

SUMMARY OF ADMINISTRATIVE MEETING
April 6, 2016 – 4:00 p.m.
Room 326, City-County Building

1. Call to order, introductions, opening comments – Mayor Smith called the meeting to order. Commissioners Farris-Olsen, Haladay and Noonan were present. Commissioner Ellison was excused. Staff present was: City Manager Alles; Executive Assistant Sarah Elkins; Community Development Director Sharon Haugen; City Attorney Thomas Jodoin; Assistant City Attorney Iryna O'Connor; Police Chief Troy McGee; Fire Chief Mark Emert; Public Works Director Randall Camp; Assistant Public Works Director Phil Hauck; City Engineer Ryan Leland; Engineer David Knoepke; Water/Wastewater Superintendent Don Clark; Utilities Superintendent Kevin Hart; Water Supervisor Jason Fladland; Parks & Recreation Director Amy Teegarden; Community Facilities Director Gery Carpenter; Administrative Services Director Glenn Jorgenson; and City Clerk Debbie Havens.

Others in attendance included: IR Reporter Al Knauber and HCC Chair Gary Spaeth.

2. March 16, 2016 Meeting Summary – The March 16, 2016 administrative meeting summary was approved as submitted.

3. Commission comments, questions –

Board Appointments – There are no appointments on the April 11th city commission meeting agenda.

Commission Comments - Commissioner Haladay referenced the letter he sent to the commission regarding the Statement 77 of the Government Accounting Standards Board (GASB) regarding tax abatement data. Commissioner Haladay recommended the city of Helena include the information in the budget.

Commissioner Farris-Olsen concurred with the recommendation to include the tax abatement information in the process and budget. This allows for better information for the citizens and the commission. Commissioner Noonan concurred to include the information in the budget.

Manager Alles stated this is a new requirement for GASB and staff has been working on it. The actual financial reporting doesn't have to occur until the beginning of FY2017; however, the information will be provided to the commission for the upcoming budget process.

Mayor Smith noted the information is already listed in the budget resolution and asked if this is a new requirement. Commissioner Haladay reviewed the following seven criteria that should be included in the annual budget for each currently-active tax abatement the city has approved: 1) Name of entity receiving abatement; 2) Legal basis for abatement; 3) Date abatement was granted; 4) Length of abatement; 5) Estimated total amount of taxes foregone over life of abatement; 6) Total actual taxes abated to-date; and 7) Taxes abated for this fiscal year. The information will be more transparent in reference to tax abatements.

Mayor Smith concurred to include the information in the budget. Manager Alles summarized what information will be included in the budget and financial report for FY17.

3. City Manager's Report

Household Hazardous Waste Event – City Manager Alles announced there will be a household hazardous waste event on April 23rd from 9:00 a.m. to 2:00 p.m. at the transfer station.

Priority Matrix – Instructions, Deadline – City Manager Alles referred the commission to the list of staff generated city priorities. The directors have submitted their priorities, which are included on the list. Manager Alles asked the commission to review the list and submit any priorities they may have and he will then amend the list and send it out for ranking. At a future administrative meeting these rankings can be discussed. This is not part of the budgeting process.

Commissioner Noonan asked if this is done annually. Manager Alles noted prior to his tenure, this had been done every couple of years. However, it takes time to complete the priorities and he didn't see any reason to continue to add projects until the others were completed.

Manager Alles asked the commission to submit any priorities by April 15th. He noted Commissioner Ellison has submitted his list.

Mayor Smith asked if the commission is bound by the numerical ranking. Manager Alles stated no, the commission will discuss the ranking at a future administrative meeting and the document can be amended. This is a tool for the city manager to direct staff.

Sanctuary City Discussion – City Manager Alles and City Attorney Jodion reported there has been recent national discussion regarding so called “sanctuary cities.” There is no formal definition of that term, but it generally refers to cities that have adopted a policy that prohibits or discourages the city from enforcing federal immigration laws.

Police Chief McGee received information from the United States Department of Justice that all applicants for the Edward Byrne Memorial Justice Assistance Grant must certify compliance with all applicable Federal laws. The US DOJ considers local jurisdictions with “policies that either prevent law enforcement from releasing persons without lawful immigration status into Federal custody for deportation, or that prevent state or local law enforcement from sharing certain information with Department of Homeland Security (DHS) officials)” to be in violation of federal law. An applicant found to be in violation of an applicable federal law may have to repay grant funds and may be subject to criminal and civil penalties.

In 2004 the Helena City Commission approved Resolution No. 19181 (“Resolution”) that “protects the civil liberties of the citizens of the City of Helena, Montana.” The Resolution was adopted in response to specific federal government actions that were a direct reaction to 9/11/2001 terrorist attacks. The resolution, among other “affirmations,” affirmed that the city “refrains from using city resources to enforce immigration laws, except when an alien has been detained or arrested on suspicion of a criminal offense.”

There has been some belief that the city of Helena is a “sanctuary city” on the basis of the above language. City Attorney Jodoin stated he tends to disagree with that characterization since the city does not outright prohibit cooperation with federal immigration authorities. His interpretation of the resolution is that it merely precludes the city from expending resources toward the primary enforcement of federal laws. This affirms long-standing past practices of the HPD. When an HPD officer, in the normal course and scope of the officer’s duties, comes across an illegal immigrant, a report is made to the Immigration & Naturalization Services, but the individual is not arrested by HPD on that basis alone. Further, HPD does assist federal officers in making arrests and conducting searches by serving in a support role to preserve the peace during such arrests or searches. Federal officers are neither required to nor request permission of the city to make such searches or arrests. Finally, HPD officers will make arrests based upon arrest warrants issued by federal courts.

The practice of HPD notwithstanding, it is possible that the US DOJ would interpret the language of the resolution as preventing HPD from sharing certain information with the Department of Homeland Security (DHS) officials and thus to be in violation of federal law and render the certification required on the grant application to be false. Given that uncertainty, Attorney Jodoin stated he would not be completely confident about having the city certifying that the resolution does not run afoul of Federal requirements to cooperate in enforcement of federal immigration laws. Under the language of the resolution, if a person is not detained or arrested for a state or local offense, can HPD assist federal agents in carrying out their lawful functions? Is HPD precluded from passing along information regarding a person who is suspected of violating federal laws?

Since interpretation of the resolution by reasonable individuals can and does differ on this matter, City Attorney Jodoin is concerned that the US DOJ could consider the city of Helena to have policies “that prevent state or local law enforcement from sharing certain information with DHS officials” despite the fact that actual practice of the HPD is to the contrary.

City Attorney Jodoin stated going forward there are four options he can readily identify to provide more clarity to this situation:

1. Clarify Resolution No. 19181 to state plainly and clearly that HPD does not engage in primary enforcement of federal immigration laws, but will (1) pass along information about individuals they come across that may be illegal aliens, and (2) enforce and effect federal arrest warrants.
2. Seek an opinion from the U.S. Attorney with regard to the existing language of Resolution No. 19181.
3. Repeal Resolution No. 19181
4. Receiving affirmation from the commission that the city of Helena complies with all rules and no further action would be required.

Police Chief McGee noted he did receive the email and he feels comfortable the city is in compliance with the law. The specific grant is the Edward Byrne Memorial Justice Assistance Grant.

Commissioner Noonan stated this wasn't a challenge to our grant, it was informational. Chief McGee concurred.

Commissioner Farris-Olsen stated he does not see the need to change anything. Commissioners Haladay and Noonan and Mayor Smith concurred.

Mayor Smith spoke of when the resolution was approved and he did not recall any discussion on "sanctuary cities". He then referred to the language in Section D on page three of the resolution.

Lawrence and Fuller Signal – City Manager Alles and City Engineer Leland reported as part of the MDT Downtown ADA Project, city staff looked at both the signal and corner at Lawrence and Fuller for ADA compliance. The investigation found that there are vaults under the sidewalks on at least two of the corners and the signal does cause some issues with route of travel for ADA. The city has been exploring the need to upgrade the signal controls and cabinet at this intersection. As a result of a new cabinet, the signal may have to be upgraded to meet ADA, which would include new push buttons and possibly moving the poles.

City staff also looked to see if the signal met warrants based on the traffic volumes. The signal currently does not come close to meeting warrants. The minimum peak hour traffic volume to meet warrants is 300 vehicles and the current peak hour observed during the transportation plan is 124 vehicles per hour. The cost estimate to keep the signal and bring it up to ADA compliance is in the range \$100,000 to \$200,000 (currently not budgeted), depending on how many poles need to be moved and structure requirements for installing the new poles over the vaults.

City staff recommendation is to remove the signal and install a stop controlled intersection that is compliant with MUTCD. The BID and City Departments were contacted about the removal of the signal and all were in concurrence with the removal.

There was no commission discussion or questions.

5. Department Discussions:

Public Works

Long-term Water Utility Projects with Major Budget Impacts – City Manager Alles stated in the next few months the commission will be reviewing the preliminary FY17 budget requests for the water fund. The purpose for today is to discuss those prioritized projects that exceed the current funding capabilities of the water fund for fiscal years 2018-2022. Included in the discussion will be a preliminary look at a long-term rate strategy to accomplish these future challenges.

Public Works Director Camp referred the commission to the list of water projects that are not budgeted/unfunded for FY17 and gave a brief description of each project. Also discussed was the residential impact of rate increases needed to accomplish the list of projects for FY2018-2022.

Commissioner Noonan stated a project by project discussion may not be valuable at this time; however, the projects are the highest priorities and the recommended dates are when they need to be addressed. He asked is there any room for discussion on if they can or if they should be done.

Director Camp noted staff has documentation on how the list was compiled and recommended. Manager Alles stated these projects have to be done and should be accomplished prior to failure. He noted in order to move forward, the rates will have to be increased.

Commissioner Noonan commented these are the highest priorities and the funding needs to be found.

Commissioner Haladay referred to the water rate comparisons chart and noted Helena is the only city that keeps the base rate for all size meters the same. He asked what types of commercial properties use the 4", 6" and 8" meters. Assistant Public Works Director Hauck noted those size meters would be used by the larger commercial customers; i.e. St. Peter's Hospital, Fort Harrison. Commissioner Haladay asked if the city has considered having a graduated rate for the base charges for the larger commercial rates. Manager Alles noted the city of Helena has the lowest base fee in comparison to the other larger cities; we have focused on the variable rate for usage, which is consistent with the Climate Change Task Force recommendation when talking about water consumption.

Commissioner Haladay stated he does not think it is bad to consider graduated rates on consumption. Commissioner Haladay spoke of the equity of continuing to increase the consumption rate and not at least look at having a graduated rate for the meter size.

Commissioner Farris-Olsen stated he has the same concerns as Commissioner Haladay. If the recommendation is adopted, the average water bill will increase significantly for the average user. He too would like to look at graduated rates for commercial users.

Commissioner Haladay noted the goal is to fund the projects listed; he would like to see an equitable structure of the rates. He does recognize the change in the rate structure would not bring a huge amount of revenue.

Assistant Public Works Director Hauck stated a formal rate study has not been completed by a consultant and staff believes the commission may be interested in pursuing a review. It would take some work to review the structure; however, it could be done. Commissioner Farris-Olsen stated he would support looking at the residential and commercial rate structure as a whole.

Manager Alles noted there is interest in changing the base rate structure based on the meter size and some interest in changing the variable rate structure for those as well. Mayor Smith stated he is interested in looking at the overall rate structure. Commissioner Farris-Olsen referred to Bozeman's rate structure for the residential and commercial rates.

Assistant Public Works Director Hauck noted staff can show the numbers for residential and commercial rates. Commissioner Noonan commented some of the rates are precipitated due to Helena's rates being too low. Manager Alles noted he would not package it that way; the city has done a good job in keeping our rates down. There is some room for the rates to be increased and not be out of line with other jurisdictions.

Commissioner Noonan asked if the rates are increased, would there be adequate funding for the identified projects. Manager Alles noted the rate increases being suggested would fund the debt services that would be incurred to complete the projects.

Commissioner Haladay stated the proposed rate increases would fund the listed projects and not any future projects after FY22. Manager Alles concurred and noted as projects are completed, others will be identified.

Commissioner Farris-Olsen noted it does seem reasonable to increase the base rate and he would support doing so over the next six years. Commissioner Haladay stated at a minimum, staff should look at what the respective values are for the other cities and a reasonable graduated base rate increase for commercial.

Assistant Public Works Director Hauck noted if the city were to implement the graduated rate for commercial, it may decrease the need in residential. Manager Alles noted consumption is also the key to funding the water projects.

Staff will look at the various rate structures, including a graduated rate for commercial and bring back before the commission for discussion. Further discussion was held on the water and wastewater rates, the project priority list, funding of those projects and the debt service.

Manager Alles reported EPA has talked about needing to meet the 2% of the median household income in the water rate before receiving grants. What that means is the city's current average bill of \$35.29 would be approximately \$83.85. Again, this would be required to qualify for some of the federal grants. At this time, there are no written regulations. Therefore, it looks like the city will have to put together a financial package and have debt service over the next 20-years.

Further discussion was held on regulations, grants and rates and possible impacts of each.

Commissioner Farris-Olsen asked does the 2% include commercial rates also. Manager Alles stated it is median household income. Assistant Public Works Director Hauck noted the projects are scheduled to be discussed and funded for FY2018. Other projects will be brought forward for discussion during the FY2017 budget meetings.

Commissioner Haladay asked if rates were increased for the FY18 budget, would the increase take effect in August 2016. Assistant Director Hauck concurred and noted the increase would allow the funding of the projects listed for FY18.

Manager Alles stated this has been a good discussion and staff will do a do a rate analysis for commission discussion. Mayor Smith brought up the wastewater discharge permit and the regulations that are attached.

Long-term Streets Projects with Major Budget & Policy Impacts - City Manager Alles stated in the next few months the commission will be reviewing the preliminary FY17 budget requests for the street fund. The purpose for today is to discuss those prioritized projects that exceed the current funding capabilities of the street fund for fiscal years 2018-2022.

Manager Alles noted financing on streets is going to be different; he is not sure the city can issue revenue bonds for street maintenance; Intercap loans may be an option. Staff will have to do additional research into the funding for street projects.

Public Works Director Camp referred the commission to the large map in the packet that shows the streets that are listed on the project list. He gave an overview of the conditions of the "dead" streets that staff has identified.

Engineer Leland showed the street map and highlighted the streets that are being recommended for replacement. There are some streets that can have an overlay applied and not a total re-build. However, each place an overlay is done, all corners have to be brought up to ADA standards.

The estimates include complete streets, curb/gutter and sidewalks. However, the commission could require the adjacent property owners to install and pay for the curb and gutters. The new ADA regulations have a huge impact and are approximately 50% of the budget.

Commissioner Haladay noted 11th and 6th Avenues are listed as failed streets; however, are not on the priority list. Engineer Leland noted 11th and 6th did not move up to a high priority. These two street projects will be collaborated with MDT.

Commissioner Haladay referred to Davis Street and asked if it is scheduled for an overlay. Engineer Leland noted there is a section of Davis Street that is failed; however, the rest of Davis will be overlaid.

Commissioner Haladay referred to the long range transportation plan and noted the costs for Airport Road is much high estimate from the previous estimate. Engineer Leland noted the previous design did not include complete street standards; the design can always be changed. Commissioner Haladay asked if staff has looked at doing a Special Improvement District (SID) for Airport Road and Carter Drive. Engineer Leland noted with an SID, the adjacent property owners can protest out. The airport is the main adjacent property owner and if they were in support of an SID, staff could move forward with an SID.

Commissioner Haladay stated he would like staff to look at an SID for Airport Road and Carter Drive to rebuild these two streets. If that were to happen, it would be very beneficial to the residential rate payers. Commissioner Haladay noted the airport receives a benefit on their street maintenance assessment. Commissioner Farris-Olsen concurred.

Mayor Smith asked how long would the creation of an SID take. Engineer Leland stated it could take up to six or eight months; however, staff can contact the property owners to see what interest there may be.

Commissioner Farris-Olsen asked if the property owners do not concur to an SID, could the city order in sidewalks/curbs and gutters onto the property owner. Engineer Leland concurred.

Assistant Public Works Director Hauck noted these two streets could be shifted in the priority list until there is a decision on creating an SID.

Commissioner Haladay stated his preference would be to remove Airport Road and Carter Drive and reduce the project amount by approximately 3-million dollars and pursue the creation of an SID. Or, other projects could be backfilled for consideration in the amount of the 3-million.

Commissioner Farris-Olsen stated his preference would be to back-fill with other projects. Engineer Leland stated any of these projects could be backfilled.

Assistant Public Works Director Hauck asked what interest level there is to order in sidewalks and curbs/gutters. Staff could pursue what those impacts would be for the specific projects. Commissioner Farris-Olsen stated he would look at the cost sharing options. Commissioner Haladay concurred.

Commissioner Haladay noted there are sidewalks on most of the streets that are identified as "dead streets". Assistant Director Hauck noted staff can fine-tune the cost sharing options. It is not staff's intention to have any resident install sidewalks and curb and gutters if they have recently done so. Commissioner Haladay asked if the city can order in just curb and gutter. Engineer Leland concurred.

Mayor Smith commented the commission has discussed ordering in sidewalks; however, has pulled back in the past. Assistant Public Works Director Hauck concurred; however, noted these areas have existing sidewalks. At some point the commission will need to have the discussion of ordering in sidewalks.

Commissioner Noonan asked would the construction of curbs/gutter and sidewalks are part of the larger project and then the residents would reimburse the city their portion of the project. Assistant Director Hauck concurred and noted staff would look at what would be the most equitable costs to the property owners.

Commissioner Noonan asked if we are postponing the issue of equity. Assistant Director Hauck noted at this time, the identified failed streets have sidewalks and would not be required to be ordered in. Manager Alles again noted the commission has the authority to order in sidewalks at any time.

Discussion was held on the impact of the ADA requirements and the impact on the corners, at this time it does not address all existing sidewalks. Trips hazards and the condition of the existing sidewalks will be looked at when determining if a sidewalk needs to be replaced. It is important that any commission policy be consistent for all areas of the city.

Mayor Smith stated the bottom line question is whether the city is going to move forward with the cost sharing. Assistant Director Hauck concurred, the question on cost sharing needs to be addressed; however, the other is the financial realities of the city and how we can fund our share. When the analysis was completed, it was done on debt service. If debt service is not possible, there is no way the city can do 5 million in projects.

Commissioner Haladay noted prior to any decision; we need to know if the city can fund the street projects through debt service. Any future commission is not bound to current standards and practices.

Manager Alles noted staff will get some definite answers and debt service financing, define specific options, prepare a recommendation for the rate increase and bring it back for future discussion.

6. Committee discussions

- a) Audit Committee, City-County Board of Health, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns – Mayor Smith reported he has a conference call with the Montana League of Cities and Towns on April 7th.
- b) Mayor Pro-Tem, Audit Committee, Helena Chamber of Commerce Liaison, Information Technology Committee, Transportation Coordinating Committee – No report given.
- c) ADA Compliance Committee, Audit Committee, City-County Parks Board, Civic Center Board – Commissioner Farris-Olsen reported there has been a lot of work done at Barney and Waukesha Parks. He also appreciated the report from Captain Livesay on the number of visits the police are doing in the parks.
- d) Board of Adjustment, City-County Administration Building (CCAB), Non-Motorized Travel Advisory Board, Transportation Coordinating Committee – Commissioner Haladay reported the TCC will consider the expenditure of urban funds at the April meeting. When the matrix is available, he will forward it to the commission for discussion. The TCC will also look at removing Cruse Avenue from the urban street designation.
- e) Business Improvement District/Helena Parking Commission, Montana Business Assistance Connection, Public Art Committee – Commissioner Noonan reported the BID has released the priority task list for the Downtown Master Plan. Community Development Director Haugen gave an overview on the implementation of the Downtown Master Plan. City staff will review the priority list and bring forward a recommendation on how to move forward.
- f) Helena Citizens Council – Gary Spaeth reported the HCC is currently re-organizing and will bring the recommendations forward to the commission.

7. Review of agenda for April 11, 2016 – No discussion held.

8. Public Comment – None received.

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

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