

**SUMMARY OF ADMINISTRATIVE MEETING**  
**June 21, 2017– 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 Farris-Olsen, Haladay and Noonan were present. Commissioner Ellison was excused. Staff present was: City Manager Ron Alles; Executive Assistant Sarah Elkins; City Attorney Thomas Jodoin; Assistant City Attorney Iryna O'Connor; Administrative Services Director Glenn Jorgenson; Community Development Director Sharon Haugen; ADA Coordinator Elroy Golemon; Public Works Director Randall Camp; Assistant Public Works Director Phil Hauck; Fire Chief Mark Emert; Solid Waste Superintendent Pete Anderson; Community Facilities Director Gery Carpenter; Deputy City Clerk Katya Grover and City Clerk Debbie Havens.

Others in attendance included: IR Reporter Al Knauber; BID Director Renee Bauer, Sean Logan and HCC Representative Gary Spaeth.

**2. June 7, 2017 Meeting Summary** – The June 7, 2017 administrative meeting summary was approved as submitted.

**3. Commission comments, questions –**

**Upcoming Appointment** – Mayor Smith is recommending the following appointments:

City Zoning Commission	Appointment of Mark A. Ophus as the alternate member to the City Zoning Commission. The unexpired term will begin upon appointment and expire September 30, 2019.
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Non-Motorized Travel Advisory Committee (NMTAC)	Appointment of John Andrew to NMTAC. The first term will begin upon appointment and expire March 31, 2020.
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Public Art Committee	Appointment of Nick Ladas and Virginia Niccolucci to the Public Art Committee. The unexpired terms will begin upon appointment and expire December 31, 2019.
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Mayor Smith recognized IR Reporter Al Knauber for his work as the local government reporter for the last few years and thanked him for his service.

Mayor Smith noted there are a lot of items on the June 26<sup>th</sup> city commission meeting agenda and asked for comments on how much time should be allocated for the climate change resolution. He suggested one-hour for the resolution. Mayor Smith also noted there may be amendments offered and those take time. He asked if the commissioners have any amendments to please submit them in writing.

Commissioner Farris-Olsen stated one-hour is adequate; however, no one should be cut off. Commissioner Noonan noted allocating a certain amount of time for the proponents and opponents worked well during the Central School demolition permit public hearing.

**4. City Manager's Report** – Manager Alles reported adoption of the FY2018 budget is on the June 26<sup>th</sup> city commission meeting agenda. Staff will bring forward the amendments that have received commission concurrence and recommend adoption of the FY18 budget as amended. He asked the commission if they plan to offer any amendments at the June 26 public hearing, that they be submitted in writing prior to the meeting.

Manager Alles gave the following updates:

- The Helena Brewers will be leaving Helena at the end of the 2018 season
- Judge McMahon dismissed the lawsuit on Central School filed by Alan and Nancy Nicholson
- The 5K Tenmile race is scheduled for Saturday, June 24<sup>th</sup>.

Commissioner Farris- Olsen asked what basis was the Central School lawsuit dismissed. Attorney Jodoin noted the basis was the Montana Constitution grants exclusive and sole authority to School Boards of Trustee to control and supervise schools and develop the full educational potential of

each persons and Montana law expressly prohibits a local government from exercising any power that applies to or affects the local school system.

Commissioner Farris-Olsen asked how does this ruling affects the city's ability to enforce other ordinances with the School District; i.e. removal of snow from sidewalks. Attorney Jodoin noted he does not believe the ruling would change how the school district would operate and the sidewalks are public rights of way.

Commissioner Farris-Olsen asked what impact it would have if the school district wants to annex Jim Darcy School and extend water and sewer. Attorney Jodoin noted the school district would have to apply for annexation and extension of services and the city commission has the jurisdiction to approve or deny the request. Commissioner Farris-Olsen stated he has concerns that all of the above actions would be affected with the school district, based on the ruling. Attorney Jodoin noted annexation and extension of city services would be at the request of the school district.

Commissioner Haladay stated he was in the courtroom and watched the arguments and felt it went well. He complimented Assistant Attorney Iryna O'Connor on how well she did during the proceedings. Commissioner Haladay asked how the city could enforce building codes with the school district, for example if a disagreement arose over the size of a pipe; based on the ruling does the city have a better case to stand on. Attorney Jodoin stated he believes the city would have more authority based on state law; the school district still has to comply with city regulations based on state law. If the city's standards are a certain pipe or meter size, the school district would have to comply with the standards. Commissioner Haladay asked if there could be any deviation to the fire code that may not be adopted by the state but by the city. Attorney Jodoin noted there may be an issue; each case would have to be reviewed regarding the fire codes.

Mayor Smith asked for a copy of the order and then recognized and thanked Deputy Attorney O'Connor. Commissioner Haladay asked if there was a date set for filing for attorney fees. Assistant City Attorney O'Connor stated the date will be included in the order. Commissioner Haladay asked if there was interest in scheduling an executive session to discuss litigation strategy regarding attorney fees. Attorney Jodoin stated he will look into recovering attorney fees; however, he does not believe the city is entitled to attorney fees. Commissioner Haladay concurred the city would not be entitled to attorney fees, but it may be worth a discussion. Manager Alles stated unless there is a strong feeling to pursue attorney fees, there is no need for a meeting. Commissioners Haladay and Farris-Olsen concurred not to pursue attorney fees.

Mayor Smith recognized the decision from the Montana Supreme Court on the Ten Mile Water Rights litigation. Attorney Jodoin reported the majority of the Montana Supreme Court concluded that the city did not abandon any portion of its water rights. The Court did affirm the Water Master and Water Court with respect to the issue of place of use. Unfortunately that means the city can only provide water to property within the city limits as of July 1, 1973 and to properties that were receiving city water. We're still triaging this aspect but expect that an application to the Montana DNRC for a change in place of beneficial use will be necessary to "add" properties that have been connected since 1973. Going forward, the change in place of beneficial use application process will need to be part of the annexation consideration.

Manager Alles spoke on the point of use and noted staff will work with DNRC to use the urban growth boundary as the point of use. Staff will develop a strategy and bring it forward for commission consideration. Attorney Jodoin reported Mr. Skinner has until June 28<sup>th</sup> to ask the Supreme Court to reconsider ruling.

Mayor Smith noted this decision is significant and thanked everyone who worked on this case. Commissioner Noonan asked Attorney Jodoin to mention it again at the city commission meeting on Monday, June 26<sup>th</sup>.

**5. Department Discussions:**  
**Community Development**

**ADA Transition Plan** – Manager Alles introduced the agenda item and recognized ADA Coordinator Golemon for the work he has done.

ADA Coordinator Elroy Golemon reported The Americans with Disabilities Act (ADA) requires state and local Governments to conduct a Self-Evaluation of its facilities, parks, services, programs, and activities to identify barriers. Once the barriers to people with disabilities are identified, the ADA requires a Transition Plan be developed to remove, modify or correct any identified barriers in existing facilities and

parks in order to ensure accessibility to any programs, services or activities that are conducted in these locations.

A Transition Plan establishes the steps necessary to complete the changes identified through the Self-Evaluation process. In addition, a Transition Plan establishes the schedule for completing the needed changes and allows for prioritization of those changes. Transition Plans are reviewed and updated on a periodic phases as projects are completed and programs made more accessible and should always reflect current changes that are made to improve accessibility.

The first transition plan for the City was adopted by the City Commission on January 22, 1993. In 2009 the Federal Highway Administration (FHWA) investigated a complaint submitted to the US Department of Justice (USDOJ). The FHWA investigation found that the Self Evaluation and 1993 Transition Plan focused primarily on employment provisions and ADA administration and identified improvements needed for some City facilities. In addition, the FHWA investigation determined that the City's 1993 Transition Plan failed to include schedules for program accessibility especially on public right-of-way within the City's jurisdiction. Therefore the FHWA recommended that the City update its Transition Plan.

Since 2009 the City and the ADA Committee have worked together to complete numerous projects to meet accessibility such as: Updating the ADA Complaint Grievance process; City policies, forms and web site have been and are continually being reviewed for updates; a map of accessible routes in the downtown has been developed; an inventory of Curb Ramps in the City has been completed; a priority funding map was developed indicating the routes and related ADA curb ramps to target as funds come available; and the snow removal ordinance has been updated.

Due to the complexity and number of City owned facilities and parks the ADA Committee recommended that the City secure the services of a company to assist with this project. In March of 2015, the City of Helena contracted the services of John McGovern and Recreation Accessibility Consultants (RAC) to develop a new Transition Plan for City owned facilities and parks. As part of the update process city staff and RAC conducted new Self-Evaluations of each facility and park location to determine what types of access barriers exist for individuals with disabilities.

As part of the process the ADA Committee conducted a public outreach meeting that was held on February 17, 2016 (see attached summary). The draft Transition Plan update was placed on the City web site, and publicly noticed. In addition, to the website a copy the draft Transition Plan is available upon request to any member of the public or interested group. Invitations to the public outreach meeting were sent to over 20 organizations and government entities

Since the outreach meeting the ADA Compliance Committee during 5 bi-monthly meetings held between February 2016 and April 2017 reviewed and discussed the proposed priorities of the transition plan. On Monday, April 3, 2017 the ADA Compliance Committee voted to accept the Transition Plan priorities as recommended by RAC (see attached minutes).

The proposed Transition Plan is only for existing City owned facilities and parks constructed before March 15, 2012. All new construction or renovation completed after March 15, 2012 must comply with the ADA. Any renovations or new construction initiated and completed after March 15, 2012 that is not found to be non-compliant cannot be incorporated for correction in 2017 Transition plan and must be corrected to meet current ADA requirements.

The 2017 Transition Plan will replace the 1993 Transition Plan and will be reviewed annually for updates and changes in priority by City staff, the ADA Committee and City Commission. In addition, the 2017 Transition Plan will be used to help guide future planning and implementation of necessary accessibility improvements. Finally the 2017 Transition Plan establishes the City of Helena's ongoing commitment to providing equal access to all its public facilities, parks, programs, services, and activities for citizens with disabilities.

ADA Coordinator Golemon reviewed the ADA Update, Projects completed in FY17 per department. He specifically noted the training the Helena Police Department has sent officers to and the training provided by the department.

The next step is to hold a public hearing for city commission acceptance of the 2017 Transition Plan.

Commissioner Noonan stated ADA Coordinator Golemon and the city departments should be proud of the work that has been completed; this has become part of the ethic of the city.

Mayor Smith referenced the February 17, 2016 ADA Committee minutes, Page 9 where Kelly Lynch noted her priority would be to fix those things that were built or maintained that are in violation of

the 2010 Standards since the standards went into effect. He then asked do the FY18 projects tie back to the 2010 Standards. Coordinator Golemon stated he would have to check with the standards. He then referenced the Parks Maintenance building and noted that building had to be brought into compliance at the time of the remodel.

Mayor Smith noted the Appendix to the Transition Plan includes the projects. The commission will be asked to accept the Transition Plan at the July 10<sup>th</sup> city commission meeting.

Community Facilities Director Carpenter noted any construction since 2010 has met all ADA Standards. Other items in the report will be brought up to code and may be in the budget for FY2018. At this time, staff is working on bringing projects done prior to 2010 up to ADA Standards.

HCC Chair Spaeth recognized the work the city has done to bring the city into compliance with the ADA standards; he thanked everyone for the work that has been completed.

Mayor Smith asked what two projects are estimated to cost more than \$50,000. Community Facilities Director Carpenter reported the parking on south side of City-County building is one of the projects and will be budgeted for FY2020; in addition the major costs for the City-County building will also be budgeted for FY2020.

**Consensus Direction to Manager - The ADA Transition Plan will be on the July 10<sup>th</sup> city commission meeting for a public hearing.**

**City/County Land Exchange** – Manager Alles reported city and county staff have been discussing a land exchange and purchase of property located north of the current wastewater treatment plant. The county parcel is 40-acres and the city parcel is about 38.5-acres. There is a strip of land on the west boundary of the city's parcel that is owned by the Bureau of Reclamation. Staff proposes that the city acquire title to the entire 40-acre county parcel in exchange for 23.5-acres of the city property and payment for value of the difference in size of the property exchange. A 2015 appraisal set the value of the county parcel at \$1.15 million. That amount reflects the difference in value between the county property and the city property. The city's long term plans for the property would to utilize it for future expansion and potential alternatives of the wastewater treatment facility complex needed for compliance to State or Federal regulations. The county's plans are to build some sort of public facility at that location.

The disposal and purchase of real property is governed by Sections 1-4-15 and 17 of Helena City Code. 1-4-15, HCC requires an appraisal to purchase property. However, that requirement may be waived by the city commission. Section 1-4-17, HCC requires the passage of a resolution of intention signifying the city commission's intent to dispose of the property, authorizing the city manager to enter into an agreement with the county for the transfer and purchase, and set a public hearing date. The commission would then hold a public hearing and give final approval for the manager to execute the transaction exchanging the property.

In addition to the formal process for the disposal of city property, an amended plat for a boundary line location will have to be completed and filed. Since the parcels being created do not have water and wastewater mains adjacent to the property as required by 12-2-13(C), HCC, the city commission will have to consider and approve granting a variance from that requirement. The variance request and approval of the amended plat will occur at the same meeting as the final approval of the property exchange.

**Consensus Direction to Manager – Move forward with the proposal.**

### **Public Works**

**Solid Waste Rates Discussion** – Assistant Public Works Director Phil Hauck reported the projected cash flow for Residential Solid Waste shows the impact of a 1% rate decrease with the projected five-year capital requests as shown in the comprehensive capital improvement program (CCIP). There are several large future capital scenarios that will affect this cash flow and rate recommendations. The current residential solid waste rate is \$179.68/year or \$ 14.97/month.

Assistant Director Hauck referred the commission to the following options for discussion and the rate impacts calculated at the administrative meeting:

FY20 – Residential Fleet Garage (\$573,680) – Capital planning anticipated housing the residential fleet at the Transfer Station instead of the current shop location.

FY21 – Residential Fleet Replacement (\$2,173,680) – Capital planning anticipated increasing the size of the residential fleet by one unit to five side-loaders. The unit price of \$434,736 anticipated purchasing

energy efficient hybrid side-loaders. The unit price of the current fleet purchased in FY14 was \$241,832. FY22 – Sale of Fixed Asset Revenue assumed that all four existing side-loaders would be sold for \$50,000 per unit. The other option that could be considered would be to sell three units, keep one unit, and purchase four new units. This might be a way to transition to the five needed units and lower the overall cost.

Staff is requesting direction from the Commission as to the rate decrease recommendation.

The commercial rate matrix was last adjusted July 1, 2012. Commercial solid waste rates are billed monthly with the water bills and can be changed/adjusted at any time. Staff is requesting direction from the Commission if the matrix should be reviewed by staff this fall.

Mayor Smith commented with the recommended decrease of 1% it will decrease the revenue by 19,502. Staff concurred.

Assistant Director Hauck noted the overall impact of all of the rates would increase the assessment by \$50.02; this would include the 1% reduction in solid waste and includes the stormwater at the highest level of 14.58% increase.

Commissioner Farris-Olsen asked what is the effect of the 1% decrease per household. Administrative Services Director Jorgenson stated it would be \$1.80 per household. Commissioner Farris-Olsen suggested reducing the solid waste assessment by 2%; the impact of the total assessment increase would be under \$50.

Commissioner Noonan asked what the revenue would be if the rate is left as is. Director Jorgenson showed a spreadsheet with the proposed changes.

Commissioner Haladay asked what the life span of the fleet is. Superintendent Anderson stated it is seven years; however, staff continues to try and extend the life span of the fleet. Commissioner Haladay stated with all things being equal and with a new fleet being budgeted for in FY22, would the funding be available if the commission were to reduce the rate by 2% for FY2018. Assistant Public Works Director Hauck concurred and noted there are variables that could change.

Commissioner Noonan asked Superintendent Anderson when the fifth truck would be needed. Superintendent Anderson stated the proposal is FY2021; there are other options to provide the fifth truck. Due to the annexations, the demand on the four trucks has increased and the fifth truck is needed.

Commissioner Farris-Olsen recommended increasing the residential stormwater rate by 7% and the commercial rate by 19.6%. Administrative Services Director Jorgenson showed the spreadsheet on what those increases would be.

It was noted when staff first brought forward the rates for consideration the total was over \$80; with the newly recommended rate increases/decreases it would be approximately \$45. The rates will be brought forward through resolutions of intention in August 2017.

**Consensus Direction to Manager – Staff will bring forward the rates recommended by Commissioner Farris-Olsen to reduce the solid waste rate by 2%.**

**Household Hazardous Waste Take Back Analysis** – Manager Alles and Assistant Public Works Director Hauck referred the commission to the household hazardous waste take back analysis spreadsheet. Manager Alles noted staff has had a lengthy discussion on the program and noted approximately 50 people participated in the program and the majority of the material brought in was oil based paint. He then asked the commission if they want to continue the program. The landfill would accept the hazardous materials and it would cost approximately \$60 compared to an average of \$16,000 per event.

Prior to the event in 2018, staff will bring this back for discussion. Commissioner Noonan asked if the program goes away, the only difference would be the hazardous materials would be taken to the county's landfill. Manager Alles concurred and explained the safety measures in place at the county's landfill.

Public Works Director Camp explained the standards for accepting hazardous waste and based on those standards, the county's landfill can accept 220 pounds per month. A lot of the material brought to the event could have been used by someone else or thrown directly into the pit at the transfer station.

Mayor Smith noted if the program is discontinued, there needs to be public education on what the landfill can accept regarding hazardous waste.

**6. Committee discussions**

- a) Audit Committee, City-County Board of Health, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns – Mayor Smith reported he is attending the Montana League of Cities and Towns quarterly board meeting today and tomorrow.
- 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 – BID Executive Director Bauer reported it is going to be a busy summer.
- f) Helena Citizens Council – HCC Chair Gary Spaeth reported the HCC meeting is scheduled for June 28<sup>th</sup>; Fire Chief Emert will attend the meeting. Representatives from the Helena Regional Sports Association will give a presentation and a report on the Civic Center will be provided. In addition the Caird property will be discussed.

**7. Review of agenda for June 26, 2017 –** Commissioner Haladay noted when the Planning Board considered Intermountain's agenda items, they considered the variances first and then the amended plat. He would like to consider the variances prior to taking action on the amended plat at the June 26<sup>th</sup> city commission meeting.

Commissioner Noonan asked for an update on the Intermountain agenda items and asked if the variances being considered alleviate some of the residents' concerns. Manager Alles stated the variances could affect some opinions.

Manager Alles noted public testimony will be offered after the staff presentation on the variances and the amended plat; the commission could then decide which order to take action on.

Mayor Smith referred to the a resolution affirming Helena's continued efforts to combat climate change and suggested the proposed citizens conservation board could be filled by the HCC members.

Manager Alles noted the HCC is looking for items to work on and they could be asked to take on the issues outlined in the climate change task force. Manager Alles noted he has not discussed this with either Commissioner Haladay or the HCC.

HCC Chair Spaeth noted this item is on the HCC agenda and he plans on appointing a task force to discuss at a minimum our carbon footprint. The HCC will also discuss developing a brochure on climate change to use as a water bill insert. Chair Spaeth stated the HCC members have mixed opinions on the resolution; however, they will move forward with a recommendation, whether the resolution is approved or not.

Mayor Smith stated he will plan on allowing one-hour for the resolution on climate change. Commissioner Farris-Olsen again stated he does not want to cut people off.

Mayor Smith asked the commissioners if they plan on offering any amendments to the city budget that they be submitted in writing prior to the meeting. Manager Alles referred the commission to the list of budget amendments that will be before the commission for consideration.

Commissioner Farris-Olsen asked if the market rate adjustments are included in the budget and if the commission does not want to approve them an amendment would be required. Manager Alles concurred. Commissioner Farris-Olsen asked if there is anything in the budget for a parental leave proposal. Manager Alles stated if parental leave is a policy adopted by the commission, staff would implement it and if there were issues at mid-year, they could be discussed.

Commissioner Noonan asked for clarification on the medical insurance coverage for families. Manager Alles noted the insurance rates for spouses and children are proposed to be frozen for FY18. Commissioner Noonan clarified, the proposal would be to cover the members of the city commission and their families as part of their salary package and asked would this have to be included in the ordinance that addresses the commission salary. Manager Alles noted any change in the commission's compensation package would have to be included in the ordinance that has specific dates it can be amended. Manager Alles noted he plans on bringing forward the ordinance for discussion this fall.

Commissioner Noonan stated he received a letter from MMIA notifying him that St. Peter's Hospital will no longer be a participating provider to the employees. He asked if this is the same type of

program the state started a couple of years ago. Manager Alles stated it is the same as the state and noted St. Peter's interim president has contacted him and wants to sit down and discuss options. Manager Alles noted there are only two hospitals in the state that have not signed up for the reference based pricing.

Commissioner Haladay referred to the \$33,000 that is budgeted for overtime to bring a 7<sup>th</sup> firefighter on during peak hours and noted the commission has discussed increasing the number to \$67,000 in order to add the 7<sup>th</sup> firefighter at all times and not just during peak hours. He then referenced the administrative costs of funding the 7<sup>th</sup> firefighter and asked if the \$33,000 is increased to \$67,000 do we also need to have a corresponding motion to increase the administrative costs. Manager Alles stated no.

Commissioner Haladay asked if the market base adjustments were turned down or a different COLA is approved the administrative numbers would be taken care of. Manager Alles concurred.

Administrative Services Director Jorgenson reported Commissioner Ellison intends to offer an amendment to remove \$72,500 from the elections line item from commission budget since there is no requirement for a primary.

8. **Public Comment** – No public comment received.
9. **Commission discussion and direction to the City Manager** – No discussion held.
10. **Adjourn** – Meeting adjourned at 5:40 p.m.