

SUMMARY OF ADMINISTRATIVE MEETING
September 7, 2016 – 4:00 p.m.
Room 326, City-County Building
316 N. Park Avenue, Helena

1. Call to order, introductions, opening comments – Mayor Pro Tem Ellison called the meeting to order. Commissioners Farris-Olsen, Haladay and Noonan were present. Mayor Smith was excused. Staff present was: City Manager Ron Alles; Executive Assistant Sarah Elkins; City Attorney Thomas Jodoin; Assistant City Attorney Iryna O'Connor; Police Chief Troy McGee; Police Lieutenant Cory Bailey; Administrative Services Director Glenn Jorgenson; Community Development Director Sharon Haugen; Planner Lucy Morell-Gengler; Public Works Director Randall Camp; Parks & Recreation Director Amy Teegarden; Open Lands Manager Brad Langsather; Golf Maintenance Superintendent Larry Kurokawa; Golf Pro Scott Longenecker; Parks & Recreation Administrative Assistant Jennifer Schade; Recreational & Aquatics Manager Todd Wheeler, Parking Director Dave Hewitt; Community Facilities Director Gery Carpenter and City Clerk Debbie Havens.

Others in attendance included: HCC Representative Gary Spaeth; Ed Getherall, NGF Consultant; Golf Advisory Board members Dave Bauer, Pete Aspinwall and Lynn Staley; Jessica McAlpin, Lewis & Clark Humane Society; Engineer Greg Wirth and Marc Parriman,

2. August 17, 2016 Meeting Summary – The August 17, 2016 administrative meeting summary was approved as submitted.

3. Commission comments, questions – Board Appointments – Mayor Smith is recommending the following board appointment:

City-County Planning Board	Reappointment of Craig Charlton and Dick Thweatt to the City-County Planning Board. Second terms will begin upon appointment and expire September 2, 2019.
Helena Regional Airport Authority	Appointment of Elizabeth Bangerter to the Helena Regional Airport Authority. First term will begin upon appointment and expire September 1, 2019.
Non-Motorized Travel Advisory Council (NMTAC)	Appointment of Dennis McCahon to NMTAC. The unexpired term will begin upon appointment and expire on March 31, 2017. Appointment of Wilburn Rehmann to NMTAC. The unexpired term will begin upon appointment and expire on March 31, 2019.
Zoning Commission	Reappointment of Michael McCabe and Rebecca Harbage to the Zoning Commission. First terms will begin upon appointment and expire September 30, 2019.
Board of Adjustment	Reappointment of Klint Fisher to the Board of Adjustment. The second term will begin upon appointment and expire October 2, 2019.

Commission Comments – None offered.

4. City Manager's Report
Boulder Avenue Buy-Sell Agreement – City Manager Alles reported the private property described in the buy-sell agreement is located in our transportation corridor, an important piece in our connectivity east/west under Interstate 15. The property owner has allowed vehicles to cross the property for many years, but as traffic has increased through the corridor on Boulder Avenue, the property owner has experienced issues of trespass, dust (the road is not paved), and stormwater

concerns. He is ready to sell the property to the city to allow the road to remain open. If the property is not obtained, the risk is that the corridor will be closed or necessarily re-routed to a less optimal location.

Staff is recommending that the city purchase the property. The county has agreed to split the cost of the property and leave it in the city's ownership. The buy-sell agreement must be signed by the city manager and the city commission is being asked to approve the purchase.

The purchase price of \$319,713.00 is based on the 2016 market valuation as determined by the Department of Revenue; \$289,713.00 + \$30,000 in miscellaneous legal and disposal costs incurred by the owner to remedy the current situation.

Since the property is valued at over \$100,000 Section 1-4-15 of Helena City Code (HCC) requires an appraisal of property. Staff is recommending the commission waive the requirement for an appraisal pursuant to 1-4-15(C), HCC. Manager Alles spoke of two encouragement agreements that are being discussed; one for right of way to adjacent property and one to a water source.

By purchasing the property the Boulder Avenue underpass access will continue to be available to the public.

Commissioner Haladay clarified the city's liability is \$160,000. Manager Alles concurred and further explained he will work with adjacent property owners to vacate the right of way in the area and use those funds to pay for the city's portion of the purchase price.

Mayor Pro Tem Ellison asked what source of funding will be used to purchase the property. Manager Alles stated several funds will be used including stormwater; streets and gas tax. However, it is his intent to vacate and sale the right of way to the adjacent property owners and use those funds to reimburse the enterprise funds.

Commissioner Haladay asked if there will be future street improvements. Manager Alles stated not at this time; however, stormwater needs to be addressed in the area. There are no designs prepared at this time. Commissioner Haladay commented it seems like we are purchasing a road build out. He then asked what the cost of an appraisal is. Manager Alles estimated the cost \$10,000 to \$15,000.

Commissioner Noonan asked if the city has a sense on how the traffic pattern is building up; there seems like a lot more vehicles are using this route. Manager Alles stated the trip count was between 3,000 to 4,000 per day. Currently the traffic is not at that count due to construction.

5. Department Discussions:

Parks & Recreation

Bill Roberts Golf Course – Financial Feasibility Study and Review of Operations for Bill Roberts Golf Course (BRGC) – Manager Alles introduced the agenda item and gave the history of hiring the consultant.

Parks & Recreation Director Teegarden reported in May, 2016, the City entered into a contract agreement with the National Golf Foundation (NGF) to provide planning and evaluation services resulting in business recommendations and a cost-benefit analysis of viable capital projects.

The review included a strategic review of the golf course and operations, with a primary focus on identifying ways to enhance the revenue generating capability of BRGC in light of the directive that the golf fund remains fully self-sustainable.

The report includes a variety of findings and recommendations that range from industry best management practices, fee changes, and financial forecasting of potential capital projects. The report will supplement the existing golf course business plan. City staff and the Golf Advisory Board will reference the report for future guidance when making program, operational and capital project planning recommendations and decisions.

Director Teegarden introduced Ed Getherall, NGF consultant, who presented a summary of the report and offered to answer any questions.

Mayor Pro Tem Ellison asked staff for their comments. Golf Course Superintendent Kurokawa stated it is a well done and objective report. Golf Pro Longenecker commented he believes it is a fair and realistic approach and very well done report.

Mayor Pro Tem Ellison asked for public comment. Golf Board member Bauer thanked the commission for funding the hiring of the consultant; this is a great report. Pete Aspinwall noted an impartial consultant is very helpful and the recommendations that are being made are to improve BRGC; this is a great opportunity.

Commissioner Noonan noted he appreciates the information presented in the report. There is a lot of discussion on these recommendations. There is going to be a major need for an all-purpose building in the city with the closure of the Gateway Center.

Mayor Pro Tem Ellison recognized the comments of the outstanding staff, condition of the course and it is currently self-sustaining.

Parks & Recreation Director Teegarden stated there is a variety of recommendations and staff will begin to implement some of them and will continue to work at looking at a new facility in the future.

Consensus Direction to Manager - There was no consensus direction given to the manager.

City Attorney

Animal Control Ordinance – City Attorney Jodoin reported Chapter 2 of Title 5 of the Helena City Code currently contains the various duties and responsibilities for dog (animal) owners in the City. That chapter also includes various prohibitions such as keeping a nuisance dog. Further, the chapter contains a process for declaring dogs potentially dangerous and dangerous, depending on the severity of the actions of the dog.

The existing ordinance is, in many instances, redundant, conflicting, and creates an inefficient mix of civil and criminal enforcement processes. Generally, the proposed amendment cleans up the redundant and conflicting sections. More substantively, the amendment effects two major changes. First, it creates an offense for an animal that bites or attacks another animal or human. Second, it creates a process for the civil adjudication with regard to ownership of a dangerous dog when the owner cannot meet the requirements for keeping a dangerous dog. A third slightly less substantive change is a clarification of “nuisance animal” to incorporate the existing prosecution policy for barking dog complaints.

In terms of the first substantive change, presently if a dog bites or attacks another animal or human the only offense that can be cited is “nuisance animal” under Section 5-2-15, HCC, since the dog has caused an “annoyance” to the person by biting or attacking the person the person’s pet. “Nuisance animal” is primarily oriented towards the prohibition of prolonged barking. Because there is no specific violation for a dog that bites or attacks another animal or human, we have to rely on the “nuisance animal” provision. Rather, there is a civil “designation” and impoundment process that labels a dog “potentially dangerous” or “dangerous,” depending on the severity of the incident and prior history of the dog. This process is incredibly inefficient and lacks authorization to order relinquishment of the dangerous dog or seek restitution for damages caused by the dog. The second substantive change attempts to create a process whereby the City can petition the Helena Municipal Court to order the relinquishment of a dog independent of any criminal prosecution.

When a dog acts in a manner that results in the dog being designated “dangerous,” the dog is seized by the animal control officer and impounded at the Lewis and Clark Humane Society shelter. The owner is cited for the applicable concomitant offenses of “nuisance animal,” failure to have the dog on a leash, failure to have proof of rabies vaccination, and no city dog license, if they apply. Before the dangerous dog is released to the owner the owner must (1) obtain a dangerous dog license from the City, (2) provide proof of liability insurance covering attacks by the dangerous dog, and (3) have a secure enclosure for the dangerous dog to be kept in or keep the dangerous dog muzzled and on a leash when not in a secure enclosure.

Often, the dangerous dog owner does not have the resources to obtain liability insurance and provide a secure enclosure. In those situations the dangerous dog ends up remaining at the Lewis and Clark Humane Society shelter indefinitely, pending disposition of the underlying citations. The Humane Society incurs costs to board, feed, and vaccinate the dangerous dog. Because the Helena City Code does not authorize the City to petition the court to order the dog to be relinquished, the dog is kept at the shelter until the underlying criminal offenses are adjudicated. If the owner is convicted of “nuisance animal” because the dog severely attacked someone or has a previous history of

acting aggressively, the City, as part of sentencing, then seeks an order for the owner to relinquish the dog to the Humane Society. Until that time, which may be upwards of 6 months, the Humane Society bears the burden of housing and caring for the dog. Since the Humane Society is not the legal owner it has no authority to determine the best solution with respect to the dog.

As to clarifications to the "nuisance animal" portion of the City Code for barking dogs, the language is amended to incorporate the policy of the City Attorney's office with regard to prosecution of owners that keep a nuisance barking dog. A copy of that policy and barking dog log is attached.

The proposal is to adopt an ordinance to clarify various animal control regulations including the creation of an offense for any owner of a dog that bites or attacks another animal or human; and create a new civil dangerous dog designation procedure. The advantage to the new language is it provides the animal control officers, the City Attorney's office, and the Lewis and Clark Humane Society with an administratively efficient animal control ordinance.

Commissioner Haladay thanked City Attorney Jodoin for tackling this issue. He then referenced Section 5-2-7 – removal of excrement and stated he has received a number of complaints from citizens regarding this issue. He noted the city of Great Falls ordinance requires an owner to remove excrement from their property when it becomes a community decay issue. Commissioner Haladay suggested the city look at doing something flexible where we define it as community decay or a nuisance. This then becomes citizen driven to file a complaint through the community decay ordinance.

Attorney Jodoin concurred to review section 5-2-7 to include a requirement to clean excrement up on an owner's private property. Mayor Pro Tem Ellison asked if Commissioner Haladay had a preference if this should be in the community decay ordinance or the animal control ordinance. Commissioner Haladay commented this could be a citizen driven process regarding community decay. If we are not going to address the community decay ordinance, the language should be included in this one and cross reference the community decay ordinance.

Commissioner Noonan asked how often the city hears about an excrement issue on a dog on their property, other than their own. Attorney Jodoin stated he does not hear about these cases, it would be directed to the animal control officers.

Lieutenant Bailey concurred the animal control officers do get calls and many times they contact and work with the owner of the animal. Commissioner Noonan asked the difference between a potentially dangerous and dangerous animal. Attorney Jodoin explained a potentially dangerous animal is when it aggressively approaches someone but doesn't bite anyone; at that time, the owner is put on notice. A dangerous dog would be one that has actually bitten someone.

Staff will bring this ordinance forward and hopefully have 2nd passage by the end of the year.

Mayor Pro Tem Ellison asked for public comment – none was received.

Consensus Direction to Manager – Staff will tweak the draft ordinance and bring it forward to a city commission meeting.

Open Lands

360 US Forest Service Grant Update – Open Lands Manager Langsather reported on October 16, 2015 the Montana Department of Natural Resources hosted the kickoff meeting of the Capital 360 Initiative that is focused on mitigating the high potential for disastrous wildfire events in the greater Helena area. The defined mission of the Capital 360 is to take an "all hands, all lands" approach towards meeting the three goals of the National Cohesive Wildfire Management Strategy: Resilient Landscapes, Fire Adapted Communities and Safe and Effective Wildfire Response. To accomplish this task, the Capital 360 has identified the need to promote partnership and coordination, streamline processes, eliminate duplication of effort, procure resources to complete worthwhile projects, and share equally in the efforts collective success.

In January 2016, the Helena-Lewis and Clark National Forest sought and received funding for a variety of fuel reduction activities that support the Capital 360 Initiative. A portion of the proposed projects were slated to occur in the maintenance corridor of the South Helena trail system. In an effort to increase efficiency and combine resources to treat fuels and weeds across boundaries, the U. S. Forest Service chose to assign approximately \$850,000.00 in funding to the city of Helena through the use of a Participating Agreement (Capital 360).

The Capital 360 Agreement presented to the City by the U.S. Forest Service proposes to fund forest fuel reduction and weed management activities completed by the city of Helena within the maintenance corridor of the South Helena trail maintenance area for a period of five years. Funded activities will include fuels and weeds reduction maintenance work within previously treated City Open Space System Lands, felling and/or removal of hazardous fuels occurring within National Forest System Lands positioned adjacent to property owned by the City, and hazardous tree treatment and/or removal along National Forest and City trails located within the identified project area.

The Capital 360 project provides the opportunity to implement a heightened level of fuel and weed reduction management activities within publically owned properties positioned in close proximity to Helena's residential neighborhoods and frequented daily by area recreationalists.

This item is on the September 12, 2016 City Commission meeting agenda to request approval for authorization for the City Manager to enter into the Participating Agreement with the US Forest Service.

Mayor Pro Tem Ellison asked for public comment – none was received.

Consensus Direction to Manager – This is on the September 12th city commission meeting agenda.

Community Development

Green Meadow Annexation Improvement Agreement – Manager Alles introduced the agenda item.

Community Development Director Haugen referred the commission to the Agreement for Satisfaction of Annexation Conditions and reviewed the content of the agreement. It is staff's belief the developer needs to be clear on what deferrals they are requesting. Staff met with the applicant and the agreement before the commission is the result of the meeting and does not require the subdivision be finalized at the same time of the annexation occurs.

Planner Morell-Gengler gave an overview on the review process this project has had, subdivision review versus annexation review. The developer wants to find another mechanism that would trigger the annexation process. The agreement is what the applicant is proposing. Ms. Gengler then reviewed the original conditions and what the applicant is asking to be deferred with the agreement for satisfaction of annexation conditions.

Mayor Pro Tem Ellison asked for public comments. Marc Parriman, Project Manager, stated it is their hope to be able to get the foundations in prior to the weather turning cold. They have received full engineering approval for infrastructure and they are actively putting pipe in the ground. He explained the extension of Benton Avenue will require subdivision review. The plan is to install the infrastructure for Phase II by December.

Mr. Parriman stated they are asking for three deferrals 1) final plat until December; 2) Green Meadow access; and 3) installation of Phase II non-motorized access (sidewalks).

Greg Wirth, Stahly Engineering, thanked staff for meeting with them. The approval process has taken time and the deferrals will allow foundations to be installed before winter.

Mayor Pro Tem Ellison asked if staff has a recommendation in support of the deferrals. Planner Morell-Gengler noted the requests for deferral effects various departments. The applicant will also be asking for deferral of the acquisition of lift station capacity for Phase II. In addition, the applicant has indicated they will be requesting the conditions of the subdivision be amended; specifically dealing with access to Green Meadow Drive.

Community Development Director Haugen noted it is highly unusual to consider the annexation and subdivision separate. The applicant is proposing the installation of the infrastructure for Phase I and not Phase II. They have identified the capacity of the lift station for Phase I and not Phase II. Due to the nature of the request, staff is not ready to make a recommendation.

Manager Alles spoke on the importance of getting the infrastructure installed the exact way the commission originally approved the project. He noted both Phase I and Phase II will be built to the standards the commission has adopted. However, from time to time, there are some complicated pieces with a development and this project has those complicated pieces. Manager Alles stated city staff will

work with the developer to assure the infrastructure is installed as originally approved. Manager Alles recommended the agreement be facilitated and approved.

Mayor Pro Tem Ellison asked City Manager Alles if he is confident if the commission were to approve this agreement, at the end of Phase II, this project will be in compliance with all city standards.

Manager Alles stated he is confident Phase I will meet all city standards and the conditions of approval. However, there are still issues regarding Phase II, including access onto Green Meadow. What he can guarantee is if the improvements are not installed there will be no building permits issued. He cannot guarantee the developer will complete Phase II. Again, he can guarantee before anything is built, all conditions will be met.

Commissioner Noonan asked if this development was approved in the fall of 2015. Manager Alles stated yes.

Commissioner Haladay stated due to the commission's recent action on the Trinity Development, there is no reason the commission should not approve this deferral agreement. He asked for clarification on the alternative access on Ohana Court, where would the connection be. Manager Alles noted there is already an easement on Green Meadow Drive that connects to Ohana Court. This access is guaranteed, however, there is no guarantee MDT will approve another access onto Green Meadow Drive. Once a decision from MDT is received, the applicant can finalize the access plans.

Commissioner Haladay stated this would be a deviation from the original proposal and asked will this be approved with the deferral agreement or sometime in the future. Manager Alles stated it would be later as the goal is to develop Phase I and there may be further changes. Director Haugen stated in order to file the final plat; the developer would have to have access onto Green Meadow Drive. The deviation for access on Green Meadow would have to come before the commission before December of 2016.

Commissioner Haladay stated similar to the questions he asked on the Trinity deferral agreement previously, Part A for both Phase I and Phase II, the infrastructure provides for a special improvement district. As he reads both of those the only dedicated right of way appears to be under Phase I (2b); based on the language of the special improvement district does it cover any of the other infrastructure improvements. Attorney Jodoin noted the difference he sees between this deferral agreement and the one for Trinity, is that Trinity gave an easement that assures all infrastructure will be installed. At this time, this applicant has not offered any further easements; therefore, there is nothing to improve on, specifically Benton Avenue.

Project Manager Parriman noted they are actively installing Benton Avenue and complete build out of all conditions in Phase I will be completed by November 15th. The improvements to Phase II is the east/west pedestrian access and access onto Green Meadow. The final design on Phase II has not been completed. There is a deed restriction on the property that ties access onto Green Meadow. All the conditions will be met.

Commissioner Farris-Olsen asked if the secondary access will require the applicant to install sidewalks. Mr. Parriman noted sidewalks are part of the design and it is their intention to install sidewalks. The conditions require connectivity to Green Meadow Drive.

Mayor Pro Tem Ellison asked Manager Alles what kind of input is he looking for today. Manager Alles stated he would like to hear from the commission on whether or not they consider this an acceptable methodology to move forward with the annexation and ultimately the subdivision.

Mayor Pro Tem Ellison stated this isn't how he would prefer to proceed; however, on the other hand he concurs with Commissioner Haladay since the commission approved the Trinity deferral agreement, he would agree to move this forward.

Commissioner Farris-Olsen stated he does not like to see the annexation and subdivision approval be separated; however, he too referenced the Trinity agreement and concurred to move this forward.

Commissioner Noonan spoke on the need to have structure when designing a project; however, there is a need for flexibility. He also commented this agreement is clearer to him in regards to a specific approach and the timeline that has been presented. Due to those reasons, he would support moving this forward.

Commissioner Haladay stated he believes we have made development agreements probably the norm and there is nothing that should prevent the commission moving this forward.

Consensus Direction to Manager – Consensus to bring the Agreement for Satisfaction of Annexation Conditions forward to a city commission meeting.

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) 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 – No report given.
- f) Helena Citizens Council – HCC Representative Gary Spaeth noted the HCC Executive Committee will meet on Monday, September 12th to develop the September agenda. He asked the city commission and staff to let him know if they would like any item placed on the agenda. Mr. Spaeth also addressed the process for replacing HCC members; several members have resigned is due to them moving out of their district.

7. Review of agenda for September 12, 2016 – No discussion held.

8. Public Comment – No public comment received.

9. Commission discussion and direction to the City Manager – Highland/Montana Avenue Crosswalk – Manager Alles reported when the overlay was completed on Montana Avenue, the crosswalk at the corner of Highland and Montana was removed. There have been complaints from the residents due to students from Jefferson School using it. There has been communications between city staff and MDT and if the crosswalk is replaced, sidewalks and ADA ramps will be required. After commission discussion, there was consensus of the commission to have staff get a copy of the written decision from USDOJ, as there seems to be a difference of opinion if the re-striping of a sidewalk would trigger the requirements being discussed. Manager Alles stated he will get a copy of the decision to the commission.

Commissioner Farris-Olsen recognized and thanked the Helena Fire Department for sponsoring a picnic on Labor Day.

10. Adjourn – Meeting adjourned at 5:55 p.m.