

JOURNAL OF CITY COMMISSION WORK SESSION
Virtual Meeting by Zoom
September 7, 2021

City Commission Work Session

Mayor Kelly presiding

CALL TO ORDER: 5:30 PM

Due to the COVID-19 health concerns, the format of the City Commission Work Session was held in a virtual video-conferencing environment.

ROLL CALL/STAFF INTRODUCTIONS: City Commission members participated electronically via Zoom Webinar: Bob Kelly, Mary Sheehy Moe, Rick Tryon, Owen Robinson and Tracy Houck. City staff participating electronically were: City Manager Greg Doyon and Deputy City Manager Chuck Anderson, City Attorney Sara Sexe and Deputy City Attorney Jeff Hindoien, Finance Director Melissa Kinzler, Finance Deputy Director Kirsten Myre and Finance Grant Administrator Tom Hazen. Deputy City Clerk Darcy Dea was present in the Commission Chambers.

To honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation.

To attend and participate in the virtual meeting utilizing Zoom, attendees must register in advance for the Commission Meeting at: https://us02web.zoom.us/webinar/register/WN_KbzqgYgLO6-ZRTSGn6JOIA

For all other participation options, please see **Public Participation Guide for City Commission Meetings**.

PUBLIC COMMENT

None.

1. CITY COUNTY HEALTH DEPARTMENT (CCHD) GOVERNANCE STRUCTURE CONTINUED DISCUSSION.

Manager Doyon explained that the City's response draft Memorandum of Understanding (MOU) was rejected by the County Commission. The County Commission indicated that it does not believe further discussion is required and are ready to proceed as originally presented. The City is unable to stand up its own Health Department and meet all of the regulatory requirements associated with creating one. He explained that the City could contest the County's interpretation of the interim "governing body" under HB 121 and HB 257 by requesting a declaratory judgment from the Attorney General's office or sign the MOU as is.

City Attorney Sexe explained that if the City enters into the agreement with the County, the MOU is a short-term solution because it expires December 1, 2021.

Commissioner Robinson explained that the Board of Health was the governing entity of the City-County Health Department (CCHD) prior to the 2021 Legislative changes. Currently, Board of Health members

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include: City Commissioner Owen Robinson; Fourth District Dental Association Matt Martin, DDS; Cascade County Medical Society Ray Geyer, DO; Great Falls Public School Superintendent Tom Moore, City Representative Amanda Ball; County Representative is vacant and Cascade County Commissioner Joe Briggs. The 2021 Legislative changes continue to allow the Board of Health to manage and oversee the public health systems as administered by the CCHD; however, the governing body can override a Board of Health decision.

Commissioner Robinson suggested that the City sign the MOU establishing the County Commissioners as the interim local governing body for the City-County Board of Health on a temporary basis, in order to comply with the law. He added that the City could negotiate a new MOU or extend the expiration date of the current MOU.

Mayor Kelly concurred with Commissioner Robinson's suggestion and added that notifying City and County residents about the proposed arrangement is important. Mayor Kelly indicated that the public is concerned about putting health decisions into the hands of elected officials. He suggested that any further negotiations with the County include the City and be subject to open meeting requirements.

Commissioner Tryon concurred with Mayor Kelly and Commissioner Robinson's suggestions; however, he expressed concern with regard to the County Commissioners not considering any of the City's suggestions in the MOU. He further expressed concern that the County Commissioners would continue to be the governing body after December 1, 2021.

Commissioner Robinson reported that the City deals with more issues than the County because of the amount of inspections it is required to do at restaurants and bars.

Commissioner Moe requested a legal opinion as soon as possible and commented that she has no faith that any further conversations with the County will be productive after the City's reasonable proposal was dismissed by the County. The legislative bi-laws require an agreement from both parties with regard to determining a governing body with a City-County Board of Health. She requested that any further meetings with the County be in a public setting.

Commissioner Houck concurred with Commissioner Moe with regard to requesting a legal opinion and she added that the City is being forced into compliance. Commissioner Houck expressed concern with regard to the County being partisan and that the City's input is important.

Mayor Kelly received clarification the 1975 Agreement maintains its enforceability with regard to the operation of the CCHD.

Deputy City Attorney Hindoien explained that, to his knowledge, other municipalities that have a joint City-County Health Department are not in compliance with the statute and are struggling with determining a local governing body.

Manager Doyon commented that if the County Commission believes that it can be the only governing body in a Joint City-County Health operation, then the City could request a legal opinion to interpret the

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statutory framework set up by the legislature. He added that if the City Commission amends the current agreement, then it could lose the ability to address other issues, as well as any further conversations with the County about the short-term contract.

Commissioner Tryon inquired what the incentive would be for the County Commission to have negotiations with the City Commission after December 1, 2021, since it disregarded an interim participation by the City Commission and has already declared themselves to be the governing body for the City-County Board of Health.

Deputy City Attorney Hindoien responded that the statute states that the governing body has to be agreed upon by both the City and County.

Manager Doyon inquired if the County could terminate its existing services in the City if there was no agreement.

City Attorney Sexe responded that the County would be in breach of the 1975 Agreement.

Commissioner Houck received clarification that the language in the 1975 Agreement is not specific as to how to terminate the agreement.

Commissioner Robinson suggested that the City partner with other municipalities that are not in compliance with the statute and request a legal opinion from the Attorney General.

Commissioner Moe reiterated that a legal opinion is the way to proceed since there is a disagreement with the County's interpretation of an interim local governing body for the City-County Board of Health under the new law.

Mayor Kelly received clarification that the City would be in compliance by establishing the County Commissioners as the interim governing body until December 1, 2021.

Commissioner Houck suggested that the City Commission forgo signing the MOU until receiving a legal opinion.

Commissioner Tryon concurred with Commissioner Houck and he added that the County Commission is in non-compliance with the law because it rejected the City's reasonable proposal.

City Attorney Sexe explained that an Attorney General opinion would remain the law until it is overturned by a Judicial Opinion. A Judicial Opinion can involve different judicial districts in the state and the opinion could potentially be appealed to the Supreme Court for a final decision. If the City Commission is looking for a determination of the interim governing body under HB 121 and HB 257, City Attorney Sexe recommended requesting a Judicial Opinion through a Declaratory Judgment action from the Cascade County Eighth Judicial District Court.

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It was the consensus of the Commission to have City staff do more background before taking any additional action and report back to the Commission.

2. AMERICAN RESCUE PLAN ACT (ARPA) FUNDING.

Finance Grant Administrator Tom Hazen requested that the Commission provide City staff with its recommendations to the following three areas of the draft grant application prior to the September 21, 2021 Work Session.

1. Review process for the grant application.
2. Determine funding priorities of the grant application.
3. Determine specific amount to set aside for the City and the community.

Mayor Kelly reiterated that the use of funds are ARPA funds and not CARES Act funds. He received clarification that the grant application could be posted on the City's website and would be similar to the CDBG Coronavirus application process.

Manager Doyon suggested that the Commission determine five eligible projects that it considers as priorities to include on the application and then the City could host a town hall meeting for the public to petition for their areas of concern.

DISCUSSION OF POTENTIAL UPCOMING WORK SESSION TOPICS

City Manager Greg Doyon reported that ARPA Funding is scheduled for the September 21, 2021 Work Session and a quarterly Downtown TIF Application update is scheduled for the October 5, 2021 Work Session.

Mayor Kelly received clarification that a future topic about Municipal Wi-Fi is for consideration of having Wi-Fi at Gibson Park and the downtown area.

ADJOURN

There being no further discussion, Mayor Kelly adjourned the informal work session of September 7, 2021 at 6:41 p.m.