausrath inquired if the residential parking area on Ewing between 7th and 8th would be kept. Director Hewitt explained it is staff's recommendation to keep this particular district as it is adjacent to the Original Governor's Mansion. The signage would be only on the westside of Ewing Street.

Commissioner Ellison thanked Director Hewitt for the map and the packet information.

Mayor Pro Tem Elsaesser asked for clarification on the residential district at the end of Logan Street and why would it not qualify to remain. Director Hewitt noted this district was originally approved due to the Methodist Church. Mayor Pro Tem Elsaesser asked if the residents came forward could they apply for Type A or B Residential Parking District. Executive Assistant Elkins noted they would not qualify because there are only four residents and in order qualify there needs to be five or more residents wanting the district.

Mayor Pro Tem Elsaesser asked if the existing districts could be grand-fathered. Director Hewitt stated he would not recommend exceptions to the policy; once you make one you will receive other requests.

Mayor Pro Tem Elsaesser asked if the parking enforcement officer have issued tickets or warnings to the districts. Director Hewitt stated the parking enforcement officers have made an appearance; however, no enforcement has happened. Staff has issued warning tickets; staff will begin issuing tickets.

Commissioner Haladay asked when will the commission consider this and will it be a resolution of intention and then a public hearing. He noted he would prefer to consider a resolution of intention and then hold a public hearing prior to adopting the resolution. Attorney Hindoien stated if the commission would like to consider a resolution of intention and set a public hearing, staff will prepare the staff reports accordingly. Commissioner Haladay commented he likes staff's recommendations; however, he believes the residents affected by the elimination of the parking districts should have the opportunity to comment on why certain districts should be continued.

There was commission concurrence to have staff prepare a resolution of intention and to set a public hearing date to consider a resolution.

Mayor Pro Tem Elsaesser commented there may be a rationale to keep some of the districts that staff is recommending the deletion of. He noted he would consider grandfathering in some of the districts.

Director Hewitt explained staff has received individual requests – i.e. 7th Avenue, request to remove the no parking on the north side and the request has been cleared to remove those signs; in reference to the districts adjacent to both Helena High and Capital High Schools - principals at both high schools have responded that they have permit parking on-site, some students choose to park off-site due to the rules associated with purchasing a permit.

Commissioner Haladay referenced the residential parking district on Logan and asked if it is enforceable at all times or only Monday-Friday, 8:00 a.m. to 5:00 p.m. Director Hewitt stated this particular districts is Monday-Friday, 8:00 a.m. to 5:00 p.m.

Chief McGee noted the police officers do enforce residential parking 24/7; however, it depends on the district on how much enforcement it receives.

Direction to the Manager – Schedule a resolution of intention and set a public hearing to consider the resolution.

Administrative Services

Fees & Assessments – Administrative Services Director Tim Magee report at the August 18th city commission meeting the commission is scheduled to hold public hearings and take actions on Taxes, Rates & Assessments for FY2015. The Tax Levies and Assessments must be adopted at that time in order to meet tax bill deadlines.

The Taxes, Rates & Assessments for discussion are:

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| 1. The Tax Levy resolution | Total Mills will be 168.17 |
| • The resolution includes General, Group Health and two Bond levies | |
| • There is a 1.03% inflation increase and the increase for group health | |
| • and a \$149,165 decrease for Class 8 & 12 Entitlement Reimbursement | |
| 2. BID Plan and Budget | approve plan & Budget |
| 3. BID Assessment | no change |
| 4. Tourism BID | approve plan & Budget |
| 5. Tourism BID Assessment | no change |
| 6. Open Space Maintenance | up to 3% increase on area (\$20 base) |
| 7. Sidewalk Improvements | pay annual debt |
| 8. Special Improvement Districts | pay annual debt |
| 9. Storm Water | up to 3% assessment increase |
| 10. Street Lighting Districts | cost based |

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| 11. Urban Forest Management | no change in assessment |
| 12. Landfill Monitoring | no change in assessment |
| 13. Residential Solid Waste | up to 1.5% assessment increase |
| 14. Street Maintenance | up to 1% assessment increase |
| 15. Wastewater Charges | as listed |
| 16. Wastewater Rates | up to 2.5% increase (effective Nov. 1 st) |
| 17. Water Charges | as listed |
| 18. Water Rates | up to 2% increase (effective Nov. 1 st) |

Direction to the Manager – No commission discussion.

6. Committee discussions

- a) Audit Committee, City-County Board of Health, Civic Center Board, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns – No report given.
- b) Audit Committee, Board of Adjustment, Helena Chamber of Commerce Liaison, Information Technology Committee, Transportation Coordinating Committee — No report given.
- c) Intergovernmental Transit Committee, Non-Motorized Travel Advisory Board, Transportation Coordinating Committee – Mayor Pro Tem Elsaesser stated he has been attending HTAC monthly meetings. NMTAC and TCC both had good meetings; MDT has completed their programming on the CTEP projects by CR Anderson, Helena Industries and Centennial Trail east. The school district has indicated they have funding for the project for CR Anderson. The consultants on the transportation plan continue to provide good updates to the TCC.
- d) ADA Compliance Committee, Business Improvement District/Helena Parking Commission, City-County Parks Board, Montana Business Assistance Connection – Commissioner Haladay reported MBAC Executive Director Shove asked the MBAC board to consider reducing the sale of Caird by 20%; the board did not approve the request. Commissioner Haladay stated he concurred with the recommendation not to approve the request of MBAC Director Shove.
 The ADA Committee has agreed to draft a letter regarding plowing of sidewalks; there is also interest from other boards to discuss the plowing of sidewalks and will ultimately come before the commission. Community Development Director Haugen stated the ADA Committee will finalize their letter next week and staff will coordinate the letters. Discussion was held on the amount of time it takes to enforce the snow removal policy.
 MILP Representative Lloyd Sparks commented the ADA Committee had a great discussion on the enforcement of the snow removal ordinance. It makes it very difficult for persons with disabilities to get around if someone does not clear their sidewalks. Hopefully the ADA can reach a consensus and submit a letter with recommendation on amending the ordinance.
 Mayor Pro Tem Elsaesser stated NMTAC is also discussing the ordinance and how to improve it.
- e) Audit Committee, City-County Administration Building (CCAB), Public Art Committee – No report given.
- f) Helena Citizens Council – HCC Coordinator Judy Garrity reported the HCC is discussing outreach. They discussed the intersection of Cruse Avenue/State Street. City Manager Alles will meet with the HCC Executive Committee to discuss process.
 Mayor Pro Tem Elsaesser noted he had the opportunity to see the proposal from HCC member Paul Pacini regarding this intersection. He believes both the NMTAC and TCC committees will address this intersection.

7. Review of agenda for August 18, 2014 City Commission meeting – Commissioner Haque-Hausrath and Mayor Pro Tem Elsaesser stated they will be offering amendments to the tree boulevard ordinance.

8. Public Comment – No public comment received.

9. **Commission discussion and direction to the City Manager** – No discussion held.
10. **Adjourn** – Meeting adjourned at 5:30 p.m.