

completed. MRL has indicated the agreement will be sent within the next week and the panels will be installed.

Commissioner Noonan referenced a letter regarding a bike lane on Colonial Drive and asked for an update from staff. Engineer Leland stated he would need to refer to the Transportation Plan to see if a bike lane on Colonial was included. Commissioner Haladay stated the bike lane on Colonial from Hannaford to the south hills was included in the plan with a budget of \$41,000. Manager Alles stated staff will follow-up on the letter and report back to the commission.

Commissioner Noonan asked Police Chief McGee how much of the police activity get into the paper. Chief McGee reported the command staff reviews all the reports and submits the highlights of the day to the paper. Commissioner Noonan asked if there are more drug related incidents that citizens do not see in the paper. Chief McGee noted a lot of drug activity happens; however, some cases cannot be reported on. There are some restrictions on releasing information when working with the Missouri River Drug Task Force.

Commissioner Noonan recognized Officer Zander for attending the Parks Board meeting and speaking on the curfew issue.

4. **City Manager's Report** – Manager Alles reported the ground breaking at the Bill Roberts Golf Course Club House will be happening within the month.

Manager Alles then asked City Attorney Jodoin to speak on I-183. Attorney Jodoin reported I-183 was initially approved by the Attorney General's office; however, the Supreme Court has rejected the ballot language.

Attorney Jodoin reported this measure requires all state and local government entities, including schools and universities, to designate "protected facilities" in government buildings — such as locker rooms, changing rooms, restrooms, and shower rooms — for use by members of only one sex. It defines "sex" as "a person's immutable biological sex as objectively determined by anatomy and genetics existing at the time of birth." A person may not use protected facilities that are not designated for that person's sex. The government may provide an accommodation, such as single occupancy facilities, for special circumstances upon request. The measure requires the government to "ensure that each protected facility provides privacy from persons of the opposite sex." It authorizes people to sue governmental entities and recover monetary damages for violations. It also precludes the adoption of non-discrimination ordinances by cities and creates a right of action against the city for failing to project.

I-183 is problematic as it takes away the local government self-governing authority, not only how we manage our facilities, programs and services but the adoption of the non-discrimination ordinance.

The ACLU has contacted the city as they are planning on bringing a substantive challenge to I-183 for violations of civil liberties and have invited other cities to join them as plaintiffs. The city of Missoula has elected to do so; the city of Bozeman is investigating the issue. Attorney Jodoin noted I-183 is bad news and he has two concerns (1) what the city's legal issue is with the standing and do we want to take on and promote the civil liberties issues; (2) what is illegal about the initiative process that takes away local government power.

Attorney Jodoin stated he is not sure if the ACLU would be the appropriate party to represent the city. Our interests are technically aligned now; however, what happens if we were to disagree. The Montana League of Cities and Towns is discussing the issue as is other city attorneys. Attorney Jodoin noted if the commission is interested in joining the lawsuit, he will do further research and report back.

Commissioner Farris-Olsen stated we should get involved; however, he does have some concerns with the ACLU representing the city because of potential conflicts down the road.

Commissioner Noonan asked if there may be a movement of cities getting together on their own. Attorney Jodoin stated at this time there is no organized effort; he believes it would benefit cities, through the Montana League of Cities and Towns, to hire outside council. Commissioner Noonan stated that would be a clear focus for us as a city on how to approach it. Manager Alles noted in the past when the League didn't have the resources to hire outside council, the seven larger cities have signed an interlocal agreement to provide some services.

Mayor Smith asked if this initiative repeals or rescinds the existing non-discrimination ordinances. Attorney Jodoin stated he believes it does. Mayor Smith noted the city has taken an approach to educate city employees and citizens regarding our non-discrimination ordinance. Attorney Jodoin noted the real risk to the city is at the pool or the bathrooms at any city facility.

There was commission consensus to become involved to protect the city self-governing rights.

Attorney Jodoin will contact other city attorneys, the Montana League of Cities and Towns and ACLU and report back to the commission on October 25th.

Mayor Smith noted this is an item the League of Cities and Towns should become involved with. The League is prepared to raise dues in order to provide legal guidance in the future.

5. Department Discussions

City Attorney

Victims Services Program Update – City Attorney Jodoin introduced Ashley Mitchell, Victim Services Specialist who gave a PowerPoint presentation on the Victim Services Program.

The City's Victim Services ("VSS") program began in October 2016. The primary goal of the program is to guide victims of misdemeanor crimes occurring within the City of Helena through the criminal justice system by maintaining contact, providing case status updates and explanations, and providing guidance and emotional support during court proceedings. By accomplishing this goal, the City not only fulfills its legal obligations to victims, but also empowers ore victims to seek assistance and ultimately cooperate with the prosecution and feel comfortable in contacting law enforcement to report crimes. In addition to providing guidance through the criminal justice system, the VSS provides victims with referrals to local agencies and resources, provides information about crime victims' rights, and assists victims with applying for crime victim compensation. Finally, the VSS serves as a resource to the City's prosecutors by providing input about victims' mind sets and what may be the best resolutions for cases, given the victims' situations and circumstances.

Attorney Todd Baker addressed the commission on the impact the program has on the prosecution of cases. This position creates a nexus of services for the victims.

Abby Sherman with the Friendship Center addressed the commission on how important this program is and how it has benefited the victims of domestic violence. It is a great partnership between the parties involved.

Assistant City Attorney Iryna O'Conner gave an overview of the grant writing and reporting process. This is a reimbursement grant and it requires a 20% match, approximately \$33,000. The grant has been renewed for a 2nd year. If we want to continue to be funded, we would have to go through the competitive process.

Detective Kent Anderson addressed the commission and spoke how beneficial this program has been to the police department's investigation. It is a collaborative effort between all the parties.

Commissioner Ellison commented this is a great program and the community is better off. He then asked how a partner family assault is the same as a misdemeanor. Attorney Todd Baker explained the first two assaults are misdemeanors. However, with the new strangulation law, it is a felony for the first offense if strangulation is involved. There are several levels of assault that would bring it to a felony.

Commissioner Haladay stated previously with the city's inability to produce a victim, the offender many times would take the chance of having the case dismissed. He asked with the Victims Services Program, have we seen any behavioral changes with the success of the program. Attorney Baker noted many of the defendants have pleaded due to the fact that the victim is showing up for court. Attorney Eric Coate stated often times he will represent to the defendant that the victim has been in contact with Ashley Mitchell and many times that will change the plea.

Commissioner Noonan thanked everyone for the good work and asked has the impact of Marci's law been seen. Attorney Jodoin noted under state law, we are obligated to provide services to victims. With Marci's law being stayed, we haven't seen an impact. He is concerned this program will be watered down if Marci's law becomes effective.

Mayor Smith asked how the city would sustain the program if the grant funding was discontinued. Manager Alles noted if the grant funding goes away, staff would bring forward a proposal for commission consideration.

Chief McGee noted Montana Law Enforcement Academy received a Sexual Assault Kit Initiative (SAKI) three year grant which is funding an officer from the Police Department to develop best practices for the state. The city of Helena is the lead agency in the state.

Public Works

Service Line Reimbursement Proposal - Manager Alles introduced the agenda item and noted it has been a few years since the commission has discussed a service line reimbursement program

Utility Maintenance Superintendent Kevin Hart reported the briefing items were presented to the Commission in 2012 regarding a program to assist property owners with service line leak or repair necessary on water and sewer service lines, particularly where these lines cross the public right-of-way. The facts of the issue have not materially changed and the direction on development of a program under what boundaries and criteria remain topics for policy discussion.

The information below was presented to the commission in 2012.

Background: City codes place responsibility for water and sewer service lines upon the property owner from the connection with the water or sewer main through city right-of-way into the premises served. When a service line fails the property owner is often faced with an unexpected expense. Staff was asked to consider options for either assuming responsibility for or providing a mechanism to help property owners with the financial burden faced when a water or sewer service line fails. This proposal presents for discussion a conceptual program to address the issues thorough a program established by the commission and funded with user fees.

Lack of Private Insurance Coverage: Homeowner and commercial insurance policies are intended to cover losses from events. While there are riders that can be purchased to protect property from flooding or other damages due to a leak or other service line failure, none provide coverage for maintenance activities, repairs or replacement when service lines fail.

Current process: The typical response of property owners is to ignore problems up to the point where they can no longer be ignored. In the case of water, a leaking service line can result in two typical situations.

The first situation is a discovered leak that may or may not surface but results in a letter to the property owner from the division indicating that there is a leak and requesting that the leak be repaired within 10 days. The division does allow additional time as long as the property owner is working toward resolution of the problem. In the event that the property owner refuses to address the problem, the division can shut-off the water service at the curb-box or make the repair and bill the property owner according to fees set by resolution.

The second water service line situation is surfacing water that is causing obvious damage to either the street or other property. In such situations the division responds by isolating the leak either shutting off the curb-box leaving the owner without water or when this option is not available making the repair and billing the property owner for the city costs.

Sewer service line problems are less problematic for the city, but create significant issues for property owners. A plugged or non-functioning sewer can result in backups into basements or surface discharges requiring action by the health department. In extreme situations, when a health emergency is declared, the city can shut-off a water service as a means to stop undesirable surface sewage flow. Regardless, the property owner often faces no sanitary service until the problem can be corrected.

Finally, human nature often presents itself as a property owner own worst enemy. Procrastination or the lack of maintenance often leads to larger problems. Unfortunately, many property owners may not be aware of the issues until they become a crisis.

Policy Options: There are four basic choices for addressing this issue.

First option is the "No Action Alternative" which is to continue with the current approach leaving utility customers vulnerable to service line leak and failures and the attendant costs.

Second option is to implement a third party program like the one discussed in the attached report. The program is sponsored and operated by the National League of Cities and Towns. This approach would minimize city involvement, limiting city involvement to its authorization and help in marketing the program to utility customers. Currently this program is limited to residential customers, but would allow individual utility customers to decide whether or not to participate. Cost maybe higher to individual customers who choose to participates particularly if fewer numbers of them elect to join the program preferring and program administration costs would be provided by a paid third party.

Third option is to implement a city run program similar to that described in the attached report which is designed to share risks across the utility customer service base and relies on a separate fee from the water and sewer use charges. This program would rely on mandatory participation to help keep costs lower while providing assistance to property owners who face service line problems without changing service line ownership.

Forth option is to change the nature of how the city addresses service lines, shifting the liability for leaks and failures from the property owner to the utility. Under this concept the city could assume ownership for service lines located within the public right-of-way. Such a change would require increases in the current rate structure sufficient to support this additional maintenance and liability obligation to be assumed by the respective utility.

Proposed Timeline for Program Consideration: The attached conceptual program illustrates an example of how such a program could work within the city of Helena. There are a number of policy choices assumed in this proposal that may not be where the commission would decide to go, but they are presented as means to start the discussion.

Commission agreement on the desired elements of the program, including policy application and coverage and the public involvement process which will be followed for commission deliberations would be important in determining the time line needed for implementation.

Commissioner Farris-Olsen referenced the flow chart with the 100 year life of the infrastructure and the estimation of replacing 116 water lines and 103 sewer lines and asked how that calculates when the actual numbers from 2008 to 2011 show an average of 29 per year. Superintendent Hart explained by using the 100 year life, it allows the establishment of a program. In actuality the city sees 25 to 30 incidents per year. As the system ages, those numbers will increase.

Commissioner Farris-Olsen stated he was thinking along the lines of what Billings is doing by charging \$1.30; we could charge \$1.00 per month for both water and sewer. After the program is developed, we could follow what Great Falls does regarding the service line repair and replacement to low income households meeting certain criteria and offer low interest loans to property owners. The low income households would get the most benefit of the program.

Commissioner Haladay stated he would be interested to see what the numbers recommended by Commissioner Farris-Olsen would look like. One way to potentially reduce the overall need for a base rate increase would be to look at allowing the portion the city is not going to supply by offering a zero interest loan. Commissioner Haladay suggested a program for service lines could be established similar to the volunteer sidewalk program. The city would be re-paid and control the costs on the project.

Commissioner Farris-Olsen concurred with Commissioner Haladay's comments. He reiterated the importance of offering a program for all residents, but specifically the low income, to avoid them being stuck with a bill they cannot afford to pay.

Mayor Smith asked Commissioner Farris-Olsen if he knows how the city of Great Falls handles the eligibility determination. Commissioner Farris-Olsen stated he does not know; however, it could be tied to our existing program by using the Tax Assistance Program (TAP). Manager Alles spoke of the existing tax assistance programs and noted they are typically applied to avalara type taxes. Staff will look at the legality of the proposal when developing the program. Manager Alles stated MMIA also has a no fault insurance program with the parameters of a \$2,500 cap and it has to be a blockage in the main.

Commissioner Farris-Olsen asked what percentage of the failures is caused by blockages in the main. Superintendent Hart noted there are approximately 45 backups per year and most are inside the homes; there may be five or six tied to the mains. Commissioner Farris-Olsen noted most people would not benefit from the MMIA no fault insurance due to it not being a main issue.

Commissioner Haladay noted part of the issue is the city assessing people who are not going to get the benefit of the program; if you assess with the understanding that everyone has access to the zero percent revolving loan program, regardless of any match provided by the city. Commissioner Haladay stated it would be interesting to see how Great Falls runs their program; however, we already do some level of that with tax assistance program with assessments with our open space. There would be very few who would qualify for tax assistance and he believes there are good reasons to look at the low income component of the program.

Mayor Smith stated he is looking at staying out of determining eligibility; he would be interested to see if the program can be set up where if someone qualifies through the state's tax assistance program, they would qualify for our program. Commissioner Haladay stated if the homeowner is TAP qualified, they would be taken care of. For those homeowners who do not qualify for assistance, the program would be run like the volunteer sidewalk program through a zero percent loan.

Manager Alles stated what he is hearing is there is interest in developing a service line reimbursement program that would include a low income component and be set up the same as the volunteer sidewalk program.

Commissioner Noonan asked if the program through MMIA is something the city already pays for. Manager Alles stated the city already pays for the program through our insurance. He then gave an overview of the program to include it being a no fault insurance and will pay up to \$2,500. The program would be there no matter what the city decides to do.

Commissioner Noonan stated he would like to see a program developed to include TAP assistance and the revolving loan program.

Mayor Smith referenced a service line warranty program through the National League of Cities and Towns. Administrative Services Director Jorgenson talked about the program covering both water and sewer services lines, it is a voluntary insurance program that residents can join. The cost of the program is tailored to a particular city although examples include typical fee of \$6 per month for each connection covered.

Commissioner Haladay spoke of placing sideboards on the items to see what we want to promote to homeowners to do for preventive maintenance. He asked staff to submit ideas/suggestions to the commission for preventive maintenance.

Consensus Direction to Manager – Staff will prepare a policy per commission discussion and review within the next month or so that will include sideboards with options to include relevant data with estimated costs.

Commissioner Farris-Olsen clarified the policy would include the low income component and the revolving loan program. Manager Alles concurred and noted at this time, he would not recommend changing the existing ordinance.

Parks and Recreation

Firetower Proposals and Recommendation – Parks and Recreation Director Amy Teegarden reported on August 2, 2016 an arson fire caused significant damage to several of the original support beams of Helena's Guardian of the gulch – historic fire tower. Due to the combined fire damage and the existing weakened condition caused by age and weathering, City staff and structural engineers have deemed the fire tower unsafe and in need of rehabilitation.

The City's overall goal is to preserve both the historical and structural integrity of the fire tower. Rehabilitation treatment methods will be designed and implemented to maximize the historic integrity of the fire tower while also meeting the current International Building Code for structural strength. Following successful rehabilitation, with proper maintenance, the fire tower will be able to withstand the next 100 years as the City's historic icon.

Based on analysis and recommendation options from both Morrison-Maierle Engineering the Montana Preservation Alliance, the City proposes to replace all members determined to be severely compromised and affecting the structure's stability. Compromised members as well as "non-historic insensitive" material will be replaced using appropriate materials and methods that meet the Secretary of the Interior's Standards for Rehabilitation applicable to listed historic structures.

The City will accept bids to award a contract for construction services to include dismantling, repairing or replacing, and reassembling the structure. The City's engineering consultant will provide engineering and preservation analysis, design and rehabilitation oversight. Together, the construction contractor and engineering consultant will conduct on-site analysis of the compromised and reusable material in an effort to reuse as much of the existing materials as feasible. The final product will be a rehabilitated fire tower that retains its historic integrity and meets structural code requirements.

Staff is looking for consensus direction to move forward with their proposal.

Dustin Kalanick, Montana Preservation Alliance (MPA), addressed the commission and noted MPA's study does overlap with two of Morrison-Maierle's options. Mr. Kalanick reaffirmed MPA can help by becoming a resource for the city on this project. He then spoke of bringing in a wood preservationist during the project. This is an excellent opportunity to include preservation training and education on the project. Another component that MPA is interested in is filming the project. MPA is willing to raise funds for the project, education and ongoing maintenance.

Mayor Smith asked if the Heritage Preservation Office has been involved with the project. Director Teegarden noted Heritage Preservation Officer Pam Attardo has been involved from the very beginning of the process. Ms. Attardo has indicated dismantling the fire tower will not significantly impact the historic integrity nature of the fire tower. Director Teegarden stated Ms. Attardo gave

clarification on where the two reports conflicted. She noted this is a rehabilitation project and not a preservation project.

Commissioner Noonan asked if what Mr. Kalanick is offering is ongoing involvement in the project. Director Teegarden stated staff was never opposed to community involvement; however, it is staff's recommendation to hire a contractor to do the work and not have volunteers doing the work. It is an opportunity for the educational component. Mr. Kalanick clarified MAP would bring in preservation people with expertise with historical structures. He noted by bringing in these people, it would not increase the liability for the city.

Mayor Smith stated once a contractor is selected, MAP would be willing to provide some training prior to any work commencing. Ms. Kalanick stated potentially yes, he again spoke on the fund raising and educational components of the project. MAP's services could be written into a grant.

Commissioner Noonan asked how MAP's involvement would occur once a contractor is hired. Manager Alles stated additional discussion and research needs to happen on the level of input from MAP. It is staff's goal to rehabilitate the fire tower.

Commissioner Noonan stated as this moves forward, he asked that the commission be updated on project.

Commissioner Haladay addressed Mr. Kalanick comments and noted he had indicated MAP could support two options; however, what is the 3rd option and why there wasn't support for it. Mr. Kalanick noted when the first report was issued, one of the recommendations was to tear the fire tower down and rebuild it. MAP did not support that option as there was enough historic value to preserve the fire tower. He stated MAP is comfortable with the proposal for disassembling and rebuilding the fire tower and keeping as much material as possible.

Director Teegarden clarified the original options never included total demolition without reusing some of the existing material. Staff was advised they would need a demolition permit and a determination needs to be made if staff should go through the demolition application process.

Commissioner Haladay stated if there is commission consensus direction to proceed as recommended, staff would submit the plans to the Heritage Preservation Commission and they would provide a recommendation to the commission on how to proceed.

Manager Alles noted staff has had conversations regarding the process and it is his understanding we would go through the preservation/rehabilitation process with the Heritage Preservation Officer/Commission, bring back the recommendation to the city commission and proceed from there.

Commissioner Haladay concurred with the recommendation to work with the Heritage Preservation Officer/Commission to get their input.

Commissioner Farris-Olsen stated it is important to work with MPA to find alternative ways to raise funds to help limit the city's exposure on costs.

Consensus Direction to Manager – City staff will work with Montana Preservation Alliance and Heritage Preservation Commission to move forward with the rehabilitation of the fire tower.

6. Committee discussions

- a) Audit Committee, City-County Board of Health, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns – No report given.
- b) Mayor Pro-Tem, Audit Committee, Helena Chamber of Commerce Liaison, Information Technology Committee, Transportation Coordinating Committee – No report given.
- c) ADA Compliance Committee, Audit Committee, City-County Parks Board, Civic Center Board – No report given.
- d) Board of Adjustment, City-County Administration Building (CCAB), Non-Motorized Travel Advisory Board, Transportation Coordinating Committee – No report given.
- e) Business Improvement District/Helena Parking Commission, Montana Business Assistance Connection, Public Art Committee – No report given.
- f) Helena Citizens Council – HCC Chair Spaeth reported the next meeting for the HCC is on October 25th; Parks and Recreation Director Teegarden and a representative from the Fire Department will attend. At the September HCC meeting, they received a presentation on the jail mill levy. The results from the HCC are being tabulated and will be released once completed.

7. Review of agenda for October 16, 2017- No discussion held.

Commissioner Farris-Olsen reported he attended the Civic Center Board meeting and noted there is a lot of blow back from the board members on the HCC recommendations. He also noted the Board is upset with the commission regarding any potential cuts to the Civic Center from the general fund. The Board did not seem to understand what he was talking about with a strategic plan; they absolutely feel devalued at this time.

Manager Alles stated the Chair of the Board has requested a meeting. Mayor Smith noted there is a big transition period at the Civic Center and he too has had discussions with the Chair of the Board.

Commissioner Noonan reported he and Public Art Committee Chair John Moore attended the City-County Parks Board meeting today to discuss forming a partnership to look at Hill Park.

8. Public Comment – No public comment received.

9. Commission discussion and direction to the City Manager – No discussion held.

10. Adjourn – Meeting adjourned at 6:00 p.m.