

**SUMMARY OF ADMINISTRATIVE MEETING**  
**November 30, 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 and City Manager Alles were excused. Staff present was: Acting City Manager Amy Teegarden; City Attorney Thomas Jodoin; Police Chief Troy McGee; Administrative Services Director Glenn Jorgenson; Community Development Director Sharon Haugen; Community Facilities Director Gery Carpenter; Public Works Director Randall Camp; Assistant Public Works Director Phil Hauck; City Engineer Ryan Leland and City Clerk Debbie Havens.

Others in attendance included: IR Reporter Al Knauber; Greg Wirth; Marc Parriman; SK Rossi, Kim Leighton, Rachel Carroll Rivas, Jessica Lahr, Shawn Regor, Sue Hawthorne.

**2. November 9, 2016 Meeting Summary** – The November 9, 2016 administrative meeting summary was approved as submitted.

**3. Commission comments, questions** – Commissioner Noonan announced he will leave the meeting at 5:20 p.m.

Commissioner Farris Olsen presented the following amendment to the Non-Discrimination Ordinance:

**1-8- 4: DISCRIMINATION IN PUBLIC ACCOMMODATIONS PROHIBITED:**

It shall be unlawful for a place of public accommodation to deny, directly or indirectly, any person full and equal access or enjoyment of the goods, services, activities, facilities, privileges, advantages, and accommodations for a discriminatory reason. However, in any place of public accommodation where users ordinarily appear in the nude, users may be required to use the facilities designated for their anatomical sex, regardless of their gender identity. Such requirement does not constitute unlawful discrimination for purposes of this section. (Ord. 3162, 12-17- 2012)

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Commissioner Farris-Olsen stated the proposed amendment strikes the laws two sentences of 1-8-4. He recommended first passage of the ordinance be placed on the December 19, 2016 city commission meeting agenda.

Mayor Pro Tem Ellison stated since this is not on the agenda today and he just recently saw the proposed amendment, he is not ready to have the discussion today. He noted the original ordinance took a long time to get passed. It has been the practice of the commission when there is a controversial issue; the full commission needs to be present to discuss it. He also recommended contacting City Manager Alles, as he sets the agenda and Mayor Smith to give him notice of the amendment.

Commissioner Haladay stated in his opinion the language being proposed to be removed from the ordinance should never have been included and he would support the amendment being on the December 19 agenda.

Commissioner Noonan concurred to bring the amendment forward at the December 19<sup>th</sup> city commission meeting.

Commissioner Farris-Olsen stated he believes three commission members can direct City Manager Alles to schedule this on December 19<sup>th</sup> agenda and set a public hearing date in January 2017. He then asked Attorney Jodoin based on this discussion, is there anything else he needs to do to get this on the December 19<sup>th</sup> agenda. Attorney Jodoin stated nothing further is needed. His office will prepare the ordinance; however, he asked who will prepare the memo for the staff report.

Mayor Pro Tem Ellison stated he is uncomfortable having a public discussion on this today. There are people who may want to address the commission in opposition of the amendment; his concern is that notice was not given to allow anyone who may oppose the amendment to comment.

Commissioner Haladay concurred it is up to the commission to direct the manager to put this on the agenda. He also noted the commission has discussed these types of items at the administrative meetings and have taken public comment during the meeting.

Attorney Jodoin stated the commission normally accepts public comment at all meetings and he recommended that Mayor Pro Tem Ellison accept public comment today.

Mayor Pro Tem Ellison asked for public comment on the proposed amendment to the Non-Discrimination Ordinance. The following persons addressed the commission in support of the amendment and putting in on the December 19<sup>th</sup> city commission meeting agenda: Rachel Carroll-Rivas, Human Rights Network; SK Rossi, ACLU Montana; Kim Leighton, Pride Foundation and Shawn Regor.

Acting City Manager Teegarden noted when the NDO was originally adopted; there was criticism for scheduling the public hearing during the holiday season.

**4. City Manager's Report** – City Attorney Jodoin updated the commission on the effective date of Marcy's Law; the Secretary of State has prepared a certification with an immediate effective date. The Secretary of State believes the board has no authority to change the date; however, Attorney Jodoin believes there was no effective date listed. At this time, the issue has not been resolved and will reconvene on December 5<sup>th</sup>. He recommended filing the petition to get clarification from the Montana Supreme Court.

Commissioner Haladay stated one of the provisions prevents the dissemination of information; which is a direct conflict with victim advocacy groups, who work with law enforcement to contact the victims. How will the city work with any of these groups when there is a prohibition on giving the information. Attorney Jodoin stated the city will not be able to provide any information. He believes the language in the law is a violation of the Montana Constitution because the accuser has the right to know what crime they are being accused of. There are a lot of issues with Marcy's Law that need to be clarified.

Commissioner Haladay stated if Marcy's Law goes into effect tomorrow, it essentially has made it less safe for people who suffer with domestic violence.

Attorney Jodoin again suggested moving forward in filing the petition with the Montana Supreme Court. There was commission concurrence to file the petition.

**5. Department Discussions:  
Community Development**

**Green Meadow Development – Change of Conditions** – Community Development Director Haugen reported on October 17, 2016, the Helena City Commission approved Resolution No. 20311 annexing Lot 4A of COS #3035465 and authorized the City Manager to enter into an Agreement for Satisfaction of Annexation Conditions. One of the items outlined in that agreement is the timing of when the final plat for the Green Meadow Subdivision (a separate and distinct process from the annexation). The annexation agreement required that the final plat be filed by December 15, 2016. The purpose of linking the two together was threefold 1) many of the requirements for the annexation were similar to the Conditions of Approval for the subdivision; 2) the filing of the final plat for the subdivision would result in the dedication and full installation of Benton Avenue and 3) the annexation agreement outlines the timing of when building permits could be issued and when the buildings could be occupied.

On November 14, 2016, the Helena City Commission amended the annexation agreement with regard to the timing of when foundation and above ground building permits can be issued. Subsequent to the approval, the applicant was notified by the Montana Department of Transportation that MDOT will not allow an approach onto Green Meadow Drive for the development. One of the conditions of approval for the Green Meadow Subdivision is that the applicant must obtain an approach permit for the proposed access on to Green Meadow. This decision by MDOT requires that the following action be taken: 1) the applicant must request that the annexation agreement be amended to allow additional time for the filing of the final plat (see attached letter) and 2) the applicant must make a formal request to change the condition of approval regarding the access on to Green Meadow. This will require completing a revised TIS study and further analysis from city staff.

One of the questions for the City Commission is whether they are willing to consider the amending the annexation agreement to allow for the revised date for filing the final plat as proposed in the letter (new date would be June 15, 2017). The other question for discussion is to whether the City Commission is willing to entertain such an amendment to the subdivision and what concerns might they have when contemplating this issue. The purpose of this update is to garner some discussion and to solicit any questions or concerns the Commission may have regarding this request and change in conditions prior to having the applicant move ahead with TIS and pursuing alternative access for this subdivision. Any formal action would have to take place at a regular meeting of the City Commission. This would include the change in the annexation agreement and as a separate action, approving a change in the condition of approval for the subdivision.

The access for the non-motorized trail will still be installed on the state right of way. MDT reviews vehicular and non-motorized access as two separate items.

Director Haugen stated foundation permits have been issued; the applicant is still waiting for interim acceptance before above ground permits will be issued. No final occupancy will occur until all conditions in Phase I have been met.

Mayor Pro Tem Ellison asked when staff anticipates bringing forward the extension for filing the final plat to a commission meeting. Director Haugen stated it would be at one of the meetings in January 2017. Commissioner Haladay asked why there was a condition to have access onto Green Meadow. Director Haugen noted the access would provide an emergency access and a different flow of traffic. The correspondence from MDT was included in the administrative packet; MDT did indicate early on that they would not support an access onto Green Meadow. Commissioner Haladay stated traffic will essentially be pushed through the existing subdivision.

Commissioner Noonan asked if this is a typical process for subdivision review. Director Haugen stated no it is not; normally the subdivision and annexation review and approval runs parallel.

Attorney Jodoin reminded the commission this is one of the few subdivisions we have seen since the ordinance was changed that requires full development of infrastructure before final plat approval. Mayor Pro Tem Ellison noted the change happened when the Engineering Standards were updated.

Commissioner Farris-Olsen stated the commission has discussed MDT not allowing access onto Green Meadow and the easement to the north could be used as the access. Director Haugen noted there is an access to the north; if the applicant wants to use the access it would be a change of use and MDT would have to approve it. Commissioner Farris-Olsen asked how Chief Emmert feels about no access onto Green Meadow. Director Haugen stated when the new Traffic Impact Study is complete; the information will be shared will both the Fire Chief and Police Chief.

Mayor Pro Tem Ellison called for public comments. Marc Parriman noted he is present to hear what the wishes are from the commission; since both vehicle and pedestrian access has been denied onto Green Meadow from MDT. There is a possibility of having the pedestrian access onto Ohana Court.

Greg Wirth, Stahly Engineering, noted with the two components, annexation and subdivision; both processes are needed and access onto Green Meadow was a condition for the subdivision. MDT has made a suggestion on where the pedestrian access would be located. Mr. Wirth stated the applicant is asking for a six month to one year extension on the annexation agreement and to amend the subdivision conditions to allow access onto Sandstone and Benton Avenue and to allow the pedestrian access to be abutted up against Green Meadow Drive or use Ohana Court, which would require MDT approval.

Director Haugen stated staff will bring this back in January 2017; the commission will be asked to amend two conditions. Attorney Jodoin noted he is concerned people will be asking for occupancy for an apartment when neither the annexation or subdivision process is complete. He also asked if the condition on the non-motorized access is changed, who will be responsible for the maintenance of the path.

Commissioner Noonan asked if it staff's concern that an apartment could be completed and someone wants to move in. Attorney Jodoin stated if the apartments are built and ready to occupy in three months and the process is not complete, there could be an issue with people wanting to move in. Mayor Pro Tem Ellison stated the commission has expressed some concerns on how to proceed and suggested it not be a consent agenda item. Director Haugen concurred and noted staff will tighten up the language in the agreement.

**Public Works** – Assistant Public Works Director Hauck introduced the public works projects and reviewed the budget analysis worksheet for each of the projects.

**Quiet Zone Project Update** – City Engineer Leland reported the City of Helena first bid the Quiet Zone in July and received only one bid. That bid was more considered too expensive and the City Commission rejected all bids and decided to re-bid the project this fall. On Nov. 15<sup>th</sup>, 2016 the City of Helena, through our consultant KLJ, received two bid for the Quiet Zone Phase II. The low bid for the base bid came in at \$480,880 with the three additive alternates totaling an additional \$347,723 (see attached bid tabs). Additive alternate #1 is for the pedestrian improvements to Benton (\$89,723), alternate #2 is the wayside horn at National (\$129,000) and alternate #3 is the wayside horn at Roberts (\$129,000).

The award for the low bid will change depending on which schedule is awarded. Helena Sand and Gravel is the lowest bidder for the base bid but if any of the additive alternates are awarded then the lowest responsible bidder will be Missouri River Contractors.

Assistant Director Hauck reviewed the possible additional funding sources to include \$300,000 from Capital Improvement Fund – Non-motorized projects and \$500,000 – Gas Tax. He asked at the end of the meeting, the commission give direction on which projects they want to move forward and fund.

Commissioner Haladay asked if we move forward with the base bid and alternate 1, the city would be subject to yearly review to assure minimum safety compliance; if it falls out of compliance the trains could sound horns again until the alternatives are installed. He asked if the city could award the base bid and alternate one and then install other alternates at a later date. Engineer Leland concurred the city could award the base bid and alternate one. If and when the other alternates were installed, they would have to be bid out and could be more expensive than the current bid.

Commissioner Haladay stated the commission has kicked this around for some time and these numbers are higher than what we hoped for. He is comfortable with moving forward with awarding the base bid and alternate one and tolerate the risk for future improvements to keep costs down for now.

Commissioners Farris-Olsen and Noonan concurred with Commissioner Haladay.

There was commission consensus to move forward with base bid and alternate one in the amount of \$574,925; there would be a shortage in funding of approximately \$155,000. Mayor Pro Tem Ellison asked where the funding would come from. Commissioner Haladay stated the commission needs to discuss other projects and make a decision. Pedestrian improvements can be off-set from street maintenance funds.

Commissioner Farris-Olsen asked if there is funding available when other projects are not completed. Assistant Director Hauck noted there are other funding sources as mentioned earlier.

Commissioner Haladay stated it is better to know the total deficit before the final decision is made on the projects.

Mayor Pro Tem Ellison stated the quiet zone is not his favorite project due to the source of funding. Assistant Director Hauck stated he will work up impacts on the quiet zone and other projects and bring it back to the December 14<sup>th</sup> administrative meeting. Engineer Leland stated if the bid is accepted and awarded, construction will begin in spring of 2017.

After discussion there was commission consensus to move forward with the base bid and alternate one. Assistant Director Hauck and Engineer Leland will review the time requirement on when a bid needs to be awarded.

Mayor Pro Tem Ellison asked for public comment, none received.

**Raleigh Street Shared Sewer Service Project** – City Engineer Leland reported as with last year, there is another emergency failed shared sewer service on Raleigh Street between 9<sup>th</sup> and 11<sup>th</sup> Avenue. The house at 510 Raleigh has a failed sewer service that is connected with 732 and 736 9<sup>th</sup> Avenue. The service connects under the house of 736 9<sup>th</sup> Avenue and would require substantial excavation of the yards to even temporarily fix the service. The City Commission budgeted \$100,000 to start to address shared sewer services around the city. This project will be able to correct four shared or long services. The estimated cost of the project is around \$60,000. Staff received three quotes for the project with Missouri River Contractors being the lowest at \$55,000. Staff has worked with DEQ, which was very helpful, to get an emergency approval for the extension. Work will begin as soon as a contract can be signed.

Engineer Leland showed the location of the resident and noted there are many cases just like this that exist within the city limits. Due to limited funding, staff needs to prioritize the requests. The project will install the line and stub to property line, the owner will be responsible from the stub to the house.

Assistant Director Hauck commented instances like this remind us that we need to have the infrastructure installed correctly. Director Camp stated there are many instances like this in this same area of town.

Mayor Pro Tem Ellison noted this project is a poster child for installing infrastructure correctly.

**West Main Project Update** – City Engineer Leland gave an update on the project and stated Engineer Jeff Larson is responding to review comments from FEMA and MDT. Assistant Director Hauck noted West Main is on an urban route and therefore MDT has reviewed the plans and submitted comments and a recommendation for a larger size stormwater pipe, which increases the cost by \$400,000. Staff is still in negotiations with MDT. If all approvals are granted, construction would begin in spring of 2017.

Commissioner Haladay asked what the city gets with having West Main on the urban route. Engineer Leland noted West Main is a secondary road and is the access road for Unionville. MDT has indicated West Main needs to stay on the urban route. Commissioner Haladay asked if the city can ask that it be removed. Engineer Leland stated staff is in the process of requesting West Main be removed from the urban route; if successful, the city would not have to deal with MDT comments.

Commissioner Haladay asked staff be ready to make the proposal to the TCC in January. Engineer Leland stated staff will be ready to present at the January TCC meeting agenda.

Mayor Pro Tem Ellison asked for public comments, none was received.

**Front Street Design Project** – Assistant Director Hauck noted Front Street is a complicated project to review; funding includes using gas tax, water and stormwater funds. The funding is available for the water and stormwater portions of the project; where it falls short is the streetscape. The project is currently 2.4 million out of balance. What changed was the project went from a stormwater project to include a streetscape project.

Assistant Director Hauck reviewed several funding options to include Capital Improvement Funds; delay quiet zone and use the gas tax and order in sidewalks/curbs & gutters.

City Engineer Leland reported staff is currently negotiating the scope and fee with a consultant for a design and bid package for Front Street. He then showed the map of the preferred design.

Mayor Pro Tem Ellison asked what portions of the project, if eliminated, would be a cost savings. Assistant Director Hauck referred the commission to the budget analysis worksheet and noted the projects under streetscape would be the cost saving items. If the commission decides to reinstate the original project with ADA improvements, there is funding available.

Commissioner Haladay stated given the recently adopted Downtown Master Plan, he is not in the mood to dump asphalt and leave Front Street as is. There is approximately \$1.3 million dollars budgeted for the Airport Road; which the commission specifically voted not to proceed with. Downtown is a prime area for redevelopment and he would keep the project as designed.

Commissioner Farris-Olsen concurred and noted connectivity between Great Northern and downtown is very important.

Assistant Director Hauck concurred there was \$2 million budgeted for Airport Road, which would fund Front Street. Staff would bring this forward during the FY2018 budget discussions.

Mayor Pro Tem Ellison asked what the budget is for the lighting in the Front Street project. Assistant Director Hauck noted it is \$240,000 and explained the costs for the light district cannot be increased more than 3% without having to go through an election. Administrative Services Director Jorgenson stated similar lights have to be used throughout the entire district; cannot just do a portion of the lights.

Engineer Leland noted the commission will have to make a decision on whether the adjacent property owners will be responsible for the sidewalks/curbs/gutters. Commissioner Haladay asked if there are any residential properties on Front Street and if there are any properties that would be exempt from paying for the sidewalks. Engineer Leland stated he does not believe there are any properties that would be exempt from paying for sidewalks. There are new sidewalks adjacent to the State Fund building and the Federal Courthouse. Acting City Manager Teegarden asked if the adjacent property

owners would also be responsible for maintenance of landscaping. Attorney Jodoin noted city code requires the adjacent property owner to maintain the landscaping in the boulevard.

Commissioner Haladay stated the commission needs to make a decision on the adjacent property owner's responsibility. He asked staff to look at where the costs increase; specifically the ADA curb cuts and have the city install the curb cuts. However, he would support putting some of the responsibility for the sidewalk build-out onto the property owners. Commissioner Farris-Olsen and Mayor Pro Tem Ellison concurred.

Assistant Director Hauck thanked the commission for the discussion which gives staff direction. Staff believes this project will be part of the budget process and if approved would begin in the summer/fall of 2018.

Commissioner Haladay stated he would move forward with the Quiet Zone and Front Street projects. There is funding available to do both of these projects as discussed; recognizing it is future debt with bonded funding. Assistant Director Hauck concurred and stated there is a way to resolve the funding questions.

Assistant Director Hauck reported he will put a hard copy of the Kittleson & Associates report on the Neill Avenue/Helena Avenue/Cruise Avenue/Last Chance Gulch in the city commission office for review.

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

**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 – No report given.

**7. Review of agenda for December 5, 2016** – No discussion.

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

**9. Commission discussion and direction to the City Manager** – Mayor Pro Tem Ellison clarified his concern with discussion the proposed amendment to the Non-Discrimination Ordinance was there was no advanced notice for anyone who may have wanted to be present and comment. Everyone should have received advance notice.

**10. Adjourn** – Meeting adjourned at 5:40 p.m.