

SUMMARY OF ADMINISTRATIVE MEETING

July 24, 2019– 4:00 p.m.

Room 326, City-County Building

316 N. Park Avenue

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

Staff present: City Manager Cortez; Assistant to the City Manager Amanda Opitz; City Attorney Thomas Jodoin; Deputy City Attorney Iryna O’Conner; Police Chief Hagen; Fire Chief Ken Wood; City Engineer Ryan Leland; Director Transportation Systems Department David Knoepke; Parks & Recreation Director Kristi Ponozzo; Community Development Director Sharon Haugen; Interim HR Director Sheri Hall; Finance Director Glenn Jorgenson; Budget Manager Nikki Davison; Community Facilities Superintendent Troy Sampson; Interns Mauricio Morfin, Maesie Halliday, Dylan Campbell; and Deputy City Clerk Dannai Clayborn.

Others in attendance IR Reporter Thomas Plank, NorthWestern Energy Representatives Howard Skjervem, Steve Schmit, Rick Edwards, Sarah Norcott and JoDee Black, Alan Zachheim, Betsy McCarthy, Susan Smith; Pat Bic, Robyn Biffle and Gus Byrom.

2. July 10, 2019 Summary – The July 10, 2019 administrative meeting summary was approved as submitted.

3. Commission comments, questions

Upcoming Appointment – Mayor Collins recommended the following board appointment:

ADA Compliance Committee – Reappointment of George McCauley and James Whaley to second terms on the ADA Compliance Committee. Terms will begin upon appointment and expire September 1, 2022.

Citizen Conservation Board Appointment of Erin Grossman as a student representative to the Citizen Conservation Board. There is not a specific term for members of the Citizen Conservation Board.

Helena Regional Airport Authority Reappointment of Elizabeth Bangerter to a second term on the Helena Regional Airport Authority. Term will begin upon appointment and expire on September 1, 2022.

Tourism Business Improvement District Appointment of Adrian Ambro to the TBID for a first term. Term will begin upon appointment and expire April 20, 2023.

4. City Manager’s Report – Manager Cortez introduced two local high School Student Interns working with the City for the summer.

Mr. Dylan Campbell and Ms. Maesie Halliday introduced themselves to the Commission and gave brief comments.

Manager Cortez asked Transportation Systems Director Knoepke to give an update on the Downtown Parking project. A brief summary was given regarding the kiosks, meters, and mobile app installation and usage. Director Knoepke stated the parking on Front St, adjacent to 15th lot is now open, and the kiosk has been installed and is operational. Maintenance crews are currently working on power washing and clean up in the parking garages. Commissioner Haladay offered thanks to Director Knoepke and Supervisor Hewitt for all their efforts in the parking roll-out, and despite some glitches he was pleased overall with the project, and was confident the new parking options would benefit the City and those seeking to enjoy Downtown.

Manager Cortez invited all those interested to attend the introduction of the new Trolley Program on the July 29th at 9:30am on 6th Ave and North Last Chance Gulch. In addition, the Manager stated there will be a public discussion regarding the Sapphire Bar on August 14th as an open dialogue to discuss concerns amongst businesses and residents in the area with relevant parties from the Sapphire.

Manager Cortez asked Commissioner Noonan to give an update of the Open Lands Meeting held on July 22nd. Commissioner Noonan stated had a large attendance, 23 groups were represented at the meeting, and the Commissioner felt there was a very constructive dialogue, and questions were answered as to the structure and role of the new working committee, which has been developed to deal with Open Lands issues. IT has been working on the new City of Helena website, and there would be options available for the commission to review. Manager Cortez gave an update on the CUP process as it compared to other cities within the State, and asked Community Development Director Haugen to give a full update on the research done by City staff. The comparison's included the cities of Bozeman, Butte, Kalispell, Billings, Missoula, and Great Falls. A matrix comparing all the different approaches by each City was given to the Commission to review, and this matrix would be brought to the Zoning Commission for discussion in the overall review and revision of the city's CUP process. Manager Cortez stated at this stage the information would be taken to all relevant parties for discussion and then a recommendation would be brought forth to the Commission for further discussion and deliberation.

5. Department Requests –

City Manager's Office – Department Reorganization – Ordinance Updating Organizational Structure by Amending Title 2, Boards, Departments and Officers, Chapter 3, Departments of the City of Helena Code – City Manager Cortez reported the proposal is to obtain City Commission guidance on the next steps, regarding the adoption of an ordinance updating the city department nomenclature and structure as follows:

1. The Administrative Services Department will be renamed the Finance Department.
2. Open Lands will be added to the title of the Parks and Recreation Department to read Parks, Recreation and Open Lands Department.
3. Civic Center operations division will move from the Community Facilities Department to the Parks, Recreation and Open Lands Department.
4. A new Transportation Systems Department will be created.
5. Streets, Shop and Fleet Services, Transit, Parking, Stormwater, and Right-of-Way Code Enforcement divisions will be placed within the Transportation Systems Department.
6. The Public Works Department is will be comprised of Utility Maintenance, Water, Solid Waste/Recycling, City Engineer and Wastewater Treatment Divisions.

If the commission concurs with the proposed renaming and reorganization, staff recommends that the Commission direct staff to bring the proposed ordinance for Commission consideration at first passage and set a public hearing date. The draft ordinance was included in the meeting packet.

The Manager gave a summary as to why the restructuring of the departments, stating there would be greater accountability, consistency of service, and a formalizing of processes would occur by the reorganization of the relevant departments. The Manager stated there would be further changes within departments, but at this time there would

Commissioner Noonan stated for the record he would support the movement of this proposal to a formal agenda and meeting.

Mayor Collins asked for public comment, none was received.

Attorney Jodoin confirmed for the record some minor revisions would occur, but the item would be brought forward to a formal hearing in front of the Commission. There was consensus by the Commission.

City Attorney--KCAP Park Disposal – Authorize disposal by soliciting request for redevelopment – Attorney Jodoin reported the Commission approved the disposal of KCAP Park by authorizing auction sale to the highest bidder on January 29, 2019 (Resolution No. 20508). At auction, held on February 28, 2019, Firetower, LLC., submitted the winning bid of \$30,500.

Subsequently, on March 7, 2019, the City and Firetower, LLC., entered into an Agreement to Sell and Purchase (“Agreement”) the property. Pursuant to the Agreement, closing was to occur within sixty (60) days. Firetower, LLC., was unable to timely complete closing and on June 25, 2019, the City notified the buyer’s agent that the City believed Firetower LLC., was in breach of the Agreement and the City would not complete the sale.

Subsequent to the original disposition authorization of KCAP Park, the Commission expressed the desire to determine the preferred method of disposal of city-owned property on a case-by-case basis with initial consensus determined at an administrative meeting.

The Commission now has an opportunity to reevaluate its decision with respect to what method the Commission wishes to utilize for disposition of KCAP Park. However, if the Commission wishes to utilize any other method of disposal than what was authorized by Resolution No. 20508, the Commission would have to recommence the disposal process in accordance with Section 1-4-17 of the Helena City Code. This process entails a new resolution of intention, notice by mail to all property owners within three hundred feet of the exterior boundaries of the property considered for disposal, a legally noticed public hearing, and adoption of a resolution authorizing a new method of disposition.

The objective is to obtain Commission guidance on the Commission’s preferred method of disposition of KCAP Park. Staff recommends utilizing the same methodology as the “Old Bus Depot.” Namely, authorizing disposal of KCAP Park by soliciting requests for proposals for its redevelopment. A resolution of intention to that effect is presently before the Commission for its consideration at the July 29, 2019, regular meeting.

Staff was seeking the Commission come to a consensus on moving the property forward to a public hearing for re-consideration as a surplus property. There was a consensus to move forward with the disposal of the surplus property.

City Attorney--Resolution encouraging creation of voluntary outdoor smoke-free areas and enhanced practices to reduce outdoor secondhand smoke exposure in public areas --Attorney Jodoin reported the Commission first considered a proposal to regulate outdoor smoking near indoor public places at the July 25, 2018, administrative meeting. At that meeting the Commission's consensus direction to staff was to draft an ordinance that would amend the preclusion of smoking within a "reasonable distance of indoor public places" found in Section 4-13-5, Helena City Code (now codified at 5-1-4(B)), to prohibiting outdoor smoking within thirty feet (30') of indoor public places.

At the September 19, 2018, administrative meeting the Commission considered a draft ordinance regarding Sale of Tobacco which added Chapter 14 (now Chapter 2) to Title 4 and a draft ordinance regarding smoking distance. Following public comment received regarding these issues, the Commission decided to advance the Sale of Tobacco ordinance to first passage. However, the Commission directed the then Interim City Manager to work collaboratively with the Helena community to refine the draft of the smoking distance ordinance. Following that direction, the Interim City Manager facilitated the creation of the Outdoor Smoking Workgroup, consisting of public health officials, city staff, and business representatives. The Workgroup met several times between November 2018 and May 2019. The result of that process is the attached draft resolution that encourages creation of voluntary outdoor smoke-free areas and enhanced practices to reduce outdoor secondhand smoke exposure in public places.

The draft resolution does not create a substantive regulatory environment but rather encourages businesses within the city to adopt smoke-free practices so that outdoor smoking near public access entrances, exits, windows, and ventilation systems is discouraged. The draft resolution also commits the City to undertake community awareness and education efforts regarding outdoor smoke-free practices.

The proposal is to obtain Commission guidance on the next steps regarding the City's adoption and implementation of the above-referenced resolution, if any. Staff recommends that if the City Commission desires to proceed, this resolution be placed on the next available regular commission meeting as a regular item.

A new version of the resolution was given to the Commission, which differed in only minor language revisions, after the public packet was posted.

Nathan Wellington, Tobacco Specialist for Lewis & Clark County spoke about the importance of the resolution and asked the Commission for their support.

Bruce McCullough, Tri-County Licensed Beverage Association member, stated the process of this workgroup was in every way a positive one, and spoke in full support of moving forward with the resolution.

Cathy Burwell, Helena Chamber of Commerce, spoke in favor of adoption of the proposed resolution, echoing Mr. McCullough's comments about the positivity of the process by all relevant parties throughout. Ms. Burwell stated the Chamber is in full support of the resolution and offered assistance in additional steps going forward should the City choose to adopt it.

Thom Propp, representative of Town Pump, spoke in favor of the resolution. Mr. Propp stated as a business community representative on the workgroup, he felt the openness of the process and collaborative efforts of all involved has generated a large amount of support from local business owners.

A consensus of the Commission expressed support for moving the item forward to the next Commission Meeting for approval.

Community Facilities – NorthWestern Energy – LED Streetlight Replacement

City Manager Cortez reported on the background of the function and responsibility of the utilities, in this case NorthWestern Energy. A dialogue between the City Staff and NorthWestern Energy and the presentation given to the Commission included input from NorthWestern, as well. The Manager demonstrated the difference between the definitions between the City and NorthWestern Energy, and discussed how these differences may impact the decisions going forward. A letter was presented to the Commission from NorthWestern Energy in response to commentary received by the City and questions posed by the Commission and City Staff.

The City has 53 lighting districts accounting for approximately 3,400 streetlights. NorthWestern Energy is currently replacing street light heads with LED luminaries. However, there is a concern that available LED replacements may not meet current City lighting ordinances. Approximately 2,400 out of 3,400 are considered compliant and can be replaced. NorthWestern Energy staff would like to discuss options for continuing with the LED project for those that are not compliant.

City code 10-1-3 Lighting Definitions says "HORIZONTAL CUTOFF: Fixtures that are designed in such a manner that light rays emitted by the fixture, either directly from the lamp, lens, or housing, are only projected below a horizontal plane running through the lowest point on the light source."

The City has several types of lights: Cobra Head, Acorn, Lexington and Contemporary are the most common. The International Dark Sky Association and the Illuminating Engineering Society issued a new light emission standard called the BUG rating in 2011 (Backlight, Uplight, and Glare). While not adopted by any regulatory agency, it is being used to rate streetlights. All light fixtures are recessed and were considered to be in compliance with the definition above until we were informed of the BUG rating.

Cobra Head lights are consistent with City ordinances and BUG rating and will be replaced. Lexington lights are of two types: 1. With Lens (inconsistent with Ordinance) and 2. Without Lens (consistent with Ordinance)

The current Contemporary lights have no comparable replacement and NorthWestern Energy had planned to replace them with Lexington (with Lenses) lights. However, the Lexington (with Lens) and Acorn styles both have reflection from the lens and/or are rated above a zero (out of five), meaning there is upward illumination.

Options for discussion include but are not limited to:

1. Use a Lexington (No Lens) light as it has a zero Uplight rating. Caveat: NorthWestern has received complaints that this type of Lexington is "harsh" in its intensity. If these are used, NorthWestern cannot add lenses later without replacing the entire fixture.
2. Disallow Acorn lights, as they do not have a U rating of zero.
3. Disallow Lexington with Lens, as they do not have a U rating of zero.
4. Request NorthWestern Energy replace all of lights with Cobra head poles and lights. Please note that the current poles cannot be used for Cobra head fixtures and would have to be replaced along with the fixture increasing the cost.
5. The Commission may consider changing the ordinance so that reflection off the Lexington with lens is not a violation of the ordinance.

NorthWestern Energy cannot complete the Front Street lighting project using Acorn lights as directed by the Commission. Again, Acorn lights violate city Ordinance.

Staff and NorthWestern Energy employees held a public meeting on June 26 at the Civic Center. Approximately twenty people attended of which 16 left written comment. From the comments received citizens prioritized in order the importance of three items: 1 dark skies, 2. energy savings, and 3 maintain historic look in that order. Staff also discussed this predicament with residents at the June 29 Farmers Market. Additional input from the community will be received between the time this report is uploaded and the Administrative Meeting. Staff will update the Commission. A summary of all commentary to this date was given to the Commission, as part of their packet.

Several comments were in favor of a more comprehensive lighting plan and desire to slow down the conversion until a plan can be put together. Other questions concerned why there are only a few fixtures to choose from which were selected by NorthWestern Energy. Lastly, some citizens wanted to know why there wasn't dimming technology being considered during this conversion.

Staff and NorthWestern Energy are requesting Commission direction as to how to proceed. The Manager asked the Commission to consider the following factors when making a decision to direct Staff and NorthWestern on how to proceed.

Commissioner Haladay asked how the language of "fixtures" by the City was defined, and where its origins were from. City Attorney Jodoin stated he was not aware of who drafted the language, it originated in the Ordinance adopted in approximately 2000. Commissioner Haladay expressed concerns over the discrepancy between the City of Helena "fixture" definition and that of NorthWestern Energy.

Public Comments:

Rick Edwards, Director of Community Connections from NorthWestern Energy introduced himself to the Commission. Mr. Edwards spoke to the concerns expressed by Commissioner Haladay, stating he hoped his commentary today would alleviate some of those expressed by the Commissioner. Mr. Edwards also addressed one point within Manager Cortez's presentation, clarifying if a district opted out of the LED project and the High-Pressure Sodium lights burn out, NorthWestern would remove the entire fixture from the district, there would not remain a derelict light within those districts. Mr. Edwards expressed NorthWestern's desire to continue the project undiminished, citing lower supply costs to customers and lower maintenance as benefits to the community. He outlined NorthWestern's response to several concerns from Public Commentary and the Commission:

1. Dark Skies: 2600 of the light installs are the Cobra Head lights and are Dark Sky compliant. NorthWestern was requesting the City Staff and Commission consider a minor modification of the Ordinance language to address the approximately 800 non-compliant lights, which were the decorative lights only.
2. Color Temperature: NorthWestern stated the current LED choice was 3000 Kelvin, despite the industry standard being 4000 Kelvin. The American Medical Associations opinion is 4000 Kelvin or greater causes sleep disruption. Currently, there is not a viable option of a lower Kelvin LED light available to NorthWestern through its reliable vendors than the current 3000 Kelvin lights.
3. Light Trespass: NorthWestern asked the Commission to allow the NorthWestern Engineering department to research options for the currently installed lights and prior to the future installations. Mr. Edwards asked the Commission to allow

NorthWestern some time to assess the situation and offer a variety of solutions to the Commission for consideration.

George Horvath, Manager of Automation, was introduced. Mr. Horvath gave a brief summary of the internal process used by NorthWestern Energy when choosing the lights which were currently being installed, stating Dark Sky compliance and the currently installed High Pressure Sodium specs were major considerations when choosing the LEDs.

Mr. Edwards stated in response to the final question posed in Manager Cortez's presentation regarding costs, all NorthWestern Energy customers pay the same rate. Commissioner Haladay expressed concerns over light trespass for the new LED lights, based upon his own personal observations and the public complaints received by the City. Commissioner Haladay asked Mr. Edwards to discuss the process by which public commentary was received and documented by NorthWestern Energy. Mr. Edwards stated all public commentary received by NorthWestern was being considered and taken seriously. Commissioner Haladay asked if the installation of the lights in question was continuing. Mr. Edwards stated NorthWestern has stopped installing all decorative lights but is still installing the Cobra lights, but further installations would be pending the discussions this evening. Commissioner Haladay asked NorthWest Energy to consider ceasing the project altogether, until an agreement and solution could be developed.

Commissioner Haladay asked for clarification on the Capital funds Districts, asking if it was possible to know how much a particular District has contributed to the light replacement fund.

Sarah Norcott, Corporate counsel for NorthWestern, explained the rates process internally and how the rates are determined. Ms. Norcott stated due to the funds for all districts being placed into one accounting pool and then assessed based upon multiple factors amongst all NorthWestern district customers, it is not feasible to determine an exact amount a specific district or customer has contributed to the lighting replacement fund.

Mr. Edwards also addressed the possibility of the commission choosing to pause the project altogether, this may increase the costs to the Helena customers as an offset to NorthWestern's vendor and contracted services costs. Commissioner Haladay asked if NorthWestern would be able to offset their costs by utilizing the allocated equipment to complete replacement projects in other cities throughout the state. Mr. Edwards confirmed this was an option for equipment, but the scheduled workforce costs may not be covered.

Mayor Collins asked for specific solutions NorthWestern was proposing. Mr. Edwards stated NorthWestern was open to working collaboratively with the City to come to a resolution for all the concerns addressed by the Commission and community members, as stated earlier in the discussion.

Commissioner Haladay stated to NW representatives he maintained concerns, but his concerns could be alleviated greatly, if the argument regarding the fixtures could be dropped by NorthWestern.

Commissioner Noonan excused himself due to a family emergency. City Attorney Jodoin recommended the meeting be adjourned and a new date to continue discussing this matter be chosen.

Manager Cortez advised the remaining Commission members they did not have a quorum and as such this was no longer an official meeting. It was the Manager's recommendation to adjourn the meeting.

The remaining agenda items not discussed would be brought to the City Manager for review and placed on future agendas as determined necessary.

6. **Community Development – Housing Stabilization CDBG Application Discussion**
Community Development- City of Missoula Development Services Presentation
Public Works- Service Line Replacement Loan Program Presentation
7. **Committee discussions**
Helena Citizens Council – No report given.
8. **Review of agenda for July 29, 2019 Commission meeting –**
9. **Public comment –**
10. **Commission discussion and direction to City Manager**
11. **Adjourn** – The meeting adjourned at 5:45p.m.