

SUMMARY OF ADMINISTRATIVE MEETING

February 6, 2019– 4:00 p.m.
Room 330, City-County Building
316 N. Park Avenue

1. **Call to order, introductions, opening comments** – Mayor Collins called the meeting to order. Commissioners Haladay, Noonan and O’Loughlin were present. Commissioner Wicks was excused.

Staff present was: City Manager Ana Cortez; City Attorney Jodoin; Deputy City Attorney Iryna O’Connor; Police Chief McGee; Fire Chief Mark Emert; Community Development Director Sharon Haugen; Public Works Director Randall Camp; Assistant Public Works Director Libbi Lovshin; City Engineer Ryan Leland; Street Superintendent David Knoepke; Interim Parks and Recreation Director Craig Marr; Arborist Chris Daly; Administrative Services Director Glenn Jorgenson; Budget Manager Nikki Davidson; Parking Director Dave Hewitt; Community Facilities Superintendent Troy Sampson; Human Resource Director James Fehr and City Clerk Debbie Havens.

Others in attendance were HCC Representatives John Andrew, Meg Bishop, Carolan Bunegar, Paul Pacini and Dylan Klapmeier IR Reporter Michael Woodall; George McCauley; Truealla; and Jenna LITTLE

2. **January 23, 2019 Summary** – The January 23, 2019 administrative meeting summary was approved as submitted.

3. **Commission comments, questions** –

Commissioner Haladay referenced the policy discussion for disposal of surplus property and asked it be brought forward at an upcoming administrative meeting. Manager Cortez noted it is on the February 20 administrative meeting agenda.

Upcoming Appointments – Mayor Collins recommended the following board appointments:

Civic Center Board

Reappointment of S.W. Hatveltdt, Craig Wilkerson, Glenda Seipp, Kacy Pilon and Steve Crider to the Civic Center Board. Terms will begin upon appointment and expire on March 1, 2022.

4. **City Manager’s Report** –

Protocol for Providing Direction to City Manager – Manager Cortez stated she wishes to be responsive to the City of Helena Commission and Mayor regarding - 1. Policy and 2. Customer Services direction and input and ensure consistency with open meetings laws.

Manager Cortez referred the commission to the chart outlining her understanding on the purpose of the administrative and regular meetings. The methods through which direction will be given and the next steps in the process to include: place in the next possible regular meeting; place in a future regular meeting; place in the next possible administrative agenda; place in a future administrative agenda; no further action is needed. Items at the regular commission meetings will require a formal vote.

Commissioner O’Loughlin asked for clarification on “add agenda item”, is this for both the administrative and regular city commission meetings. Manager Cortez stated she wants to be

clear on commission direction in order to be consistent. Mayor Collins stated he does not believe a formal vote on specific agenda items is necessary at administrative meetings.

Commissioner Noonan noted all items on a regular city commission meeting agenda may not always be vetted at an administrative meeting and a formal vote needs to be taken on all agenda items on the regular commission meeting agenda.

Commissioner Haladay stated if a member of the public brings an issue forward at a regular commission meeting, that item needs to be placed on a future agenda for discussion and formal action.

Commissioner O'Loughlin stated if there is commission conversation about an agenda item for an administrative meeting, we do not need a formal vote, ask for consensus. She also commented the public does not always understand how to request an item be placed on either an administrative or regular commission meeting agenda and asked that a formal process be developed on how to get items on the administrative and regular city commission meeting agendas. Manager Cortez commented items will be added to the administrative meeting agendas and if there is policy direction the item will be placed on a regular city commission meeting agenda. If no policy direction the item can move forward as it is administrative in nature.

Sidewalk Snow Removal Program – Manager Cortez handed out the Pedestrian-Focused Sidewalk Program proposal and requested policy direction leading to the development of the program that would address seasonal challenges that affect pedestrian safety and accessibility for differently abled individuals. Manager Cortez requested authority to develop a comprehensive approach for addressing snow/ice on sidewalks in the winter and trip hazards in the summer. If authorized, Manager Cortez would introduce this approach during the budget process and will include a pilot program for November 2019.

Commissioner Haladay asked if there is a second inspection prior to the city clearing the sidewalk and charging the property owner. Manager Cortez stated there is a second inspection for compliance and the decision is made to clear the sidewalks, if that is the policy direction of the commission. Manager Cortez noted there is a buffer of 24-hour for residential and businesses have until 9:00 a.m. the next business morning to clear the sidewalks.

Mayor Collins emphasized the importance for public education for residential and commercial property owners. Manager Cortez concurred educating both residential and business owners on the policy is important.

Commissioner O'Loughlin asked for clarification on the process of notifying businesses; is it automatic staff re-visits the address after the first complaint and/or non-compliance is issued or does it require a second complaint. Manager Cortez stated it would not require a second complaint.

Commissioner Haladay asked how long do we give people to clear their sidewalks and then verify that the sidewalks have or have not been cleared. At what point does the commission implement policy that a courtesy notice is no longer given.

Commissioner Noonan stated if there was funding available, the city would clean the sidewalks the first time and leave notice we are supporting clean and safe sidewalks and put the property on notice they are responsible for their sidewalks.

Mayor Collins asked if the city has resources to do that. Manager Cortez referred to page four of the Pedestrian-Focused Sidewalk Program that outlined the winter approach and what do we need to clear privately owned sidewalks and public right of ways. Manager Cortez also spoke of the proposal to implement a pilot program and look at additional funding in FY2020.

Mayor Collins noted the city has had problems with getting contractors to remove the snow from downtown. Manager Cortez stated staff will keep looking until we find someone who is willing to do the work; there are concerns with the city's insurance requirement. The city may want to pay the insurance premium as part of the contract. The pilot program asks for two temporary employees.

Commissioner O'Loughlin asked how the pilot program would connect with the complaint driven policy that is in place. Manager Cortez stated the complaints help define where there is an issue; the expectation is residents are responsible for their sidewalks. The pilot program is not to replace the responsibility but to be responsive in problem areas.

HCC representative Dylan Klapmeier asked if residents would be fined without any notification. Mayor Collins stated eventually that could happen; it would require a change in policy.

Commissioner Haladay stated notices provide information; however, it is a city ordinance that residents are responsible for the sidewalks. The courtesy notice is just that; the warning is the public notice. By issuing warnings, it slows down getting the sidewalk cleared.

Commissioner O'Loughlin stated the costs to clear the sidewalks is the responsibility of the resident; if the city clears the sidewalk, would the residents be charged to have it cleared. Manager Cortez stated any sidewalks cleared the property owner is responsible for the costs.

Commissioner Noonan again suggested the city could clear the sidewalk the first time and leave notice and after that charge. Manager Cortez stated the approach being suggested by Commissioner Noonan is the city clears the sidewalk, leaves a notice, and if the problem continues the property owner would be responsible to pay if the city clears the sidewalks again.

HCC representative Carolan Bunegar suggested the commission take the same approach with sidewalks as they do with snow removal on the streets. If the sidewalks are not cleared, the city will clear them and it will cost you. Manager Cortez noted staff is developing the program and the commission can give direction not to issue notices.

Public Comment – George McCauley stated the city does not need to go into the business of cleaning sidewalks; we have a policy that needs to be enforced. He has submitted images every year of the same sidewalks that are not cleared. One code enforcement officer is not enough. People are not shoveling the sidewalks and again the ordinance needs to be enforced.

Jenna Liette stated she has tried to contact city by phone and was directed to call Code Enforcement Officer Dige; however, calls are not returned. The complaint process should be re-examined to assure there is a staff person accepting those calls. Complaints are so low in numbers because the policy does not work and there is only one staff person handling them. People in wheelchairs have a very difficult time accessing various places, because of not only snow but also other obstacles. Ms. Liette stated she likes the idea of enforcement, education and awareness. The ADA parking lot for this building is not accessible when there is snow on the ground and noted she fell out of her wheelchair coming into the building today. Ms. Liette also noted there is not ADA parking spaces along Last Chance Gulch.

Commissioner Noonan noted there is funding in the FY2020 budget to redo the ADA parking lot for the City-County Building; however, it may be necessary to do it earlier. Manager Cortez stated staff would look at all city owned buildings for ADA access.

Commissioner O'Loughlin noted there are several options to consider; acknowledging residents need to shovel their sidewalks, budget constraints, identifying the core areas for public safety and accessibility. After the core areas are identified, the city would notify the property owners and if the sidewalks are not cleaned, the city will clean at the cost of the property owner. Recognizing we cannot implement a citywide policy at this time.

Mayor Collins stated the city should put the courtesy notices in the water bills. Manager Cortez asked if there is commission policy to continue to give property owners a courtesy notice and give people time to clear their sidewalks.

Commissioner Haladay stated there are two ways if we are going to try to move forward; one is a pilot project that targets certain areas and charges back in some way; the other is taking what we have today and stepping up the enforcement. Commissioner Haladay asked if we know what the respective costs are for the two options and is there existing funding for either option. Manager Cortez stated if we hire temporary employees to clear the sidewalks, she would have to look at the actual costs to implement the pilot program.

Ms. Liette requested when snow removal is done in private lots the access aisles are clear, the places where the yellow hashtags are located. Currently there is not a city ordinance to enforce accessible parking in private owned lots. It is a state misdemeanor violation. The ordinance was amended in 2013 and the language was removed regarding snow removal in private lots.

Consensus Direction to Manager – Move forward with the pilot program and report back to the commission with the costs.

Strategic Retreat – Manager Cortez presented a draft agenda for the February 16, 2019 strategic retreat and confirmed that the main goal for the retreat will be to provide a financial forecast for the next four years and to insure that the budget preparation is guided by the commission policy on levels of expenditure.

Staff is preparing a presentation that will include financial forecast for 2020, 2021, 2022 and 2023. This presentation will also include an overview of how the city's general fund, restricted funds, internal funds and enterprise funds are allocated based on the last actual fiscal year.

5. Department Discussions

Finance Department (Administrative Services)

Eagles Helena Aerie 16 FOE – Director Jorgenson reported to stay consistent with city ordinance, the City Manager has approved suspension of Eagles' liquor license due to non-payment of City assessments.

However, in the last few days, there have been developments that seem promising towards resolution of delinquent payments. Finance and legal staff recommend postponing a commission review of this item until the February 25 regular meeting as Eagles and the City may enter into a payment agreement in the next few weeks.

Director Jorgenson stated the new manager at Eagles Helena Aerie 16 has indicated he will be paying the full amount this week.

Consensus Direction to Manager – No direction at this time.

Parks & Recreation

Boulevard Tree Management Plan – Manager Cortez introduced the agenda item. Director Marr reported the Urban Forest Department received a \$10,000 Department of Natural Resource and Conservation program development grant to remove 20-30 large defective Green Ash trees. Said removal is necessary to prevent Green Ash beetle infestation. The commission requested an update on the urban forestry program to better understand how this grant fits into the larger tree management philosophy in the city.

Director Marr and Arborist Daly gave a PowerPoint presentation on the Boulevard Tree Management Plan. Staff wants to ensure understanding by the commission on the impetus for tree removal. Staff also wants to ensure members of the public understand the necessity and importance for removing these trees to prevent infestation and protect healthy trees.

HCC representative John Andrew stated he has visited with Director Marr and Arborist Daly about the removal of green ash trees and the city does not have a policy. He noted he installed a new sidewalk and wanted to be proactive and save the trees and had an arborist look at the trees. He then asked when the emerald ash bore does come to Helena, will it be the city's responsibility to remove and replace the boulevard trees. Mr. Andrews recommended a policy be developed on who is the responsible for the removal and replanting of boulevard trees. Director Marr stated staff has a draft of plan for the removal and replacement of boulevard trees and will bring it forward to a commission. Ultimately, it is the responsibility of the adjacent property owner to remove and replace the boulevard trees.

Commissioner Haladay stated the assumption is we are going to get the emerald ash bore. Director Marr concurred and stated it is not if but when. Commissioner Haladay commented it is cheaper to remove green ash trees with speed and replace with other diverse species; it will be more expensive the longer we wait. The city should be proactive and not reactive as treatment of the emerald ash bore is very expensive. Mr. Daly concurred if the removal of the trees is done within the normal scope of operations. The more resources put toward the project, the faster the trees can be removed and replanted.

Commissioner Haladay noted the Urban Forest assessment was \$20.00 for a long time and has been increased to \$21.00. If the commission were to increase the assessment, what would we do with the extra funding. What do we need to do to carry out a robust process and how would we do it. Director Marr commented there needs to be a balance, we do not want to remove the entire canopy too quickly; however, if funding was available another crew could be hired and it would increase the productivity.

Mayor Collins asked staff to prepare a budget on what is needed. Manager Cortez stated one-additional position would be approximately \$40,000; staff will prepare some numbers for the commission. Commissioner Haladay stated it would be helpful to know what the actual plan is.

Commissioner Noonan asked what the amount of the DNRC grant was. Director Marr stated it was \$10,000.

HCC representative Meg Bishop noted if the property owners are responsible for the boulevard trees; however, were they involved in selecting the green ash trees. Arborist Daly stated when the trees were selected, citizen groups were involved. Ms. Bishop asked the city to consider giving the property owners some type of break when having to remove and replant green ash trees.

Director Marr noted in addition to removing and planting tree the city pays for pruning of trees. If it is a defective or hazardous tree, the city will remove the tree and then asks the property owners to help plant new trees.

HCC representative Carolan Bunegar stated the emerald ash bore is already in Helena. She asked that a public education campaign be implemented. Director Marr noted that staff plans to do a public outreach campaign on the emerald ash bore.

Manager Cortez stated staff will come back with numbers and requested the conversation happen during the budget process. Commissioner Haladay stated it would be helpful to know what the ask is prior to considering a rate adjustment.

6. Committee discussions

Helena Citizens Council – A Helena Job – HCC member Paul Pacini submitted a proposal for commission consideration; however, he had to leave the meeting. He asked Manager Cortez to follow-up with Mr. Pacini.

7. Review of agenda for February 11, 2019 Commission meeting – No discussion held.

8. Review of agenda for February 20, 2019 - Manager Cortez noted she would bring back the Sidewalk Snow Removal Pilot Project.

9. Public comment – Travis Elder, property owner of 907 Helena Avenue, addressed the commission regarding the parking on snow routes and asked if the times could be changed to accommodate businesses. Manager Cortez asked Director Haugen and Director Hewitt to give Mr. Elder their business cards and schedule a meeting for further discussion.

George McCauley thanked the city for moving forward with the enforcement of the sidewalk snow removal ordinance. He also spoke of the impact accessible parking has on the disabled in city and privately owned lots. Prior to 2013, there was language in city code that allowed the Police Department to enforce ADA parking regulations in private lots. A police officer can issue a notice to appear; however, it has to be issued to an individual and not a car. Mr. McCauley noted he has spoken with Assistant Chief Hagen regarding this issue.

Attorney Jodoin stated staff is aware of the complaints and he is looking into when the ordinance was amended and why the language was removed in 2013. The legal issue is what authority the city has to enforce private parking regulations, specifically with regard to Federal ADA. The advice he has given to the police department is there is a provision under the Human Rights Code that makes it a misdemeanor violation on a parking ticket and it goes to the person who committed the parking violation and comes with Title 46, Criminal Due Process.

Commissioner Noonan reported the ADA committee is going to sponsor another Walk a Mile – Ride a Mile event with emphasis on parking lot accessibility. Commissioner Noonan noted he has limitations and many of the private parking lots are not cleared to allow accessibility into the buildings.

Attorney Jodoin stated employers have the obligation to make accommodations to their employees; the streets in the Great Northern are privately owned. Staff will contact Ms. LITTLE and direct her to agencies who can assist her.

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

10. Adjourn – The meeting adjourned at 5:40 p.m.