

# City Council Work Session

April 6, 2009

5:30 PM

Community Center

## ATTENDANCE:

**Mayor/Council** (please check)  Tussing,  Ronquillo,  Gaghen,  Brewster,  Pitman,  Veis,  Ruegamer,  Ulledalen,  McCall,  Astle,  Clark.

**ADJOURN TIME:** 7:28 p.m.

## Agenda

<b>TOPIC #1</b>	<b><i>Public Comment</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- **Joe White, Billings, MT**, commented on the downtown construction and the problem with the site and size of site for the new federal courthouse.

<b>TOPIC #2</b>	<b><i>Legislative Report</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

City Lobbyist Ed Bartlett joined the meeting by phone and provided the following review of his report about legislative activities for the week of April 3:

- HB 2 would be considered next week. The Legislature had not completed executive action on the bill. Executive action also had not occurred on the companion bill, HB 645, but would be considered later in the week.
- HB 645 stimulus money appeared to be pretty secure for cities.
- HB 658 was the only reappraisal bill left for discussion. It was scheduled for hearing in Senate Taxation April 7.
- The bill regarding bonding for roads would be transmitted to the Governor soon.
- The repeal of the Megalandfill Siting Act hearing went well the previous week. Mr. Bartlett predicted it would go through the House as positively as it went through the Senate.
- SB 486, the bill that concerned safety mill levies, missed the deadline for transmittal and should be considered dead in the process.
- HB 472, the bill regarding state responsibility for sidewalk maintenance, received opposition from MDT. The Senate Local Committee was considering amendments to the

bill. The hearing was April 1. Ms. Volek asked if it would be helpful if emails were drafted. Mr. Bartlett said he felt that would be helpful. Executive action was expected to occur in the next day or so. Ms. Volek asked Mr. Mumford to draft a letter on that topic.

- HB 531, the prohibition of the use of cameras at intersections, passed the Senate with a grandfather provision, but the provision was intended to apply only to Bozeman, even though Billings was in the district where the provision could also apply. The bill was returned to the House but no action had been taken yet. It would probably be at least two weeks before bill became law.

City Administrator Tina Volek advised that the red camera item was not brought to the Council because staff wanted to see what the legislature did. Police Chief St. John said the City was prepared to move forward with the project, but the amendment was a sticking point. He said Deputy City Attorney Craig Hensel had a contract partially done. He said there was concern with upsetting the Legislature if a contract was rammed through and then the public hearing was held. He said staff was waiting for direction from Council on the item.

Ms. Volek pointed out that the item was not scheduled for consideration on April 13, but could be added to the agenda. She said that a public hearing could be advertised during the current week if it was added to the April 13 agenda. Ms. Volek noted that a public hearing was not required for that item since it was a contract, but some Councilmembers had indicated to her that they were interested in holding a public hearing for the purpose of discussing that item.

Mayor Tussing asked about the intent to only exempt Bozeman. Mr. Bartlett responded that he confirmed that with Senators and their intent was to exempt Bozeman and allow them to proceed because they had a contract in place.

It was consensus of the Council to add it to the April 13<sup>th</sup> agenda and to schedule it for a public hearing. Mayor Tussing said he would not vote for it. Councilmember Pitman asked if word of Billings considering a contract would have adverse consequences at the Legislature. Mr. Bartlett advised it probably would not have an impact during the current year, but could in future years. He said at least one Legislator indicated that if any other city entered into a contract before the bill became law, he would plan to introduce a bill during the next session to outlaw all uses whether or not a contract was in place. Mayor Tussing stated he felt it was a mistake to even hold a public hearing. Councilmember Astle said he was not fond of threats by legislators. Mr. Bartlett stated that he did not consider the statement a threat, but the policy of the state about entering into a contract before a law became a law. Mayor Tussing stated there was a philosophical argument about interference with local control, but he was being more pragmatic than confrontational and he thought it was a mistake.

Councilmember Gaghen said she did not understand the rationale of Legislators not supporting HB 102 for increased penalties for second and third time sexual offenders. Mr. Bartlett explained that during the hearing, Senate Judiciary Committee members got hung up on the definition of “sexual contact” that was not even part of the bill, and it confused other members. He said that caused concern with the committee during Executive Action and the bill was tabled without the committee ever addressing the merits of it. He advised that Senator Juneau tried to get it on the floor, but the motion failed 25-25 and the bill stayed in committee.

Councilmember Ulledalen asked if HB 531 affected just red light cameras. Chief St. John said it did not address mobile speed units.

Mayor Tussing asked about Representative Arntzen's TIF bills. Mr. Bartlett responded that all three bills were tabled in House Taxation Committee and he did not think they were introduced. He said he knew there was intent to propose a study bill for the interim to discuss issues she raised.

Mayor Tussing asked about the bill regarding the revolving loan fund for green houses. Mr. Bartlett said he knew of the topic but did not have a bill number. He said he was not sure if a bill was introduced.

Councilmember McCall asked Mr. Bartlett for afterthoughts on the local option tax bill. Mr. Bartlett said his only afterthought was a possible statewide initiative. He said the only discussion in Helena was about the disappointment that the bill failed so badly. Councilmember Brewster reported that Senator Essman stated it would never pass because a majority of Legislators wanted a statewide sales tax, but 40% of the residents wanted it to replace the income tax and 40% wanted it to replace the property tax and 20% did not want one at all, so there would never be a majority.

<b>TOPIC #3</b>	<b><i>National Citizens Survey Report – Dr. Tom Miller</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Assistant City Administrator Bruce McCandless reported that the Citizens Survey was completed and Dr. Tom Miller, President of National Research Center, was present to discuss the results.

Mr. Miller advised that his company conducted citizen surveys all over the country that were a representative sample of the city's residents. He said over 500 Billings residents were surveyed; a best practice used by private sector was to ask customers for feedback, which was one aspect of performance measurement.

Mr. Miller advised it was important to compare responses from Billings to responses to the same questions in many other cities. He said the survey was conducted by mail and the 47% response rate was excellent. He said the questions focused on service delivery and quality of life.

Mayor Tussing asked if the company tracked the responses by area of the city. Mr. Miller said it was not done and a reason for not doing so was to maintain the anonymity of the survey. Mr. Miller explained that the responses were weighted to reflect the known demographics.

Mr. Miller reported that the overall community ratings indicated Billings was a good place to live. He suggested further study of the data when Council had more time to review it. Councilmember McCall stated that the complete data would be forwarded to Council.

Mr. Miller mentioned the following highlights of the survey that were similar to benchmarks: a strong attachment to the city, and alternate modes travel responses indicated opportunities for improvement. Mayor Tussing asked if the complete data would provide information regarding benchmarks. Mr. Miller advised that it should answer those questions.

Mr. Miller's report reviewed the following survey results:

- Good quality of new developments
- Overall appearance, code enforcement, and land-use planning and zoning were below benchmarks
- Economic Sustainability rated above benchmarks
- Public Safety responses were typical; fire responses were typical but police and other public safety services were below the benchmark.
- Opportunities for improvement were indicated in recycling, and environmental sustainability
- City parks were considered good and usage was high
- Recreation programs and facilities were rated below benchmarks
- Education opportunities were rated above the benchmark
- Cultural opportunities were similar to other cities
- Religious opportunities were above average
- Strong ratings on health services and quality of care
- Civic engagement rated good for raising children and sense of community
- Openness and acceptance of diversity rated below benchmarks
- Affordable child care rated below benchmarks
- Population subgroups services were similar in most categories
- Services to youth rated below the comparison area
- Civic activity rated high in regard to volunteer opportunities in the community
- Opportunities to participate in community matters rated high
- Good ratings on overall image and direction of Billings
- Value of services for taxes paid was below average
- Welcoming citizen involvement and listening to citizens received below-average ratings
- City of Billings employees rated similar to benchmarks in knowledge, courtesy and overall impression.
- City of Billings employees rated below average on responsiveness.

Mr. Miller explained the Key Driver Analysis that asked people for an overall evaluation of services in a single question. He said they looked at the overall ratings to get a sense of what mattered most to people. He said the key drivers were police and fire services and preservation of natural areas. He noted that they greatly influenced what residents thought about the community.

Mr. Miller reviewed the policy questions contained in the survey. He explained that questions related to the reduction of services to avoid taxes and the responses indicated that people were not willing to reduce many services, but a later question showed that they did not want increased taxes. He noted that a city-wide park maintenance district received some support. He stated that the most pressing issues at this time were governance and public trust, economic sustainability such as jobs, housing, taxes, etc., and transportation.

Mr. Miller concluded his presentation by listing highlights as: quality of the community, new development, and economic development. He listed opportunities as: public trust, transportation, overall appearance and environmental sustainability.

Ms. Volek recommended that the project be turned over to the work group to review the survey results during the next 30 days to determine how to distribute the information, how to

make changes, and to allow employees to address the responses. She noted that the information would be helpful with developing the departmental business plans.

Councilmember McCall advised that the Councilmembers on the original group were willing to continue but others could join if they wanted to. Councilmembers Pitman and Gaghen both indicated they wanted to participate.

Parks, Recreation and Public Lands Director Mike Whitaker explained that staff and Parks and Recreation Board members had met regularly to consider funding opportunities including the city-wide park maintenance district. Ms. Volek noted that would be separate from the Parks Department budget.

Councilmember Ronquillo stated he would like to know the amount of vandalism and damage that occurred in the parks. He said the public should know about that as part of future reports and business plans.

Councilmember Brewster stated he was encouraged that people would like to improve parks.

Assistant City Administrator McCandless advised he would send the survey reports to Council by email.

<b>TOPIC #4</b>	<b><i>Certificate of Occupancy Enforcement</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Building Official Kim Palmieri stated he would review the use of the city utility connections as a means to enforce certificates of occupancy. He explained that Certificates of Occupancy were issued after inspections were made and approval granted on the foundation, frame, electrical, plumbing, mechanical, and fire protection. He said a certificate of occupancy was issued after all work was done and final inspections were completed.

Ms. Palmieri explained that the International Code Council appraisal recommended increasing enforcement of certificates of occupancy. He said ICC's recommendation was to use the city's water utility for enforcement. He said the purpose of doing that was to enforce the certificates of occupancy without causing a burden on the contractor or delaying construction. Mr. Palmieri reviewed the proposed procedure, some of which was not a change from past practice. He said the water service would be established in the contractor's name and then transferred to the owner once the certificate of occupancy was issued. He added that the water service would not be terminated unless the bill was not paid.

Mr. Palmieri advised that notification of the change would be provided to the Home Builders Association, DPARB, the City's website, to commercial contractors, and posted at the front counter of the Building Division.

Councilmember Astle asked if many of the commercial builders owned and leased the buildings. Mr. Palmieri advised there was no enforcement for that situation through the proposed method. He stated it addressed new construction and would not do anything to increase the number of certificates on remodeling projects. Mr. Palmieri said the building code law required commercial builders to obtain certificates of occupancy.

Mr. Palmieri reported that approximately 60% of new construction obtained a certificate of occupancy; commercial was higher at 85-90 %. He said the certificate was paid for as part of the process so there was no additional cost to obtaining it upon completion.

Ms. Volek advised that mortgage companies were beginning to enforce obtaining those certificates. She added that Development Process Advisory Review Board (DPARB) discussed it and supported the concept to get the certificate, which ensured that the facility was safe and met the codes.

Councilmember Brewster asked who paid for the administration of the new method. Ms. Volek advised that the water department would. Mr. Palmieri noted it would be minor cost because the records were electronic. Planning Director Candi Beaudry confirmed that it was a low-cost procedure.

Mr. Palmieri reported that lending institutions were playing a big part in getting the certificates for the borrowers. He mentioned HB 451 which required a one-year warranty and that the contractor informed the purchaser what inspections and tests were completed. He advised that the City had the ability to issue citations for failing to get the certificate of occupancy. Mr. Palmieri advised that some utility companies would not energize the lines until tagged by the City for the final inspections.

Mr. Palmieri explained that in the future, information would be on the City's website so anyone could see what inspections were made.

Councilmember McCall asked about surprises at the end of construction during the inspection. Mr. Palmieri explained that contractors had the opportunity to correct items before the final inspection was complete and the certificate issued.

Councilmember Ronquillo asked when a citation would be issued. Mr. Palmieri said it had only been done when there was a major life-safety violation, which was more likely to happen on commercial construction. Councilmember Gaghen asked about the penalty from a citation. Mr. Palmieri said they were cited into Municipal Court and any fee was up to the Judge.

Ms. Volek advised that staff planned to implement the new process June 1 unless there were objections. There were no objections.

Councilmember Ronquillo asked if the City still had good working relationships with the utility companies. Mr. Palmieri advised the relationship was better with Northwest Energy and not so good with MDU.

<b>TOPIC #5</b>	<b>VISTA Project</b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Ms. Volek advised that the item would be on the April 13 agenda. Community Development Manager Brenda Beckett reported that the City planned to apply for a VISTA grant if Council approved submission of the application. She said a previous grant worked on task force development in 2000-2003. Ms. Beckett said there was stimulus money involved and there were about 105 current VISTA members in Montana and 43 new ones for 2009-2010. She said the American Recovery and Reinvestment Act (ARRA) designated Billings as a recovery project for the first year and would revert to a regular VISTA site after the act expired.

Ms. Beckett reviewed the goals of the Domestic Volunteer Service Act as: capacity building, empowerment, and continued sustainability – she noted that the projects were not direct service and must be sustainable.

Ms. Beckett explained the differences between VISTA volunteers and new hires under ARRA, and displayed flow charts that showed how the project would work. She said VISTA volunteers worked on specific projects for a specified length of time and were typically service-oriented college graduates or retirees. Ms. Beckett advised that the VISTA volunteers would arrive in mid-July.

Ms. Volek explained that there was money in the stimulus package to hire police and fire officers, but it tapered off after a three-year period. She said there was no guarantee that funds would be available to retain those positions, so she would not recommend applying for those funds. Ms. Volek stated that VISTA was different because it had a limited term.

Councilmember Gaghen asked if most finances were available under the ARRA. Ms. Beckett explained that office space could be used as a match and CDBG administrative funds could be dedicated on a year-to-year basis as a match, all subject to Council approval. Ms. Beckett explained that any time funds were increased in the CDBG administration; the cost allocation contribution was decreased.

Ms. Beckett advised that the grant was worth about \$30,000 per person, plus the \$20-30,000 that would be distributed up front, for about \$320,000 annually.

#### Additional Information:

Councilmember Ronquillo distributed a letter from the Southwest Corridor Task Force in opposition to a proposed water line project. He said one person applied for \$108,000 of CDBG funds to install a water line. He said a lot of people on the South Side opposed the water line and he hoped Council rejected that funding request. He said the person was trying to get money for individual funding.

Ms. Volek advised that a brief executive session would be needed at the April 13 Council meeting to discuss pending litigation. It was agreed to hold the Executive Session at 5:45 p.m.