

SUMMARY OF ADMINISTRATIVE MEETING
April 20, 2016 – 3:30 p.m.
Civic Center Lobby – 340 Neill Avenue

1. Call to order, introductions, opening comments – Mayor Pro Tem Ellison called the meeting to order. Mayor Smith and Commissioners Farris-Olsen, Haladay and Noonan were present. Staff present was: City Manager Alles; Executive Assistant Sarah Elkins; Community Development Director Sharon Haugen; Chief Building Inspector Jon Pallister; City Attorney Thomas Jodoin; Police Chief Troy McGee; Fire Chief Mark Emert; Public Works Director Randall Camp; Assistant Public Works Director Phil Hauck; Engineer Matt Culp; Utility Superintendent Kevin Hart; Parks & Recreation Director Amy Teegarden; Community Facilities Director Gery Carpenter; Administrative Services Director Glenn Jorgenson; Human Resource Director James Fehr and City Clerk Debbie Havens.

2. April 6, 2016 Meeting Summary – The April 6, 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 - No comments.

4. City Manager's Report
Priority Matrix Discussion, Ranking Deadline – Manager Alles referred the commission to the FY2017 commission priorities worksheet, 37 projects in total. He asked the commission to go through the list and rank the projects and return to him no later than Wednesday, April 27th.

Manager Alles reported the Economics Affairs Committee voted not to recommend the acquisition of the 15th Street Parking Garage. Staff is reevaluating the options and will keep the commission updated.

Manager Alles reported there is a Hazardous Waste event on April 23rd from 9:00 a.m. to 2:00 p.m. at the transfer station.

5. Department Discussions:
Community Development

Department of Labor Wildland-Urban Interface Code Changes & Impacts – Manager Alles introduced the agenda item. City Attorney Jodoin and Community Development Director Haugen reported on February 8, 2016, the Montana Department of Labor and Industry adopted the 2012 International Wildland-Urban Interface Code (“2012 IWUIC”). Local certified jurisdictions may now adopt the 2012 IWUIC as amended by the State. Adoption of the 2012 IWUIC is not mandatory. This memo examines what the city of Helena may regulate as far as building materials under the 2012 IWUIC, and the work that needs to be undertaken to adopt the 2012 (IWUIC) and designate certain or all areas of the city as “wildland-urban interface” areas.

As the commission is aware, the city's zoning prohibition against wood roofing materials was held by the Montana Supreme Court to be an invalid exercise of building code regulation.

The state eliminated parts of the 2012 IWUIC that were inconsistent with or regulated through subdivision review, zoning, and other adopted building and fire codes. Most important though, the state adopted Chapter 5 “Special Building Construction Regulations.” That chapter contains requirements for buildings to be constructed with ignition resistant construction techniques and materials. The specific level of ignition resistance for building materials and construction is determined according the “fire hazard severity” of the building site. If the building site is located in the “wildland-urban interface area” as determined by the local certified jurisdiction, the property owner must complete a “fire hazard severity form” found in Appendix “C” as part of their building permit application to determine the “fire hazard severity” of the building site. As the commission is aware, the entire city of Helena has been designated as the “wildland-urban interface area.” Thus, every building permit to build a new structure or modify an

existing one would require the property owner to analyze what “fire hazard severity” their property is and construct or modify the building according to the three classes of ignition resistant construction found in the 2012 IWUIC. There is a reasonable question whether property that is located in the northern parts of the city should be made to engage in this type of analysis on each building permit given the relative lack of fuel density.

The “fire hazard severity” of a property is determined according to the density of the fuel model (fuel type), the slope of the area, and how many critical fire weather frequency days per year the area experiences. The 2012 IWUIC has three fire hazard severity classes: Severe (Class 1), High (Class 2), and Moderate (Class 3). Extreme hazard areas (Class 1) have significant ignition-resistant building construction and materials requirements. For example, any structure in the extreme hazard area must have a “Class A” roofing assembly. For comparative purposes, the city’s invalidated regulations required at least a “Class C” roofing assembly. That regulation is congruent with the Moderate hazard areas. Thus, any area designated as a hazard area must have at least a “Class C” roofing assembly. The 2012 IWUIC goes well beyond simply roofing materials and, depending on the hazard severity area designation, includes ignition-resistant materials and coverage of openings for eaves, gutters and downspouts, vents, exterior walls, and under floor protections.

The state also adopted appendix “B” which requires vegetation management plans to be submitted with the building permit application. There is no requirement to actually implement that vegetation management plan or any obvious enforcement authority if the vegetation management plan is not carried out. Appendix “B” appears to be a mandatory requirement if the City adopts the 2012 IWUIC since the state specifically adopted it as part of its rule making. Representatives of the state have confirmed that adoption of Appendix “B” is a mandatory part of adoption of the 2012 IWUIC.

Obviously, the city already has the authority, regardless of construction of a new building, to regulate the type of vegetation on private property to protect the public health and safety. Section 7-7-4, HCC, currently prohibits “all vegetation that constitutes an imminent physical danger to people or property or visual obstruction for pedestrians or vehicles.” The city could adopt a regulation requiring more specific vegetation management to reduce fire risk to structures as part of its self-governing powers and without regard to the 2012 IWUIC.

More practically, however, any person seeking a building permit to construct or modify a structure in the “wildland-urban interface area” (all property within the city) would have to submit a vegetation management plan in accordance with Appendix “B.” Staff believes this would create an unnecessary requirement that does not add to the city’s existing regulatory authority. As explained above, Appendix “B” does not contain any requirement that the property owner carry out the vegetation management plan. Thus, the vegetation management plan submittal for all new or modified structures is overly burdensome to property owners and the city and does nothing to actually regulate the vegetation on property outside of a building permit.

Going forward, staff would like guidance on the following questions:

1. Does the city commission want to proceed with adoption of the 2012 IWUIC which includes Appendix “B?”
2. If so, should the wildland-urban interface area encompass the entire city of Helena and where is the appropriate boundary?

Fire Chief Emert reiterated Attorney Jodoin’s comments; if adopted as written, it will be difficult and labor intensive to enforce. There are already enforcement tools in place for vegetation.

Commissioner Noonan asked City Attorney Jodoin if Appendix B is required. Attorney Jodoin stated Appendix B is mandatory if the 2012 IWUIC is adopted. He does not believe it is within the Department of Labor’s jurisdiction to regulate vegetation.

Mayor Smith asked what happens if the city does not adopt the IWUIC. Attorney Jodoin stated if it is not adopted, it could not be enforced.

Commissioner Haladay asked where staff would fall if Appendix B was not an issue. Attorney Jodoin noted in the areas where properties might be labeled “extreme” the building codes is much more restrictive; as far as the city, the property owner would have to do the analysis to determine what area they are in and build accordingly.

Chief Building Official Pallister reviewed the various classifications of building requirements within the codes. It would be a significant economic impact on the property owners if the commission were to adopt the 2012 IWUIC.

Commissioner Haladay asked what would trigger the enforcement of the analysis for the property owners, would it be for any project that requires a building permit. Chief Building Official Pallister stated any project would require the property owner to complete the analysis for the property.

Commissioner Ellison asked if the commission could consider adopting the 2012 IWUIC without Appendix B and designate a portion of the city as being in the urban interface, what the likely outcome of that would be; would we be looking at a legal challenge. Attorney Jodoin stated Appendix B is mandatory if the commission adopts the 2012 IWUIC. Again, if the commission does not adopt it; there will be no enforcement. Attorney Jodoin noted he would be concerned about attorney fees.

Mayor Smith asked if the city has done a good enough job the last ten years with our wildland mitigation there is no longer a threat to the city, can we bear the risk. Fire Chief Emert stated the city has mitigation management in place, which includes vegetation management.

Commissioner Noonan asked if there are any legal ramifications if we do not adopt the 2012 IWUIC. Attorney Jodoin stated this code is discretionary and does not have to be adopted; the adoption would be a policy decision of the commission.

Commissioner Farris-Olsen noted if the commission does not adopt the 2012 IWUIC; does staff expect challenges to our current building codes as not being enforceable. Attorney Jodoin stated he does not believe there will be challenges to any other code than the IWUIC code. Chief Building Official Pallister stated the adoption is optional. Commissioner Farris-Olsen stated if we do not adopt it, he is concerned we cannot enforce other mitigation codes. Attorney Jodoin stated the city currently have a zoned area; however, based on the Supreme Court decision, we do not have any practical substantive regulations in that area; we have left it as a place holder.

Commissioner Farris-Olsen asked Attorney Jodoin if he sees any risk if the commission does not adopt it. Attorney Jodoin stated he does not see any risk.

Manager Alles spoke on Appendix B and noted the current city code addresses the vegetation in other titles. In addition, not the entire city is exposed to the same risks as it relates to the IWUIC. If the commission does not adopt the 2012 IWUIC and leaves the current building code as is, the city could enforce the Class A requirements. Commissioner Haladay asked if staff has an idea on what area of the city this would include. Manager Alles stated he would suggest the south end of town beginning at Lyndale/Euclid Avenues. Fire experts may say if a large fire occurs, those embers could fly for miles.

Commissioner Haladay clarified if adopted; Appendix B would require the property owner to complete an analysis for any building permit, no matter how small the project is. Attorney Jodoin stated that is how he reads it.

Mayor Smith stated he would be interested in drawing a boundary of the city; however, if we do so, we subject a good portion of the city to the new requirements.

Commissioner Ellison stated he would recommend staying status quo and not adopt the 2012 IWUIC at this time.

Attorney Jodoin noted the Department of Labor may be looking at tweaking the 2012 IWUIC as they move forward. The Department of Labor did this for Helen and Missoula; at this time Missoula is not likely to adopt it.

Chief Building Official Pallister noted the Department of Labor will consider the comments received and re-look at the 2012 IWUIC in the next cycle.

Commissioner Farris-Olsen asked what staff's recommendation is on the rest of the IWUIC and not Appendix B. Attorney Jodoin stated staff does not have a recommendation; at best they may be conflicted. Again, the city has a landscape ordinance.

Commissioner Haladay asked if there is other language or did the Department of Labor just adopt Chapter 5. Attorney Jodoin stated they removed or deleted almost everything except Chapter 5 and Appendix B & C.

Commissioner Haladay commented for most of the language in the 2012 IWUIC, the city has similar codes. He asked if the 2012 IWUIC has the generic language in it. Attorney Jodoin stated no.

Consensus Direction to Manager – Staff will continue to work with the Department of Labor on modifications and will not bring the current 2012 IWUIC forward for consideration.

Westside Annexation/Infrastructure Expansion – Manager Alles introduced the agenda item and gave a short history of what has occurred over the last year.

Community Development Director Haugen reported at the April 25th city commission meeting the commission will consider the following items at the April 25th city commission meeting. These items are connected to the Westside Annexation/Infrastructure Expansion:

1. **Resolution authorizing application to the Montana Department of Natural Resources and Conservation (DNRC) for a Renewable Resource Grant and Loan Funds Wastewater Grant for Phase I and Phase II of the Westside Project;**
2. **Resolution authorizing the submission of a Treasure State Endowment Program Grant;**
3. **Resolution for a Finding of No Significant Impact for a project extending the City's Wastewater Collection System to a defined, unincorporated area of Lewis and Clark County, adjacent to the Westside of Helena.**
4. **Resolution annexing the wholly surrounded area east of Joslyn Street and generally west of the existing city limits, all located in Lewis & Clark County, into the City of Helena, Montana.**

Director Haugen also reviewed the project, the estimated costs and the impacts the grants will have on the total costs. A copy of the Environmental Assessment has been available in the City Clerk's office for review.

Commissioner Farris-Olsen asked if the city has to do an accumulative impact analysis for an EA or is it only required for EIA. Attorney Jodoin stated he cannot answer the question and will look into it. Commissioner Farris-Olsen spoke in support of doing an accumulative impact analysis.

Manager Alles explained how the current wastewater system is set up and how the city receives credit on the amount of our discharge when hooking up septic systems.

Commissioner Haladay asked in regards to either grant, is there time limitations for the city to come back and look at other grants or can the city use these grants for other projects.

Manager Alles noted the city can only submit one TSEP grant application per legislative cycle. The TSEP grant would be eligible for other projects; however, the city may not score as well as with this project.

Director Haugen noted the city can apply for one TSEP grant per legislative session; there are seven statutory requirements and one is the threat to public health and safety. Both of these grants are competing with other jurisdictions.

Commissioner Haladay referred to the lists of water and stormwater projects and asked if there are specific projects that would rise to the top to use the grant funding for. Is it worth giving current rate payers a break before putting the grant funding toward this project.

Manager Alles noted city staff could look at funding the projects on the list through a TSEP grant; however, he would like additional time to identify specific projects.

Commissioner Haladay asked regarding to Phase II, is it wholly surrounded. Director Haugen stated Phase II is not wholly surrounded. Manager Alles noted most of the properties in in Phase II have city water and he is recommending if they have either sewer or water, they will be required to hook up to the other and essentially annex into the city.

Commissioner Haladay commented the available funding will be used to expand the wastewater into Phase II and essentially it will be forced annexation. Manager Alles concurred that is what will occur further down the road.

Commissioner Ellison referred to the Infrastructure Extension and Annexation map and asked if the yellow portions are currently in the city limits. Manager Alles and Director Haugen concurred. Further discussion was held on the area that includes Phase II and what is currently in the city.

Manager Alles asked if there are concerns with the Phase II piece and the recommendation to annex those properties. Commissioner Haladay asked if there are timelines when staff would like to see that happen. Manager Alles stated hopefully within one year.

Commissioner Haladay asked where the current Westside working group is, do most of the citizens live in Phase 2 or 3. Manager Alles noted there are representatives from all phases that have been involved with the working group. Commissioner Haladay asked what does putting in the wastewater out to Phase II do to those residents, are they still pursuing other funding. Manager Alles stated it was the residents that requested the project area are expanded to Phase II.

Manager Alles stated the commission will make the final decision on annexation of Phase I on Monday, April 25th; however, the proposed effective date for annexation is December 31, 2016.

Commissioner Ellison asked for an overview of the financing, is it the same funding package used for the first properties. Manager Alles stated yes.

Mayor Smith asked if the TSEP grant is received how it would impact the funding package. Director Haugen noted the \$750,000 will go toward the entire project and not by individual property owners.

Further discussion on how staff anticipates moving forward with annexing Phase II; how will it be determined when the properties are wholly surrounded, will it be when the city annexes the rights-of-ways; and the importance of keeping the residents, in all future phases, informed on what the city's intentions are.

Manager Alles noted it will be a different annexation methodology for Phase II; the city has the right to force annexation of the property if the owner has city services. Many of the residents in Phase II have signed waivers of protest for annexation. Attorney Jodoin noted when property is annexed, by state law, the rights of way also have to be annexed.

Commissioner Haladay asked is part of the plan is installing wastewater down Choteau, Cannon and Knight, and if so will those streets be annexed. Manager Alles stated yes. He further explained the city will eventually end up looping our water system and will annex the rights of way.

Commissioner Haladay asked if it is the city's intention to extend services out to Joslyn. Manager Alles stated yes and if we receive grant funds, the project will not begin until late 2017 or early 2018.

Commissioner Haladay stated it is important for the residents of Phase II to know they will be forced to annex due to being wholly surrounded. He asked staff to be very clear with the property owners in Phase II that they will be wholly surrounded and will be annexed. He also recognized many of them receive city services.

Manager Alles noted staff has been very clear with the property owners, if they receive city services, they will be annexed. Mayor Smith agreed city staff needs to be very clear that Phase II will be wholly surrounded and will be annexed in the future.

Director Haugen noted she anticipates some opposition at the public hearings on Monday, April 25th. She also concurred that staff needs to be transparent in regards to wholly surrounded annexation and city services. At this time, very few public comments have been received.

Manager Alles noted the city's contribution is paying the interest on the loan and offering the five year period for the residents to hook into city services. Vacant properties will be required to pay the costs up front and if the property is sold, the loan will be paid off in full.

Public Works

Long-term Storm Water Utility Projects with Major Budget Impacts – Manager Alles reported in the next few months the city commission will be reviewing the preliminary FY17 budget requests for the Stormwater Fund. Staff would like to discuss today those prioritized projects that exceed the current funding capabilities of the stormwater fund for fiscal years 2018-2022. Included in this discussion will be a preliminary look at a long-term rate strategy to accomplish these future challenges.

Director Camp referred the commission to the list of projects, the preliminary rate analysis, and the computed preliminary rate increases.

Assistant Public Works Director Hauck noted most of these projects came out of the 2003 master plan. A new master plan will be developed next year; however, many of the projects will remain the same. There are many stormwater pipes that go under individual houses and businesses; therefore, these projects are critical.

Mayor Smith asked if this list is deferred maintenance projects. Director Camp concurred. Commissioner Ellison referenced the recommended rate increases needed to fund these projects which is somewhere between a 12% and 15% increase. Manager Alles stated yes.

Commissioner Ellison noted in August when the commission sets the rates, it will be difficult for the commission to adopt the higher rate increases; however, these projects are critical.

Commissioner Farris-Olsen asked if there are commercial rates for stormwater. Assistant Director Hauck stated there is a minimum charge and then a rate based on the impervious area; therefore, the larger property owners pay a higher assessment. Most households pay the minimum rate.

Commissioner Farris-Olsen stated he would like to look at a rate that would assess the commercial users, who create a large run-off. Assistant Director Hauck noted staff can look at the rate structure. A rate study could be done; however, one is being recommended for water and sewer rates.

Manager Alles stated there is a cap of one-million on impervious square feet. Commissioner Ellison asked what commercial users exceed the one-million impervious square feet. Assistant Director Hauck stated the Helena Regional Airport and Carroll College.

Commissioner Haladay stated he would support the idea of looking at a second base rate for commercial properties. He then noted the commission had a good discussion on the water and street maintenance projects. He asked when the commission next discusses utility rate increases; staff provides a side by side comparison on all assessments in order to see the total impact of the increases.

Mayor Smith stated he too thinks of the accumulative effect of the rate increases; however, it is important to continue with maintenance projects. Commissioner Haladay acknowledged even small increases will impact property owners. He asked if there are different rates for low income eligible property owners. Administrative Services Director Jorgenson stated there is a reduced rate for solid waste and stormwater assessments. Manager Alles concurred to develop a flow chart that will show all recommended rate increases.

It was noted the city commission have kept the rate increases low for the last couple of years due to no stated need.

Memorandum of Understanding - Manager Alles also referred the commission to the Memorandum of Understanding for reimbursement to the City of Billings for the contract leading to a Montana Stormwater Control Guidance Manual to accompany the new state of Montana MS4 general permit.

6. Committee discussions

- a) Audit Committee, City-County Board of Health, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns – No report given.
- 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 – No report given.
- d) Board of Adjustment, City-County Administration Building (CCAB), Non-Motorized Travel Advisory Board, Transportation Coordinating Committee – No report given.
- e) Business Improvement District/Helena Parking Commission, Montana Business Assistance Connection, Public Art Committee – Commissioner Noonan reported the Parking Commission was disappointed with the parking garage sell not moving forward; the Downtown Master Plan is moving forward and it will be on a commission agenda at a later date. Commissioner Noonan reported MBAC is seriously looking at taking over the Armory at a cost of approximately 6-million. It would be a place holder for another business that could not currently take it over.
- f) Helena Citizens Council representative – No report given.

7. Review of agenda for April 25, 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 5:00 p.m.