

SUMMARY OF ADMINISTRATIVE MEETING
December 14, 2016 – 4:00 p.m.
Room 326, City-County Building
316 N. Park Avenue, Helena

1. Call to order, introductions, opening comments – Mayor Smith called the meeting to order. Commissioners Ellison, Farris-Olsen, Haladay and Noonan were present. Staff present was: City Manager Ron Alles; Executive Assistant Sarah Elkins; City Attorney Thomas Jodoin; Assistant City Attorney Iryna O’Conner; Police Chief Troy McGee; Administrative Services Director Glenn Jorgenson; Community Development Director Sharon Haugen; Community Facilities Director Gery Carpenter; Public Works Director Randall Camp; City Engineer Ryan Leland; Engineer David Knoepke; Wastewater Supervisor Mark Fitzwater; Parks & Recreation Director Amy Teegarden and City Clerk Debbie Havens.

Others in attendance included: IR Reporter Al Knauber and Engineers Scott Murphy and Travis Meyer from Morrison and Maierle.

2. November 30, 2016 Meeting Summary – The November 30, 2016 administrative meeting summary was approved as submitted.

3. Commission comments, questions –

Upcoming Appointment – Mayor Smith recommended the reappointment of John Moore to the Public Art Committee. Term will begin upon appointment and expire December 31, 2019.

Commissioner Ellison noted the flag is at half mask in honor of Senator Glenn; he then spoke of his personal experiences with the Senator.

Commissioner Ellison referenced a letter and packet of pictures regarding community decay at a residence on 1600 Block of Poplar Street. Manager Alles and Attorney Jodoin will follow-up with the homeowner and report back to the commission.

Commissioner Noonan reported he attended the school board meeting on December 13th; people made good points at the meeting; however he is somewhat concerned there were accusations the school board is not acting in good faith. He hopes any discussion the city has would avoid that type of discussion.

Mayor Smith referenced the staff memo regarding ex-parte communications and review process regarding demolition of historic buildings. Manager Alles noted the school district will need to set up a pre-application meeting with the Heritage Tourism Commission. He also explained the remainder of the process and timelines associated with the application from the school board for a demolition permit for Central School. The city commission will make the final decision on the demolition permit.

Mayor Smith asked if the decision has been made to demolish the school and build a new state of the art school. Commissioner Noonan noted Superintendent Copps made that recommendation; however, he was asked to go back and look at other options.

Commissioner Haladay referenced the last paragraph of the last page of the August 11, 2014 memo from Jeff Hindoien **“As a practical matter, community discussions concerning the status of the Central School and 7th Avenue Gym facilities have been occurring for some time now. The fact that HPC members and/or City commission members may have been involve in some of those past discussions is not – in and of itself – something that creates any significant procedural concerns at this point. However, to the extent that the School District has now made its intentions clear with respect to proposing the demolition of the structures, both the HPC and the City Commission are now in a position where they will be called upon to review, conduct a public hearing and ultimately act upon the School District’s application as contemplated by the Helena City Code. In light of that, the HPC members and the City Commission members need to be cognizant going forward of the ex parte restrictions outlined above.”** and acknowledged the last time the demolition permit was being discussed; although the school district had not made a formal request, the commission was advised not discuss this. Commissioner Haladay asked Attorney Jodoin if he agrees with the recommendation, given that fact last time, the school district never submitted a demolition permit. Attorney Jodoin stated he concurs with the recommendation; the commission can talk about the situation; however, he would encourage if anyone wants to specifically talk about the demolition permit, they should offer their comments at the public meeting.

Commissioner Haladay again asked Attorney Jodoin if he concurs with the conclusion of Mr. Hindoien, given the school district has taken some formal or informal action, would constitute a clear intention for the purpose of not discussing a specific permit or should the commission wait until a demolition permit has been requested. Attorney Jodoin recommended erring on the side of caution and avoid ex-parte communications; recognizing there is some intent from the school district to apply for a demolition permit.

Mayor Smith stated he thought if he had a conversation regarding the demolition permit, it would be his responsibility to disclose that conversation and get it on the public record. Attorney Jodoin concurred.

Commissioner Noonan asked for clarification on ex-parte communications; if a citizen specifically addresses the demolition permit that would be considered ex-parte communication. However, if the citizen discusses the type of school that would not be ex-parte communications. Attorney Jodoin stated the commission should encourage people to attend the commission meeting and offer public testimony.

Commissioner Noonan asked when it comes before the commission, will the commission discuss the pros and cons of building a new school or renovating the current one. Attorney Jodoin stated he does not believe that would be criteria when considering the demolition permit application.

Commissioner Farris-Olsen suggested if the commission is not going to be discussing the demolition permit with the public that it be scheduled for an administrative meeting to allow public comment. A lot of the complaints the school district is receiving is the public does not believe they are being listened to. To avoid the same criticism, he believes the commission needs to listen to the public. Mayor Smith noted there will be a public hearing scheduled regarding the demolition permit.

4. City Manager's Report –

Charter Franchise Agreement – Short Term Extension – City Manager Alles stated the agreement will expire on December 31, 2016; he is recommending extending the agreement and allows him to continue to negotiate a new agreement. This item is on the December 19th city commission meeting agenda.

Armory – Parkland Dedication Discussion – City Manager Alles referred the commission to the map of the armory parking lot; city staff is working with Dick Anderson Construction on the donation of parkland to the city of Helena. There was hope to have this finalized before December 31st; however at this time, that is not going to happen.

Commissioner Ellison referred to the map of the parkland and asked if the parks department has been maintaining the park. Manager Alles stated yes and the city has paid for some improvements to the site.

Miscellaneous Updates - Manager Alles reported the street division will be removing snow from the downtown area and will coordinate with the parks department to get it from the walking mall. He then updated the commission on the recent snow storm.

The Cannon Street project will kick off on January 2nd and the Raleigh Street shared service project will begin tomorrow, December 15th.

Commissioner Ellison thanked the street division for the work they have done with the snow storm; he has not received any complaints at this time.

Manager Alles stated staff was prepared for the snow storm. Mayor Smith noted he saw the parks department employees clearing sidewalks on Last Chance Gulch. Director Teegarden noted the parks department employees clear the higher priority areas sidewalks when there is a snow storm.

Commissioner Farris-Olsen asked who would be responsible for clearing a small section of sidewalk on the eastside of the corner of Lawrence and the 7th Avenue gym. He is not sure who is responsible; however, it is not being cleared. Manager Alles noted he will ask staff to look at that section and report back.

5. Department Discussions:

City Attorney

CI 116 – Potential Impacts Discussion – City Attorney Jodoin updated the commission on the reoccurring concerns with CI116. The Attorney General has asked for a seven-day delay to respond to the petition for declaratory judgement. Attorney Jodoin stated at this time, due to the uncertainty of the impact of this bill, he will wait until the legislature convenes to see what bills regarding CI 116 will be

introduced. He is not comfortable precluding defendants from getting police reports and the public getting copies of accident reports.

Mayor Smith clarified that we continue to ask that the effective date is July 1, 2017 to prepare for the impact of CI116. Attorney Jodoin noted that the city is not opposed to Marcy's Law; however, there needs to be clarification to the law.

Commissioner Haladay asked what the process would be for the legislature to amend CI 116. Attorney Jodoin stated it would take the super majority for the legislature to amend CI 116 or the voters would be asked to vote on another version of Marcy's law. Commissioner Haladay asked what clarity are we hoping for. Attorney Jodoin stated the law should focus on major crimes and at what level are the victim's rights addressed.

Mayor Smith commented the only part the city is involved in is the effective date; it is his understanding that there is interest in seeking further clarification on some of the issues that have been brought up. Commissioner Haladay recommended the commission give the direction to staff to keep their eye on the policy side question and if there would be a reason the city should get involved with.

Attorney Jodoin noted at this time, there has been no formal challenge and he has not weighed in on whether to challenge CI 116.

Commissioner Haladay stated CI 116 violates the Montana Constitution in two areas and he believes this law should fail on its face. The city should strongly consider being involved in any form of litigation as it creates administrative problems and clogging the system.

Consensus Direction to the Manager - Staff will continue to monitor the implementation of CI 116 and keep the commission updated.

Public Works –

Quiet Zone Project Update – Manager Alles referred the commission to the memo from City Engineer Leland which summarized the City of Helena first bid the Quiet Zone in July 2016 and received only one bid. That bid was considered too expensive and the city commission rejected all bids and decided to re-bid the project this fall. On November 15, 2016 the City of Helena, through our consultant KLJ, received two bids for the Quiet Zone Phase II. Initial direction from the commission at the November 30, 2016 administrative meeting was to consider awarding the base bid and alternate No. 1 and not award alternate No. 3 or 4.

Based on the guidance given by the commission, staff would bring forward the award of the Quiet Zone Phase II project to Missouri River Contractors in the amount of \$574,925.10. This amount includes the base bid of \$485,201.20 and alternate #1 (\$89,723.90) for the total award of \$574,925.10. The total remaining budget for construction is \$425,200.00. The estimated budget balance including testing & contingencies (10%) could have a budget shortfall of \$207,217.61 (shown as option #1 – budget analysis worksheet).

If the commission would like to consider awarding all alternates (including the wayside horns at National and Roberts), staff would bring forward the award to Missouri River Contractors in the amount of \$832,925.10. This amount includes the base bid of \$485,201.20, alternate #1 (\$89,723.90), alternate #2 (\$129,000), and alternate #3 (\$129,000). The total remaining budget for construction is \$425,200.00. The estimated budget balance including testing and contingencies (10%) could have a budget shortfall of \$491,017.61 (shown as option #2 – budget analysis worksheet).

These projected shortfalls could be covered by using all or a portion of the \$300,000 budgeted in the capital improvement fund for non-motorized projects or the \$500,000 budgeted in gas tax for commission approved projects. It was also discussed that a possible option would be to use Street Maintenance capital funds (not currently budgeted). Staff is looking for final direction on the bid recommendation and how to cover the expected budget shortfall.

The commission consideration of this award would be scheduled on January 9, 2017 and would meet our 60 day award schedule.

Manager Alles recommended moving forward with the base bid and all four alternates or not do it at all. Commissioner Haladay stated he would move forward with option 1 with the full understanding it would have a yearly review. If at a later date wayside horns are required, they can be installed. If we pull the trigger on the entire project, he is concerned that it will not happen. Option 1 would allow moving forward.

Commissioner Farris-Olsen stated he would support moving forward with option 1; recognizing there are other projects that need funded.

Commissioner Ellison strongly suggested the commission not go forward with the quiet zone; there are other greater needs where these funds could be used. He has always stated the funding source is not where the quiet zone should be paid from. If we proceed, the city is favoring the few at the expense of the many.

Mayor Smith stated his goal from the beginning was to avoid the Federal Railroad Administration conducting an annual review of the quiet zone. There is enough oversight with city projects and we should not subject ourselves to more. Mayor Smith stated he will not support moving forward with either option.

Commissioner Farris-Olsen asked for clarification of the \$500,000 funding; is it part of the tax settlement from Charter and how was it determined to expend it on the quiet zone. Manager Alles stated the quiet zone discussion has been going on for quite some time. The original \$500,000 was an allocation from the tax settlement money the city received from Charter. The \$180,000 was the original plan's estimate that would have done the very minimum amount of improvements to comply with the regulations. Staff originally estimated \$750,000 which included the five crossings.

Commissioner Ellison commented the tax settlement received was from protested taxes; if those taxes had been paid over the years, the funding would have gone into the general fund which includes police, fire and parks. Each one of these departments has their own capital needs. He is not opposed to a quiet zone; however, these funds should not be used to fund it.

Commissioner Farris-Olsen asked what it would take to re-allocate the funding from somewhere else. Manager Alles stated it could be done through the budget process.

Commissioner Noonan asked at the January 9th city commission meeting, the commission will either award or reject the bid. Manager Alles stated if there are three commissioners not wanting to move forward, staff would not move it forward. Commissioner Noonan stated he will wait until it is on the agenda to make a final decision.

Engineer Leland recommended the commission take formal action on either awarding or rejecting the bids.

Consensus Direction to Manager: Place the bid award on the January 9, 2017 city commission meeting agenda.

Wastewater Effluent Disposal Study – Manager Alles reported the City of Helena's Wastewater Treatment Facility has hired Morrison and Maierle Engineering to research discharge options for our effluent. The Montana Department of Environmental Quality is requiring the City, through our discharge permit, to comply with more stringent limits on metals and nutrients.

Engineer Scott Murphy from Morrison and Maierle reviewed the information in the Wastewater Effluent Disposal Study to include the following topics:

- Permit Status – Renewal; Metals Limits; Probable Nutrient Limits; Numeric Nutrient Standards.
- Helena Wastewater Treatment Plant – Flow; Nutrient Removal; Metals
- Permit Compliance Options
- Groundwater Discharge
- Discharge to Existing Outfall – WWTP Upgrades Required
- Add Groundwater Outfall – Groundwater Treatment; WWTP Upgrades Required
- Crop Irrigation
- Scalping Plants
- Move Discharge to Missouri
- Other Options
- Project Status – Co-precipitation Bench Testing; Stakeholder Interaction; Groundwater Discharge Pilot Test; Complete Alternative Evaluation/Recommendation; Permit Application.

There was discussion on the content of the report, the nutrient standards adopted by DEQ; groundwater discharge; public safety issues and other options for discharge that may exist.

- 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 19, 2016 – No discussion.**
- 8. Public Comment – No public comment received.**
- 9. Commission discussion and direction to the City Manager – No discussion.**
- 10. Adjourn – Meeting adjourned at 5:30 p.m.**