

SUMMARY OF ADMINISTRATIVE MEETING

May 2, 2018– 4:00 p.m.

Room 326

City-County Building

316 N. Park Avenue, Helena

- 1. Call to order, introductions, opening comments** – Mayor Collins called the meeting to order. Commissioners Farris-Olsen, Haladay, Noonan and O’Loughlin were present. Staff present was: City Manager Ron Alles; Executive Assistant Sarah Elkins; City Attorney Thomas Jodoin; Deputy City Attorney Iryna O’Connor; Police Chief Troy McGee; Community Development Director Sharon Haugen; Public Works Director Randall Camp; City Engineer Ryan Leland; Utilities Superintendent Kevin Hart; Engineer David Knoepke; Budget Manager Libbi Lovshin; Parks & Recreation Director Amy Teegarden; Open Lands Manager Brad Langsather; Community Facilities Superintendent Troy Sampson; Administrative Services Director Glenn Jorgenson and City Clerk Debbie Havens.
Others in attendance included: Traffic Engineer Bob Abelin;
- 2. April 18, 2018 Administrative Summary** – The April 18, 2018 administrative meeting summary was approved as submitted.
- 3. Commission comments, questions – Upcoming Appointments** – There are no appointments on the May 7th city commission meeting agenda.

Commissioner Noonan brought up the topic of term limits on the Civic Center Board and noted he has spoken to some people in the community regarding board. Since those discussions it would be his recommendation to leave the term limits as is to keep consistency on the board.

Commissioner O’Loughlin reported and thanked Manager Alles, Director Haugen and Planner Ray for meeting with her and Commissioner Haladay as a follow-up on the housing meeting. Her impression was to schedule a follow-up meeting for later in the summer. From the information provided today, staff can move forward in advance of the summer meeting.

Commissioner Haladay referenced the letter from the 400 Block business owners regarding the homelessness that gather on the benches at the park on the north side of God’s Love and asked how the city can be of help. Manager Alles stated staff has discussed this issue and the police department will try and use the school resource officers as extra patrol in the area. At this time, there is a shortage of officers; however, they will try. Staff has also looked at removing the bench in the area to avoid people gathering. Manager Alles noted he has talked with the BID regarding the installation of extra lighting in the area. Staff is tracking the calls for service and will continue to patrol the area.

Mayor Collins stated some of the acts referenced in the letter are criminal acts and the business owners feel unsafe. Manager Alles noted when the police receive a call for service, officers do respond. The presence of an officer may deter some of the actions; panhandling is not breaking the law and unless a law is being broken, they have the right to be there.

Commissioner Noonan suggested a conversation with God’s Love may help the situation.

Chief McGee noted it is not only God’s Love residents that create problems in the area. There are a lot of concerns; however, there is only so much the police department can do. Officers have ticketed some of the people; however, unless you change the behavior, they are going to be there.

Mayor Collins asked what the city can do. Chief McGee suggested reaching out to everyone in the area to discuss the concerns and work on a solution. He noted most of the people who gather in the area do not bother others; however, there are a few who do intimidate citizens.

Mayor Collins noted the letter states people do bother others. Commissioner Haladay stated the city could play a role by organizing a community conversation. He recognized it has set up adversarial situations with the business owners in the area. There has to be a balance and the city should be able to facilitate the conversation.

Commissioner Farris-Olsen stated the presence of police officers will help.

Commissioner Noonan stated as the commission representative on the Business Improvement District Board, he is willing to pursue a community conversation. Chief McGee acknowledged if there is police presence in the area, they will move. The police will do their best; however, he acknowledge staff shortages.

Commissioner Haladay suggested the United Way be included in the community conversation. Manager Alles stated city staff will invite community partners to a community discussion to address the issue(s) and include the United Way, the Police Department., BID, DHI, God's Love, and the Center for Mental Health.

4. City Manager's Report –

Bryant School 402 Hearing Discussion - Director Haugen stated the city will hold a hearing in accordance to MCA 76-2-402. The School District has stated its intent to incorporate the land purchased at 1501 Boulder Avenue, 1511 Boulder Avenue, and 1517 Boulder Avenue into the campus for Bryant Elementary School for construction of the new Bryant Elementary School. The properties located on Boulder Avenue are currently zoned R-2 and the operation of a K-12 school requires a Conditional Use Permit (CUP). Per MCA 76-2-402, whenever an agency, such as a school district, proposes to use public land contrary to local zoning regulations, a public hearing shall be held.

The local Board of Adjustment is to hold a hearing but has no power to deny the proposed use. The purpose of the hearing is to allow for a public forum for comment on the proposed use. Under current City Code, the City Commission reserves the authority unto itself any and all other authority not hereinabove granted to the Board of Adjustment. Conducting the hearing under the requirements of 76-2-402 was not a power granted to the Board of Adjustment under Title 11 of City Code, so the City commission will serve as the Board of Adjustment for the purposes of this hearing. Any comments received at this hearing will be passed on to the Helena School District and its Board. The commission does not need to take any action.

Commissioner Noonan asked if the commission sees any problems with this public hearing. Director Haugen stated no comments have been received from the neighbors. The neighbors seem to be in support of the project.

Commissioner Haladay stated the commission held a 402 hearing back in November for a property on Custer at the Board of Adjustment; it was a privately owned property that was going to lease the property to the federal government. Members on the Board of Adjustment had questions on why the property was exempted and fell under the 402 as a federal renter of property. He asked what the difference is between renting the property versus owning the property. Director Haugen clarified the type of hearing being referred to and noted staff sent a clarification email regarding that property after Commissioner Haladay left the Board of Adjustment. Director Haugen noted if a government entity rents property, then those property owners have to follow the city zoning ordinance.

Mayor Collins noted he has received an email regarding the contractors at Central School are working early mornings, late at night and on the week-ends. Manager Alles stated the contractor has been in contact with the residents to keep them updated on the schedule. Director Haugen stated staff also received a copy of the complaint. Originally the contractor was not going to work on week-ends; however, they are behind schedule. The School District and general contractor have been in contact with the residents to keep them informed of the schedule.

5. Department discussions:

Parks Department

Beattie Street Trailhead – Director Teegarden reported in February 2018, city staff hosted two public meetings and mailed an informational flyer in an effort to introduce and clarify alternatives for improving parking on the south end of Beattie Street. Part of the process included requesting written public comment in an effort to categorize concerns, respond to questions, as well as to revise a preferred alternative.

Director Teegarden provided an overview of public comments that were received in response to the proposed alternatives. She also presented a third alternative which was developed in response to public comment.

Open Lands Manager Langsather reviewed the project goals/needs and staff's recommendation for improvements to the trailhead. He reviewed the three alternatives that have been developed; the result of alternative 3 is you would eliminate all parking except on-street. He also showed the proposed trailhead signs, the informational kiosk, double vaulted restroom, pet waste station, and the ability to close the trailhead if needed. It is the goal of staff to have all trailheads be ADA compliant.

Commissioner O'Loughlin asked how many parking spots are proposed with alternative 1. Open Lands Manager Langsather responded there are 20 spots; there is room on the east side for overflow, for

up to 26 spots. Director Teegarden stated the trailhead is accessed not only by people in vehicle, but pedestrians and bicyclists.

City Engineer Leland reviewed alternative 3 which includes the development of Beattie Street. However, the current city policy is the city will not improve dirt streets. If Beattie Street is improved, all parking would be eliminated due to the turn-around radius needed. It would be expensive to improve Beattie and staff anticipates the residents would complain about having on-street parking only.

Traffic Engineer Bob Abelin, Abelin Traffic Services, stated he has been hired to do a traffic study, including bicycle speeds, on Beattie Street and should have a completed report in the next month. This study will identify accurately the speed to help to develop any recommendations for traffic control devices and will monitor parking demands. Engineer Leland stated city staff completed a traffic count and speed monitor, at that time there was not a speeding issue; that is why Mr. Abelin was hired to do a second traffic count study.

Director Teegarden recommended moving forward with the Alternative 1, as revised and begin identifying alternative funding. Staff will be very creative in finding funding.

Commissioner Farris-Olsen stated he feels better after going through the community discussion and thanked staff for doing that. He would support the altered alternative one.

Mayor Collins supports Alternative 1, with the fewer parking lots. Manager Alles asked how the reduction of parking fits into the growth projections. Director Teegarden stated there is room to expand, if needed.

Commissioner Haladay asked what the estimated costs for the project are. Director Teegarden stated staff has not begun the process on identifying costs; they wanted to get direction from the commission on the final design. The restroom is funded through a grant.

Engineer Leland stated there are no estimated costs due do to the elevation on where the improvements will be, and each alternative would be different. Commissioner Haladay stated the estimated costs to develop Beattie Street was between \$300,000 to \$400,000. Engineer Leland concurred.

Commissioner Haladay stated he supports moving forward with altered alternative 1 and asked was the idea to get the traffic study information and include it in the whole package. Director Teegarden stated there are two department working together on this project; the traffic study results will be considered when the design is finalized and the total package will be brought forward. Commissioner Haladay asked if this is the type of project, assuming there is some improvements proposed for Beattie Street, the same contractor would potentially bid to do the trailhead improvements and any improvements to Beattie Street. Engineer Leland stated yes, depending how the project is structured.

Director Teegarden stated staff will proceed with Alternative I as revised and report back to the commission with funding strategy.

Public Works

Service Line Repair Program - Attorney Jodoin reported the Commission has expressed a desire to fund a new water and wastewater service line replacement program ("Program") through an assessment of a flat fee on properties that may potentially utilize the Program. To determine the applicable legal requirements it is important to determine whether such a fee would be considered a tax or an assessment. This distinction is important, because if the proposed fee is deemed to be a tax, then the City is required to put the proposed fee up for an election since the City has reached its allowable maximum number of mills that may be imposed without an election. See Mont. Code Ann. § 15-10-425 ("incorporated city . . . may . . . exceed the mill levy limit provided for in 15-10-420 by conducting an election as provided in this section."); Mont. Code. Ann. § 15-10-420 (outlines how maximum allowable mills are calculated). To summarize the discussion that follows, a tax is generally any fee imposed to collect revenue to fund general government operations; an assessment is any fee that is imposed to offset the cost of a special benefit provided to a particular piece of property that is not shared by the general taxpayer and which is commensurate with the cost of any such benefit.

1. General Theory on Taxes versus Assessments

In making this determination, the courts will look at the nature of the fee imposed and what it is being used for, and not its name. Eugene McQuillin, *The Law of Municipal Corporations* § 44:2 p. 16, (3rd ed. 2013). Generally speaking, municipal taxes are "those imposed by a municipality, under constitutional or statutory authority delegated to it, on persons or property within the corporate limits, to support the local government and pay its debts and liabilities." Eugene McQuillin, *The Law of Municipal Corporations* §

44:2, p. 10, (3rd ed. 2013). Assessments, however, are a charge for service or a special benefit afforded to the property.

By way of general background on this issue, the following passage is instructive:

A problem arises . . . when a municipality tries to avoid constitutional restrictions by calling a tax a user . . . [assessment]. In order to qualify as a valid user . . . [assessment], it must normally meet three criteria. First, the . . . [assessment] must be charged in exchange for a particular government service which benefits the party paying the . . . [assessment] in a manner not shared by other members of society. Secondly, it must be paid by choice, in that the party paying the . . . [assessment] has the option of not utilizing the government service and thereby avoiding the charge. Finally, the charge collected must be to compensate the governmental entity providing the services for its expenses and not to raise revenue. . . . Fees charged by a municipality are not unlawful taxes even if the only way to avoid payment is to relinquish the right to develop one's property."

Eugene McQuillin, *The Law of Municipal Corporations* § 44:22, p. 104-107, (3rd ed. 2013). With respect to assessments, the general principals are outlined as follows:

". . . the principle underlying an assessment for improvements is that the property will be directly benefited and enhanced in value to the extent of the assessment. In theory, no assessment can be lawfully made on property not actually benefited by the improvement. An assessment cannot be valid when it is in excess of any possible enhancement in value, at least as to such excess. Therefore a municipality cannot levy a special assessment that exceeds the special benefit which the property derives from the improvement. In determining the value of a special benefit, a municipality must consider what increase there has been in the market value of the land from the improvement. . . the fundamental theory that must be adhered to in imposing special assessments on property, and from which alone the right is derived to impose such assessments, is that such property gets a benefit from such improvements commensurate with the amount of the assessment imposed upon it. Further, there is general agreement that there must be some proportionality between the amount of the special assessment and the benefit derived from it. . . . However, where a municipal corporation is authorized to make an improvement in a certain district, the fact that a particular piece of property receives no benefit from the improvement is no reason for not enforcing the assessment against it."

Eugene McQuillin, *The Law of Municipal Corporations* § 38:37, p. 185-189, (3rd ed. 2013) (emphasis added).

In addition, benefits must be real and realized and generally, "[r]emote or contingent benefits enjoyed by the general public will not sustain . . . [an] assessment. However,

"The fact that property will receive no present benefit in the sense of actual use of the improvement will not defeat the assessment if benefits are sure to be realized in a reasonable time in the future. However, the only benefits to be considered are those arising from the present improvements; prospective benefits arising from improvements that may be made but which are not provided for, are not sufficient to support an assessment."

Eugene McQuillin, *The Law of Municipal Corporations* § 38:39, p. 209-210, (3rd ed. 2013) (emphasis added).

2. Authority Under Montana Law

The Local Government Budget Act outlines the general requirements for establishing "fees for services:"

(1) If a local government has the authority to regulate, establish, and change fees, rates, charges, and classifications that are imposed for services to its inhabitants and other persons served by the local government, the fees, rates, charges, and classifications must be reasonable and related to the cost of providing the service.

- (2) Charges for services must comply with Title 17, chapter 2, part 3, and other applicable statutes.
- (3) In order to establish or change fees, rates, charges, or classifications imposed for services, the governing body shall order a hearing to be held as provided in 7-1-4131, unless a special hearing process is provided by law. Municipal utility rate hearings must be held as provided in 69-7-112.
- (4) Notice of a hearing must be published as provided in 7-1-2121 for a county and as provided in 7-1-4127 for a municipality.
- (5) After a hearing, the fees, rates, charges, or classifications must be established by resolution of the governing body.

Mont. Code Ann. § 7-6-4013 (emphasis added).

More specifically to the issue at hand, pursuant to Mont. Code Ann. § 7-13-4304 the City has the following authority to set rates for provision of water and wastewater services:

- (1) The governing body of a municipality operating a municipal water or sewer system shall fix and establish, by ordinance or resolution, and collect rates, rentals, and charges for the services, facilities, and benefits directly or indirectly afforded by the system, taking into account services provided and benefits received.
- (2) Sewer charges may take into consideration the quantity of sewage produced and its concentration and water pollution qualities in general and the cost of disposal of sewage and storm waters. The charges may be fixed on the basis of water consumption or any other equitable basis the governing body considers appropriate. The rates for charges may be fixed in advance or otherwise and shall be uniform for like services in all parts of the municipality. If the governing body determines that the sewage treatment or storm water disposal prevents pollution of sources of water supply, the sewer charges may be established as a surcharge on the water bills of water consumers or on any other equitable basis of measuring the use and benefits of the facilities and services.
- (3) An original charge for the connecting sewerline between the lot line and the sewer main may be assessed when the connecting sewerline is installed.
- (4) The water and sewer rates, charges, or rentals shall be as nearly as possible equitable in proportion to the services and benefits rendered. (emphasis added).

With respect to what are considered reasonable charges, Mont. Code Ann. § 7-13-4307 provides the following additional guidance:

The rates and charges established for the services and facilities afforded by this system must be sufficient in each year to provide income and revenue adequate for the:

- (1) payment of the reasonable expense of operation and maintenance;
- (2) payment of the sums required to be paid into the sinking fund;
- (3) accumulation of reserves;
- (4) payment of rates, fees, and charges levied by a regional authority established pursuant to Title 75, chapter 6, part 3; and
- (5) payment of expenditures for depreciation and replacement of the system as determined necessary by the governing body or as covenanted in the ordinances and resolutions authorizing the outstanding bonds.

Mont Code Ann. § 7-13-4307 (emphasis added). Thus the question becomes, what constitutes a "system."

3. How is the "system" defined?

The term “system” as used in Title 7, Chapter 13, Part 43 is not defined in the code. However, Mont. Code Ann. § 7-13-4301 states:

Any city or town may:

- (1) establish, build, construct, reconstruct, or extend:
 - (a) a storm or sanitary sewerage system;
 - (b) a plant or plants for treatment or disposal of sewage from the city or town;
 - (c) a water supply or distribution system; or
 - (d) any combination of systems; and
- (2) operate and maintain the facilities for public use.

Mont. Code Ann. § 7-13-4301 (emphasis added). Thus, it can be argued that the “system” in question consists of whichever elements that are “established, built, constructed, reconstructed, or extended” by the City. At the present, with respect to provision of water and wastewater services, the City “establish[s], build[s], construct[s], reconstruct[s], or extend[s]” water and wastewater mains. In instances where a property owner is responsible for extending the mains at their own expense, such as in cases of annexation, the City then accepts the mains and accepts all future responsibility, including total replacement, for those mains. Therefore, one can make a very convincing argument that because the City accepts ultimate responsibility for the mains they are part of the system and thus the City can charge rates necessary to cover the cost of “replacement of the system” (i.e. mains).

This analysis becomes more difficult when service lines are considered. Currently, the City does not “establish, build, construct, reconstruct, or extend” water or wastewater service lines (or laterals as they are sometimes referred to). Nor does the City accept responsibility for those service lines after they are constructed by the property owner. All responsibility with respect to the service lines is placed on the property owner. 6-2-3 HCC states:

Rule 7: The city shall not be responsible for pipes and fixtures; all owners, at their own expense must keep service pipes from the city mains and all their apparatus in good working order and properly protected from frost or other dangers. No claims shall be made against the city on account of the breaking of any service pipes or apparatus, or for accidental failure on the supply of water.

There is an equivalent rule for wastewater service lines. 6-3-6 HCC states:

RULE 7: The city is not responsible for service pipes, internal plumbing and fixtures; all owners at their own expense must keep service pipes to city mains and all their apparatus in good working order and properly protected from plugging, freezing or other dangers. No claims may be made against the city on account of the plugging, freezing or breaking of any service pipes or apparatus. No reduction from the regular rates shall be made for any time that service pipes or fixtures may be frozen.

Therefore, since the City disclaims all responsibility with respect to the service lines and places it squarely on the property owner, the argument that the service lines are part of the City’s “system” becomes a lot more attenuated. As such, if the City is unable to make a convincing argument that the service lines are part of the City’s system, the City then cannot charge rates for reasonable “maintenance” or “replacement” of service lines.

If the City were to charge rates for “maintenance” or “replacement” of the service lines, an argument can be made, that as a result of this decision, the City then also takes on all responsibility and liability for “maintenance” or “replacement” of these service lines just like it does for mains.

4. Irrespective of the definition of system, will the proposed fee charged on the water bill be considered a general tax or an assessment?

Unfortunately, there is very little case law on this subject in Montana. Also, because different states have different state regulatory schemes with respect to what assessments and taxes local governments may charge, drawing parallels is not always possible. Finally, even when considering case law from other jurisdictions, the courts have been very imprecise with the use of terminology to discuss this issue. As a result, it is difficult to answer this question definitively.

The most relevant guidance can be found in a 1995 Attorney General Opinion which considered the following “[m]ay the City of Helena charge a fire service fee upon state property included in the City of Helena fire service area?” 46 Op. Att’y Gen. No. 7 (1995). The opinion relied on *Vail v. Custer County*, 132 Mont. 205 for the proposition that:

A tax is levied for the general public good. It creates a lien. An assessment is imposed against specific property to defray the cost of a specific benefit to the property, the benefit to be commensurate with the assessment.

The opinion that went on to reiterate the principle stated above that:

The difference between a “tax” and an “assessment” is not determined by how it is referenced, but rather how it is calculated and whether it benefits the public generally or operates to benefit a specific piece of property.

Ultimately, Attorney General Mazurek held that “the fire service fees assessed by the City upon property in the fire service area are taxes rather than assessments.” 46 Op. Att’y Gen. No. 7 (1995). The opinion relied on the following analysis for its holding:

A direct correlation does not exist between the amount of fire service fees charged each piece of property in the fire service area and the value of the fire protection benefit conferred on the property. For instance, the City charges a flat rate of \$2 for fire protection for each parcel of vacant property regardless of the size of the vacant property or the potential fire hazard that may be lurking on the property . . . The \$2 fire service fee does not accurately reflect the specific cost of providing fire protection to every vacant piece of property in the fire service area.

Similarly, structures are charged \$0.08 per square foot without any consideration of the unique potential fire hazards in each structure . . . The charging of a fire service fee on a flat square-footage rate for every structure does not consider that different structures, based on their location, dimensions and building materials, may cost more to provide fire protection than other structures with the same square footage. The fire service fees charged for structures is clearly not always commensurate with the benefit to those structures. The fire service fees cannot be considered assessments because the fees are not necessarily based on the value of the fire protection rendered to a specific structure. . . Furthermore, the fire service fees simply cannot be traced to the cost of providing the specific benefit of fire protection to each specific piece of property or structure within the city limits. The revenue from the fire service fees covers not only the cost of providing fire suppression services to property and structures within the city limits but also the city fire department’s entire budget.

46 Op. Att’y Gen. No. 7 (1995).

Although there are facts that distinguish the Commission’s present proposal with respect to service line replacements from the facts considered in the above opinion, this opinion is nevertheless instructive as to what factors will likely be considered when making a determination on this issue.

To summarize, whether or not the proposed fee will be considered a tax or an assessment will be determined by considering the following factors:

- whether the benefit in question benefits the public generally or operates to benefit a specific piece of property;
- whether the charges collected are collected to compensate the governmental entity providing the services for its expenses or to raise revenue;

- whether the benefit received by the property is commensurate with the amount of the assessment imposed upon it;
- whether benefits are sure to be realized in a reasonable time in the future and not contingent on any conditions other than payment of the fee, or would the benefit be considered a prospective benefit arising from improvements that may be made but which are not provided for.

5. Program in other jurisdictions.

Below are several examples of programs from other jurisdictions that appear to address some of the issues raised in this memorandum.

- Creating an opt-in or an opt-out program. If a customer affirmatively consents to the fee there is a lot less risk associated with a potential challenge to the validity of that fee.
- Redefining the city's water and wastewater systems to include the infrastructure in question which would allow the city to raise water and wastewater rates for maintenance of the system.
- Finding alternate funding sources that do not include imposing a fee on city residents.

Convert service lines in the right of way to become part of the city system and take on the responsibility. Service line on private property, explore grant funding and limit that to those with a certain income.

Commissioner Haladay asked what the estimated cost per break is, is it \$15,000 per water and sewer and what the costs breakdown are if you only go to the box. Utilities Superintendent Hart stated that is the estimated costs and 60% of the costs is work in the right of way and the location of the water and or sewer mains.

Commissioner Farris-Olsen stated if the commission adopts the service lines in the right of way to become part of the city system and take on the responsibility; that still leaves the property owner responsible from the right of way to the house, which is approximately \$6,000. If we are looking at helping people find a way to get these lines replaced, we need to find a way to fund the entire project, some people cannot afford the \$6,000. That is what he thought was discussed last time and asked if staff has contacted MBAC. Attorney Jodoin stated staff has contacted MBAC and there was reluctance on their part, not for the grant funding but as to being the financial institute and overseeing a loan program. Manager Alles clarified MBAC may be willing to assist with administering a grant program. He noted the city of Great Falls pursued a grant funding program and at the end of the day, Helena could manage the grant program with additional resources.

Director Haugen stated MBAC does not have access to a source of grant funding to handle the program; what they would have is the limited funding in the revolving loan program for repayment. Their additional reluctance was their current loan program, they do some underwriting and there are liens on the property. The city still has the option of apply for the Community Development Block Grant program which is for low to moderate income households for repairs. Staff is still talking to Habitat for Humanity and Neighborhood Housing Services who has offered to do the underwriting on the loans for the city

Commissioner Noonan stated it is his understanding with MBAC there was also the concern with them being the loan source; however, they were open to analyze the information that could be given to someone else to make a decision.

Commissioner Haladay stated he is confused on what was presented to MBAC regarding the loan program. MBAC currently has a contract with DEQ to do the analysis through a flat contract, they do not handle the actual money. It is his understanding since this program would be available to all city residents, MBAC would manage the loan program and asked what MBAC's hesitancy with handing the program.

Attorney Jodoin stated initially the program was not available to everyone and the expertise to process and manage the loan was discussed with MBAC. Director Haugen noted another question MBAC was asking was what the source of funds would be used to fund the program.

Commissioner Farris-Olsen noted the city would have to set up and fund the revolving loan fund and MBAC could do the analysis and manage the loan program.

Commissioner Noonan stated that is how he understood it; MBAC would do the analysis. Manager Alles stated he will schedule a meeting with MBAC.

Commissioner Haladay stated he would support the city handling the program; that it be available to everyone and funded through an assessment. MBAC would have to do the analysis on what the required payback would be, if certain income requirements were set by the commission.

Manager Alles stated Attorney Jodoin's recommendation is the city own the responsibility for water and sewer lines from the main to the property line and asked if that would continue under the same scenario if the city would own the responsibility from the main to the house. Attorney Jodoin stated his recommendation was tied to the loan program; the commission previously discussed whether some people would be given a grant and not have to pay it back. That cycles back to equal application to the general fee if some people do not have to pay it back. The city attorney's office will defend it, there are good arguments on both sides. He wanted the commission to know of the potential risks.

Commissioner Farris Olsen stated he concurs with Commissioner Haladay.

Manager Alles clarified the city will work with MBAC to run a loan program for water and sewer line replacement from main to the house; the city would come up with the funds to fund the program; it will be available to all; and would apply for the CDBG grant and/or other grant funding for those who qualify.

Commissioner O'Loughlin stated the CDBG grant funding is not just for sewer/water line failures, it funds other needs dealing with health and safety for low income families. Director Haugen stated those who qualify for grant funding would have to apply for the CDBG grant on a case by case basis. The city would have to fund the repairs and be reimbursed if they qualify for the grant funding.

Manager Alles clarified the city would submit an application for the CDBG Program and if approved, the individual homeowners would have to apply and approved on a case by case basis. Commissioner O'Loughlin stated that portion of the program could be handled separately from the city's program.

6. Committee discussions

- a) Audit Committee, City-County Board of Health, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns -- Mayor Wilmot Collins – No report given.
- b) Mayor Pro-Tem, Audit Committee, Helena Chamber of Commerce Liaison, Information Technology Committee, Public Art Committee - – Commissioner Andres Haladay – No report given.
- c) Board of Adjustment, Civic Center Board, Non-Motorized Travel Advisory Board, Transportation Coordinating Committee – Commissioner Rob Farris-Olsen – No report given.
- d) ADA Compliance Committee, Business Improvement District/Helena Parking Commission, City-County Administration Building (CCAB), Montana Business Assistance Connection – Commissioner Ed Noonan – No report given.
- e) Audit Committee, City-County Parks Board, Transportation Coordinating Committee - Commissioner Heather O'Loughlin – No report given.
- f) Helena Citizens Council – No HCC report given.

7. Review of agenda for May 7, 2018 Commission meeting – No discussion held.

8. Public comment – No public comment received.

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

10. Adjourn – The meeting adjourned at 5:15 p.m.