

## SUMMARY OF ADMINISTRATIVE MEETING

September 10, 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 Manager Alles; City Attorney Thomas Jodoin; Executive Assistant Sarah Elkins; Police Chief Troy McGee; Fire Chief Sean Logan; Parks & Recreation Director Amy Teegarden; Community Development Director Sharon Haugen; Parking Director Dave Hewitt; Administrative Services Director Tim Magee; Public Works Director Randall Camp; City Engineer Ryan Leland; HATS Supervisor Steve Larson; Natural Resource Coordinator Brad Langsather; HCC Coordinator Judy Garrity and City Clerk Debbie Havens.

Others in attendance included ADA Committee members Rachael Peura, George McCauley and Eric Kohring, HCC representative John Forbes, HTAC member Elizabeth Andrews and MILP Representative Lloyd Sparks.

**2. August 13, 2014 Administrative Meeting Summary** – The August 13, 2014 administrative meeting summary was approved as submitted.

**3. Commission comments, questions –  
Commission Comments** – None

**4. City Manager's Report –**

**Blue Cross/Blue Shield** – City Manager Alles introduced John Doran and Bill Lombardi with Blue Cross/Blue Shield. Mr. Doran gave an overview on the plans to construct a new headquarters building that will consolidate the current locations. The building is proposed to be built in Mountain View Meadows Subdivision.

Commissioner Haque-Hausrath asked when the building would be completed. Mr. Doran stated SMA Architects have been hired to design the building and Dick Anderson will be the contractor. Construction will begin in early in 2015 and they hope to occupy the building by late 2016.

Commissioner Ellison asked how the employees received the news of moving to the new location. Mr. Doran stated there are approximately 500 employees in two buildings and when it was announced it received a standing ovation. The employees are excited to work under one roof. Commissioner Ellison asked what the plans for the current buildings are. Mr. Doran gave history of who owns the building; currently BCBS leases the buildings and a holding company called Caring for Montanans own the buildings. All the proceeds of the sale of BCBS went to the Caring for Montanans Foundation. The current buildings will be available for lease or purchase and any proceeds will be transferred to the foundation. Commissioner Ellison thanked Mr. Doran and Mr. Lombardi for the update.

**Tenmile Project Update** – City Manager Alles reported he has made the recommendation the City seek leave to participate in the Chessman/Red Mountain Flume project as an Intervener-Defendant. The project is moving forward and making progress. Manager Alles noted that Commissioner Haque-Hausrath has had questions regarding the city's liability and to the best of his and City Attorney Jodoin's knowledge; the plaintiffs cannot get attorney fees for the city intervening.

City Manager Alles stated the city owns four major city assets and needs to defend them; 1<sup>st</sup> and 2<sup>nd</sup> water rights; Chessman and Scott Reservoirs, Red Mountain Flume and the Tenmile Water Treatment Plant. These are hard assets that are at risk and the city should be at the table to defend them. Manager Alles noted Natural Resource Coordinator Brad Langsather has led the city's projects on the Red Mountain Flume.

Coordinator Langsather reported the DNRC project is underway, 90% of lodge-pole trees are dead in the area. The douglas fir trees are being retained in the project area. Mr. Langsather stated clear cutting the lodge-pole trees is the best method to manage the dead trees. He gave an in-depth report on the remediation of the area that has been completed. Once the remediation project is complete, the Forest Service will begin the regeneration plan and if the trees do not regenerate naturally, the Forest Service will re-plant.

Mayor Pro-Tem Elsaesser asked what the selection process will be for hiring an attorney. City Manager Alles stated he would select the attorney; there are local attorneys who have the expertise and are familiar with the federal process.

Commissioner Haque-Hausrath asked what the city is hoping to accomplish with the intervention and what if the city does not intervene. City Manager Alles stated with the city at the table, it adds value to the project by protecting our assets.

Mayor Pro-Tem Elsaesser asked what the estimate of costs would be to hire an attorney; either for the current case or future cases. Manager Alles stated this project has a limited scope of 490-acres which includes the Chessman Reservoir and the Red Mountain Flume. Staff has not seen a scoping document for future projects. At this time, he is asking for approval for counsel for this project, if there are future projects, he would come back before the commission.

Commissioner Haque-Hausrath stated since the preliminary injunction was denied, what is the status of the project. Manager Alles reported the project is moving forward; it may have to shut down due to weather. Commissioner Haque-Hausrath commented if the project is moving forward, what is the purpose of the lawsuit. Manager Alles stated the purpose is to win the lawsuit and defend the city's assets and hopefully the suit will be resolved by next spring. Manager Alles noted water utility funds will be used to hire the attorney.

Mayor Pro Tem Elsaesser asked City Manager Alles if he has spoken with DNRC and Forest Service. Manager Alles stated he spoke with the Attorney General Fox, as we filed their declaration for the preliminary injunction. There has been no recommendation; however, there has been support to move forward.

Commissioner Haladay stated originally it was presented if the city were to hire an attorney, we would not rack up a large amount of attorney fees due to the fact this was based on administrative review of the record and the city would not go through months of discovery or conducting depositions to get to the ultimate decision.

Commissioner Haladay stated he has read Judge Christian's order and in between the lines it basically said the lawsuit appears to be worthless. The federal courts often treat these preliminary injunctions as resolutions of the ultimate case on the merits on the purposes of granting them. The question is if this is just an administrative proceeding, what difference do we expect them to come back with. What will the benefit be if the city gets involved with the lawsuit.

Manager Alles stated he would hate for the city not to participate and then have something change and lose the case and not have had a seat at the table in defending the case. The costs should be minimum, it is the city's water and the city needs to defend it. The city has urged the Forest Service to move forward and the city needs to continue to defend the lawsuit.

Commissioner Ellison commented it is important for the city to be proactive and not just neutral; we need to send a message to the judge that the city is interested in the protection of our watershed.

Mayor Pro-Tem Elsaesser stated he is willing to support moving forward, this is a vital project to protect the city's assets.

Commissioner Haladay asked if the city plans on making any legal argument that would be different from the Forest Service. City Manager Alles stated he has not had the chance to meet with legal counsel. Commissioner Haladay stated if the city will not be making any different legal arguments from the Forest Service, he would give strong consideration to filing a factual position and simply agree and sign onto the Forest Service and State of Montana's position. He does not believe the city needs to recreate documents.

City Manager suggested once he has had the opportunity to meet with counsel, he will update the commission.

Commissioner Haque-Hausrath stated she does not believe this would be a good use of resources to intervene; she would hope the counsel would not waste money to say the exact same thing.

Mayor Pro Tem Elsaesser stated the city is on a good path and the benefit is to be on the same page as the other entities.

**Consensus Direction to the Manager** – Move forward to hire counsel and continue to keep commission updated.

**Westside Annexation** – City Manager Alles stated at the September 24<sup>th</sup> administrative meeting, he will present the preliminary engineering report on the Westside annexation proposal. Staff is also looking at the urban service boundary on the north side and working with the county to consider doing a preliminary

engineering report(PER) going out Montana Avenue. Manager Alles stated Morrison and Maierle have done a lot of work in the area and he anticipates hiring them to prepare the PER.

Staff is currently looking at the rebate ordinance to make it easier for homeowners who may be interested in annexation. Manager Alles noted at this time, it is very expensive for an individual homeowner to extend the infrastructure.

Mayor Pro Tem Elsaesser commented it is important to take advantage of this opportunity and he has promoted looking at the urban service boundary area. City staff is working with the county to develop the PER and the costs associated with it. The county may have funding to finance some of the utility extensions.

Commissioner Haque-Hausrath stated she likes the idea of being pro-active for the area and plan for denser development.

Commissioner Ellison asked for clarification on when the north side proposal would be discussed. Manager Alles stated staff will be prepared to discuss the Westside on September 24<sup>th</sup> and the north side proposal at a later date.

**Consensus Direction to the Manager** - Commission concurrence to move forward to hire an engineer firm to develop a PER for the north side of town going out Montana Avenue.

**Protested Taxes Payment** – City Manager Alles reported the city has received 1.8 million of protested taxes. Commissioner Haque-Hausrath asked what the schedule is to discuss the allocation of those funds. City Manager Alles noted the best time to discuss would be during FY16 budget discussions. There was commission concurrence to bring the discussion forward in early in October.

## 5. Department Discussions

### City Attorney

**Sidewalk Snow Removal** – City Manager Alles stated there are four items he wants to discuss at this meeting – current process, what other cities are doing, ADA and NMTAC Committee's recommendations and an overview from city attorney.

Code Enforcement Coordinator Greta Dige gave an overview of the sidewalk snow removal program that included the following items:

- Time frames
- Education/Warning Period
- Complaint Process
- Recommendations

Code Enforcement Officer Dige also spoke on what other cities in Montana do for sidewalk snow removal and explained the process and timeframe it takes to process each complaint. The process may take longer when the occupant of the house is not the property owner.

Ms. Dige noted in the past Police Officers have delivered citations; however, their workload does not allow for them to continue doing so. Police Chief McGee concurred the officers do not always have time to deliver the citations; the police volunteers may be an option to assist in the delivery of the citations. Attorney Jodoin noted it is staff's recommendation that a sworn officer deliver the criminal citation; often times the recipient of a citation becomes angry.

Commissioner Ellison thanked Code Enforcement Officer Dige for the information. He asked if staff has a rough idea of the number of complaints received after a large snow fall. Ms. Dige stated the number of complaints depend on the snow fall; however, there are citizens who call in on a regular basis and have submitted up to 20 complaints per day. Many of the calls are received prior to the 48-hour period; staff does not check until the time period and when checked, most are cleared.

Commissioner Haladay also thanked staff for the presentation and noted his greater concern is how to get the snow off the sidewalks and streets. He is looking for a solution and how do we fix an ordinance that does not work. Other cities set a timeframe of 24-hours for snow to be removed. He then asked if the property owner does not remove the snow, why the city doesn't hire a contractor to remove the snow and bill the homeowners. Nine days is absurd to process a complaint on snow removal. He noted both the ADA and NMTAC Committees have submitted recommendations that may assist in developing a good program.

Mayor Pro Tem Elsaesser asked is there a reason why Helena cannot adopt a timeframe on when the snow has to be removed from the sidewalks. City Attorney Jodoin commented other cities do

have a timeframe; however, many of them do not follow their own city ordinances. He then spoke of the staff time it takes after a citation has been issued for not removing snow from the sidewalk. Staff is also looking for a process that will get the snow off the sidewalks and not have to issue citations. Attorney Jodoin concurred hiring a contractor to remove the snow would be an option to consider.

ADA Committee Chair Peura noted after the ADA Committee heard Greta's presentation and the possibility of using the Police volunteers. The ADA committee discussion generally centered on the following points:

- The 48-hour timeframe presently allowed for snow removal being inadequate
- The effectiveness of the current complaint process and enforcement
- What actions are taken to address multiple incidents or offences for one location
- Snow not being removed from the ADA ramps.

Based on the identified concerns, the ADA Committee is recommending the following:

- Establish a time for snow removal to be 9:00 a.m. each day. If the snow isn't removed within 24-hours of first notice, a contractor or city staff will be required to have the snow removed and the individual billed for that removal. If a person or entity is hired to remove the snow, that the individual will be billed or a lien be put on their property. If it's not paid in 30-days then the lien would go against their property tax.
- In early fall (October and November) establish an education/warning period on the responsibilities of property owners relating to snow removal on sidewalks, including any ADA ramps adjacent to their property. After the education period ends (December 1<sup>st</sup>) start fining individuals for failure to remove snow.
- The complaint process should include both a complaint-driven element and active patrols and also that the city use door-hanger as well a follow-up with a letter and enlisting volunteers to assist, such as the Helena Police Department's Volunteer Group.

ADA Committee member George McCauley encouraged the commission to consider the ADA Committee's recommendation by not doing just the reasonable, but better than the reasonable.

MILP Representative Lloyd Sparks asked the commission to think of those who have disabilities and not being able to get out of their homes for six-days after a snow storm. The current notification process is a huge barrier. Mr. Sparks also spoke on how well the city of Bozeman's snow removal policy works.

HTAC representative Elizabeth Andrews stated the HTAC committee wants to be at the table to discuss these types of issues. She addressed those citizens who do not qualify for para-transit bus service, they will be required to walk to the nearest checkpoint and having cleared sidewalks is vital.

ADA Committee member Eric Kohring noted the Safe Routes to School Committee has also expressed similar concerns with the city's snow removal policy. Reasonable timing and intent of the law has to be considered. The city should consider adopting emergency routes for snow removal on city owned sidewalks.

Commissioner Haque-Hausrath stated the snow removal ordinance needs to be updated; the current ordinance includes a cumbersome process and is not effective to get the snow off the ground. She would support moving forward with an update that would include the recommendations from NMTAC and ADA Committees.

Commissioner Ellison thanked Ms. Peura for being at the meeting and for the ADA Committee's recommendation. He stated he would like to see a draft of an ordinance for the commission to review. Mayor Pro Tem Elsaesser concurred.

Attorney Jodoin noted the reasonable has to go both ways, the city has to accommodate the citizens who have a legitimate reason for not removing the snow within the set time period. He then gave the example of when snow plows, specifically on MDT routes, blow the snow back onto the sidewalks and the resident is issued a citation; it is very difficult to make that argument to the judge. As far as process, it takes time to research the property owner information in order to issue the citation. The Department of Revenue records are not always up to date and the entire process takes time and it still does not get the snow off the sidewalks.

Once the citation is issued, then the judicial system also takes time and there are a lot of citations that have not been paid and there are warrants issued. Attorney Jodoin stated he would suggest a draft ordinance be prepared that would remove the citation language and include the recommendations of the ADA Committee. This would be a starting point for commission discussion.

Commissioner Haladay stated he would like to have a draft ordinance to review the next time the commission discusses snow removal.

Commissioner Haque-Hausrath concurred with Commissioner Haladay's comments and to move away from the current process and move toward a method to remove the snow and bill the homeowner.

Mayor Pro Tem Elsaesser stated he is interested in what the Street Division may be able to assist in removing snow on the MDT routes. He then asked if the citation is issued to the property owner or the occupant if it is a rental. Attorney Jodoin stated the notices have to be sent to the property owner.

**Consensus Direction to the Manager** – Move forward with updating the ordinance, taking into consideration the recommendations of the ADA and NMTAC committees. Take the citation portion of the ordinance out and work out the mechanism on how to notify the homeowner.

### **Public Works**

**HATS Update – Routes, Paratransit** – City Manager Alles noted that HATS Supervisor Steve Larson will give an overview of HATS. He then stated the city of Helena needs to get the reimbursement forms submitted to MDT in order to receive it from the 5311 Grant. At this time, both the city and MILP will lose money if they are not submitted.

HATS Supervisor Larson reported on the following items:

- How RouteMatch Software is performing
- Total of individuals that have been approved for the ADA Para Transit service
- The capacity and use of the Para Transit bus
- The possible addition of the Westside Route.

Supervisor Larson handed out copies of the Trip Count Report – MT-HATS and a map showing the .75 mile transit route buffer and HATS service for August 25-29. As of today there are 240 people registered for para-transit service. Once the application is submitted and processed, the rider is accepted into the program.

Supervisor Larson spoke of the processes staff has had to accomplish in order to get the service running smoothly. Staff will continue to fine-tune the components of the program.

Supervisor Larson referred the commission to the Trip Count Report and noted the two areas staff is trying to get more knowledgeable on is the cancelled service and the no shows. There is a notification module that could be used with the current software that would notify riders that they have reserved a ride and then on the day of service the riders would receive notification that the bus is on the way. The cost of the notification module is approximately \$16,000 and would be high on staff's priority list to purchase. Once the data can be compiled, staff can review the information and develop a plan to improve the service.

Commissioner Ellison thanked Supervisor Larson for the presentation and stated he is glad the software is working. However, he is concerned in the three-week period, there were 1515 riders and all were elderly riders. Supervisor Larson noted staff entered the information incorrectly. However, the city's current policy is the age of 55 is considered elderly. Staff will clean up the information and report back to the commission.

Commissioner Ellison stated he is very concerned the no shows is approximately 6 to 7% and anything the city can do to assist in reducing that percentage should be done. Commissioner Ellison stated this percentage is no reflection of staff; it is a concern with driving a bus to a location and having someone not show.

Commissioner Haladay stated before the Intergovernmental Transportation Committee was dissolved, they had discussed blacklisting people who were constant no-shows. He then asked if there is a distinction of someone who qualifies for the para-transit service can be blacklisted. Supervisor Larson stated he wants to fully understand the process and capture the process and begin to implement disqualifying the constant no-shows. He noted staff does not have the ability to discontinue service; if that were to happen, the rider would have to appear before the ADA Committee to make that determination.

Supervisor Larson stated staff will begin to address those no-shows with letters and set the procedure in place. He would like to tweak the process and possibly offer an award for being a responsible rider by canceling in a timely manner.

Mayor Pro Tem Elsaesser asked Supervisor Larson to give an update on the fixed routes. Supervisor Larson noted there has been discussion with the change from curb-to-curb service to the para-transit routes, would there be funding to implement a Westside route. At this time, he would not recommend implementing the Westside route due to the recent change in operations and staff not having enough data to make those decisions.

Supervisor Larson referred the commission to the HATS Service the week of August 25-29 and the .75 Mile Transit Route Buffer maps and reviewed the information. Mayor Pro Tem Elsaesser asked what is staff's anticipated timeline to implement a new fixed route that ultimately would serve more riders. Supervisor Larson stated he could not answer the question and will keep the commission updated on the ridership. Staff would like to receive a final report from MILP from the demonstration project to have all the data to develop a recommendation.

There are four other projects Helena Transit Advisory Committee (HTAC) is discussing that he is involved with and there is still the possibility there will be a request to provide shuttle service to and from the Capitol during the 2015 legislature.

Mayor Pro Tem Elsaesser stated the ultimate goal is to have additional fix routes.

Commissioner Haladay asked is the demand for curb to curb less or about the same. Supervisor Larson stated the curb to curb ridership is about the same.

Commissioner Ellison stated he appreciates the information on the map and referenced the east valley route and asked what do the dots indicate. Supervisor Larson stated the yellow line is the boundary of the east valley bus service and the dots indicate the residents who have registered for the para-transit service. This specific bus is a deviated fix-route; it includes curb to curb service and 6 fixed locations. For those who use the curb to curb service on the East Helena route, have to qualify for para-transit service or they have to go to a fixed route location.

Commissioner Ellison asked where the riders go who get picked up within the boundaries of the East Valley route. Supervisor Larson explained the bus leaves the HATS office every hour; it heads north and then onto East Helena. If there are calls for curb to curb they stop to pick those riders up and they also stop at the two fixed stops in East Helena (East Helena City Hall and East Helena library). The bus then stops at the Pre-Release Center, Wal-Mart, County Health Department, Capital Hill Mall, St. Peter's Hospital and ends back at the HATS office to begin the route again. The Leisure Village Mobile Home Park has a call-in fixed route.

HTAC Chair Elizabeth Andrews asked if the add on module Supervisory Larson had referenced would to assist the current system to track the no-shows. Supervisor Larson stated he believes it would help cut down on the no-shows.

Ms. Andrews stated she would like to discuss the in-kind form that staff has recommended versus the form HTAC has recommended. City Manager Alles commented staff needs to submit the in-kind form to MDT in order to receive the reimbursement and would like a decision today.

Mayor Pro Tem Elsaesser noted this form was also discussed at the city-county joint work session. Manager Alles explained this issue goes back to pre July 1 where in-kind packages were put together in order to receive reimbursement from MDT. Part of process was for MILP, under contract with the city of Helena, to do the demonstration project. There were several individuals who donated their time and have submitted in-kind statements.

City staff submits a quarterly report to MDT and this in-kind form is part of the report to receive 5311 reimbursement. Once the report is submitted, MDT will ultimately need to approve the in-kind donation for reimbursement. The debate between city staff and HTAC is over the form and rather the reimbursement is suggested or absolutely restricted as recommended by HTAC. Manager Alles noted he is not aware of anytime where the city received reimbursement funds and did not use it for its purpose. The commission establishes the city budget and he would recommend that the form should not include language where the reimbursement is restrictive. Manager Alles stated if for some reason the East Valley route is eliminated and the reimbursement is restrictive, then that money is out there and cannot be spent.

HTAC Chair Andrews stated she believes there is a solution to the problem; HTAC will meet next week and will forward a recommendation to the city manager. It is HTAC's recommendation that the coordinated plan be funded by the in-kind reimbursement. She further spoke on the coordinated plan and how some contributors want their donation to be restricted. HTAC will honor the deadline of September 30<sup>th</sup> for the quarterly report to be submitted; however, it is important for them to discuss the funding of the coordinated plan.

Commissioner Ellison commented both the city and county commissions were lectured at the joint work session from HTAC member Deborah Swingley who basically stated we were not doing our jobs because we hadn't accepted these in-kind services. He stated that he found Ms. Swingley's comments less than respectful toward both city and county commissions given all the effort both were putting into improving bus service in the community, and noted she was not present today for him to ask her for clarification. He then asked what are the services the city and county have received. Manager Alles and Supervisor Larson stated Brian Johnson entered the data to compile information on trying to plot points for bus service. Deborah Swingley and Elizabeth Andrews in-kind were to assist with the County's Phase II grant; there may have been some hard resources from Ms. Swingley.

Commissioner Ellison asked if the in-kind time is the same time that the contractor is being paid by city and county funds. Supervisor Larson stated the in-kind time was not paid; Deborah Swingley and Elizabeth Andrews are overseeing the grant.

City Manager Alles spoke on the current in-kind form city staff has established and is recommending to be used for submittal to MDT. However, HTAC members do not agree and want their in-kind donation specifically earmarked for the east side route. Manager Alles again stated the current form accomplishes what is required and has been approved by MDT.

Mayor Pro Tem Elsaesser stated HTAC members can decide if they want to donate their time and the city can include it on the reimbursement form for 5311 funds that would go back into the HATS operation.

Commissioner Ellison asked for clarification on what the HTAC members are doing that would qualify for in-kind services. Manager Alles stated typically all of the 5311 funds are expended; however, from time to time there are funds left and the in-kind services can be used to draw on those funds.

Commissioner Haladay asked Ms. Andrews how was the in-kind donations not being used to where it was intended. Ms. Andrews noted the process has not been used; however, HTAC wanted the in-kind service secured for funding for the east side bus service. HTAC's main focus is the Coordinated Plan.

Further discussion was held on the in-kind service being used for 5311 reimbursement and those funds being restricted.

## **7. 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 – No report given.
- d) ADA Compliance Committee, Business Improvement District/Helena Parking Commission, City-County Parks Board, Montana Business Assistance Connection – Commissioner Haladay reported
- e) Audit Committee, City-County Administration Building (CCAB), Public Art Committee – No report given.
- f) Helena Citizens Council – HCC representative John Forbes reported the HCC will be discussion recycling at their next meeting. The public has been bringing issue forward to the HCC. Commissioner Ellison thanked Mr. Forbes for attending the meeting and stated he would also like to hear from the HCC at the city commission meetings.

**7. Review of agenda for September 15, 2014 City Commission meeting** – No discussion held.

**8. Public Comment** – No public comment received.

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

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