

# City Council Work Session

April 20, 2009

5:30 PM

Community Center

## ATTENDANCE:

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

**ADJOURN TIME:** 7:55 p.m.

## Agenda

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

- None

<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 to review his weekly report and highlighted the following items:

- A combined committee meeting was held earlier that day on the main budget bill, HB 2 and HB 645 (federal stimulus package) and would continue the next day. The \$20 million intended for distribution to cities and counties was not expected to change.
- HB 531, the use of cameras at intersections: the Conference Committee rejected amendments from the Senate except one for railroad crossings. The grandfather/savings clause was rejected. Both the House and Senate adopted the Conference Committee reports with significant votes -- 36-12 in Senate and 67-33 in House.
- HB 279 had a second reading Senate vote of 48-2 that day. The bill prohibited indirect costs of the Department of Transportation, but only on CTEP projects.
- House Joint Resolution 37, sponsored by Representative Elsie Arntzen, passed third reading in the House. It is an interim study on the urban renewal/tax increment laws and provided an open description for the Interim Taxation, Revenue and Transportation Committee.
- HB 658, the reappraisal bill -- the House rejected Senate amendments. The bill went to Conference Committee; the committee consists of three Senate members from Billings – Essman, Gillan and Gephardt and four House members from the western part of the state.

- Assistant City Administrator Bruce McCandless explained the market and taxable value information regarding commercial reappraisal based on the Senate version of HB 658. The House version used a higher level of exemptions for both homestead and comstead and a lower tax rate than what the Senate used. The Senate bill was more favorable to the City. Even with the Senate amendments, it represented a loss of about \$75,000 in taxable value, despite the City's property value increase of about 50% during the reappraisal cycle. A city or county would lose money if it was below the statewide average of about 55%; a city or county above the average would gain money.

The commercial valuation information included most commercial property in the City. The phase-in value increased about 22%, but the statewide average was about 34.5%. As the City's taxable value declined, the dollar tax receipts would also decline. Billings could not float its mills to compensate for that decline due to not having the authority to float the mills.

Council direction was to share the information with Senators Essman and Gephardt; Senator Gillan had some of the information.

<b>TOPIC #3</b>	<b><i>CDBG/Home Allocation Recommendations</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Community Development Manager Brenda Beckett advised that several Community Development Board members and Chairman Duane Loken were in attendance. She reported that stimulus money for the community development programs would be about \$190,000 and had to be committed within 120 days. She said her presentation did not include any stimulus funds because that was a separate allocation process.

Ms. Beckett advised that CDBG and HOME funds were expected to be \$1.2 million, which was an increase from last year. She said firm numbers were not available from HUD on the current allocations, so the best case scenarios were considered. She said the estimated budget of \$700,000 for CDBG and \$500,000 for HOME funds were used. She noted that an additional \$300,000 of program income could be allocated this year due to the First Time Homebuyer Program and Housing Rehab Program.

Ms. Beckett reviewed the estimated budget revenues. She stated that the FY 2010 recommendation was to spend more money on the First Time Homebuyer Program than last year as it provided good program income.

Ms. Beckett reviewed the allocation process. She pointed out the numerous public input opportunities.

Ms. Beckett advised that the funding for public service activities followed Council direction from the previous year and funding was recommended for five agencies rather than last year's 15 to 17. She explained how any additional funds would be allocated if the final allocation was more than what was budgeted.

Ms. Beckett explained that the Community Development task forces focused more on housing during the allocation process. She provided a handout with the CD Board recommendations.

Councilmember Brewster thanked Ms. Beckett for following the Council direction on reducing the number of grantees and increasing their funding.

Community Development Board Chair Duane Loken referenced the information provided on Housing and Neighborhood Activities which was a telltale sign of the complicated process. He said it followed the same process as other years, but the Public Service Activities process changed based on Council's input. He noted that fewer organizations were funded for larger amounts.

Councilmember Veis asked if it was explained to the grantees that it was not likely that they would get funded the next year. Ms. Beckett explained that it was, and they would not be eligible for funding for three years for the same type of program. She noted that if they performed a different service, the activity may be eligible. She said reporting requirements would be in place as well to determine how much capacity was built.

City Administrator Tina Volek advised that this would be the subject of a public hearing at the April 27 Council meeting, and final recommendations and action were scheduled for May 11.

<b>TOPIC #4</b>	<b><i>Mustangs Use Agreement</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Parks, Recreation and Public Lands Director Mike Whitaker explained that the current agreement required the Parks and Recreation Board and the City Council to approve the form of use agreements with other organizations. He said the two organizations being reviewed that night were with MSU-B and Billings American Legion Baseball. He said the agreements and a letter from Gary Roller, General Manager of Billings Mustangs, were sent in the previous Friday packet. He noted that the letter explained how the costs were determined. Mr. Whitaker advised that the Parks and Recreation Board reviewed the agreement and recommended charging MSU-B \$350 for a double header versus the \$450 outlined in the agreement. Mr. Whitaker noted that Mr. Roller was present to answer questions. He explained that the next step was to take it to a regular meeting for approval on the Consent Agenda.

Councilmember Veis asked if Mr. Whitaker was saying that the Board recommended maintaining the \$350 and \$250, and the Mustangs recommended \$590. Mr. Whitaker said the Mustangs recommended \$450 for a double header and \$300 for a single game.

Mr. Roller clarified that MSU-B did not play in the facility a year ago and two years ago they paid \$350 per day. He said the difference between the previous agreement and the current one was that now, the Mustangs cleaned the facility and instead of having the MSU-B players do it. He said the new facility needed to be cleaned to better standards than the old facility. Mr. Whitaker explained that previously, MSU-B paid \$250 to the Mustangs and \$100 to the City of Billings per double header and that was how the Parks Board determined the prices.

Mr. Roller explained that the reason for the higher fees was because the Mustangs were doing more of the maintenance than under prior agreements. He reported that the Legion was not charged for the five games played last year; and two years ago they paid \$18,000 for the season and an additional \$3000 to the City. He said the Legion's current schedule would cost them \$14,000 because their rate went down. Councilmember Ruegamer commented that he felt the prices were reasonable.

Councilmember Brewster asked how much gate revenue was collected per game. Mr. Roller said he knew they charged for each game, but did not know how much. He noted that standard games drew 200-500 fans.

Councilmember Veis asked if the Mustangs paid for the water at the ball park. Mr. Whitaker responded that the Mustangs paid all the utilities per the management agreement. He noted that was similar to the arrangement with Par 3.

<b>TOPIC #5</b>	<b>Cemetery Fee Adjustments</b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Cemetery Superintendent Lee Stadtmiller recommended an overall fee increase of 5%, and explained that the fees for some services were not increasing that much. He reported that some services cost more than previously and used the example of the brass nameplates that had more than tripled in the last eight to nine years. Mr. Stadtmiller advised that the 5% increase would equal approximately \$5000. He noted that even with the increase, the fees were in the middle of the pricing structure for Billings. He stated that the last fee adjustment was a 10% increase the previous year, which was the first increase in the three years prior to that. He said he felt it was better to increase gradually.

Councilmember Pitman agreed and asked if that was the direction from the Parks and Recreation Board. Mr. Stadtmiller advised that he hoped to request a 2-3% increase next year as well.

Councilmember McCall asked how the cemetery competed with private cemeteries. Councilmember Ruegamer said he knew that Mountview was comparable. Councilmember McCall asked if he knew what percentage Mountview got of the city's business. Mr. Stadtmiller responded that he was not sure. He provided a brief history of cemeteries in Billings and said in the 1950's, Mountview was about the only cemetery in town. He noted that the cremation rate was high in this area, about 60%. He stated that even though burial of cremated remains was optional, about 160 remains were buried each year.

Mr. Stadtmiller explained that fees generated about 40% of the cemetery's operating costs. He reviewed individual service fees and the related increases. Councilmember Pitman asked how the cemetery could be competitive if the fees only generated 40% of the budget. Mr. Stadtmiller explained that Mountview was about middle of the road and most of the cemeteries were supported by churches or other organizations, so he did not think that any of them made money.

Councilmember Pitman asked if Sunset Memorial Gardens paid property taxes. Mr. Stadtmiller responded that he was not sure, but cemeteries were usually not taxed.

Mr. Stadtmiller advised that the fee increase would be a future Council action item. He said he hoped to implement the fee increase July 1 with the new budget year.

<b>TOPIC #6</b>	<b>BIRD/FIB Agreement/System Development Fees</b>
<b>PRESENTER</b>	

<b>NOTES/OUTCOME</b>	
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Downtown Billings Partnership Development Director Greg Krueger provided a history of the East Billings Urban Renewal District (EBURD), which was created by City ordinance, and the Billings Industrial Revitalization District (BIRD), which was a non-profit corporation of property owners in the East District. He explained that the EBURD was created in 2005-2006 and the property owners then formed the BIRD. Mr. Krueger introduced developer Aaron Sparboe and his legal counsel Joe Gerbase.

Mr. Krueger reported that the Downtown Billings Partnership worked with the BIRD to develop an agreement with First Interstate Bank that would be an April 27 agenda item. Mr. Krueger advised that the First Interstate Bank Operations Center was located in the EBURD, across from North Park, bordered by 6<sup>th</sup> Avenue North to the north and the MRL spur line to the south, and encompassed two blocks between North 18<sup>th</sup> and North 20<sup>th</sup>. He said the BIRD Board and Aaron Sparboe began discussion with City staff a couple of years ago about jump starting the tax increment district with a major project, namely the First Interstate Bank Operations Center. He noted that the East District was in a negative increment situation because the taxable value in that area continued to decline each year. He said the BIRD made a verbal agreement with Aaron Sparboe and First Interstate that if they settled on that site; they would work with them and the City to develop an incentive agreement.

Mr. Krueger explained the goals of the district were to increase the tax base, eliminate blight in the area, improve pedestrian access, and to provide a better environment.

Mr. Krueger described the assistance formula developed for the district. He said the 7/1 investment ratio was the minimum that was acceptable in this district if the developer wanted to get reimbursement for public improvements. He explained that the Department of Revenue established a market value range of \$9 million to \$9.2 million, so the value used to calculate the 7/1 ratio was the average of \$9.1 million, which resulted in a \$1.1 million value to the district. Councilmember Veis asked why taxable value was used rather than the taxes paid on the site. Mr. Krueger explained that the investment amount was used because it was a more constant value. Mr. Sparboe noted that they took the most conservative approach to valuing the property.

Mr. Krueger reviewed the qualified public benefit expenditures: the land purchase, demolition and abatement, lighting and security, pedestrian improvements, parking, and utility line improvements which totaled \$3.9 million and exceeded the required \$1.9 million. He noted that in addition, First Interstate offered free meeting spaces for non-profit groups, but that would not be included in the agreement.

Mr. Krueger advised that a 20 year payback schedule would be used and the reimbursement would never be more than 45% of the actual taxes paid or the increment collected. He noted that the project or district value had to be positive. He stated that the payment would end with the district's sunset in 15 years. Councilmember Ruegamer asked where the funds came from to return to First Interstate Bank. Mr. Krueger explained that taxes went to the County, the County sent the increment to the City and the City issued the funds to First Interstate. Councilmember Ruegamer clarified that First Interstate was just getting a rebate of some of their taxes. Mr. Krueger pointed out that there were caveats before the funds were returned. Mr. Sparboe estimated First Interstate's annual taxes as \$150,000, plus business tax, equipment tax, and other items. He added that First Interstate was willing to take the money over time, not all at once through City outlay or bonds.

Councilmember Ruegamer clarified that First Interstate Bank would get up to \$62,000 of the \$150,000 paid in taxes per year until the \$1.1 million was repaid or the TIF District expired. Mr. Sparboe added that the balance of the taxes paid stayed in the TIF District for projects identified and approved by the TIF District.

Mr. Krueger said they were trying to establish a method to use in the future to entice future developers. He stated that it still preserved the majority of the increment for infrastructure improvements. He mentioned that Bozeman was looking at the agreement as a model for enticing developers to rebuild the destroyed block on Main Street.

Ms. Volek asked Mr. Krueger to report on the programs in the downtown district that would not occur in the EBURD. Mr. Krueger advised that there would not be housing, parking, rehabilitation and facade grants in the EBURD. He noted that if First Interstate restricted parking, the City could cease the incentive payments. He said the rebate agreement would be very one-sided in favor of the City. Councilmember Veis asked how they would know that future Councils would be in favor of the process. Mr. Krueger explained that an application would be created that required City Council approval and Council would have the ability to stop it if it was uncomfortable with the deals.

Councilmember Veis asked who made sure the developers met the terms of the agreements. Mr. Krueger stated that the City Finance Division would be responsible to make sure the bank made its tax payments and supplied the tax-related information to qualify for the rebate. Councilmember Veis expressed his concern that the payment would be made to the bank even if Council did not agree that certain elements of the agreement were met, or if the neighborhood did not agree. He said it seemed to be based on staff's interpretation of the contract and it should be up to the Council. Councilmember Brewster advised that Council could consider an initiative and force change or repeal the agreements if it believed the company was not complying with the agreement. Mr. Gerbase stated that if staff noticed a breach, it had to go before the Council. Councilmember Veis said he did not have a problem with First Interstate Bank, but over time, multiple agreements could cause problems with giving checks to those who did not earn them. Councilmember McCall asked if a reporting process could be set up that occurred more than once a year.

Mr. Sparboe asked if there were past problems with enforcing contracts. Mr. Krueger responded that there were no known problems, but it was a valid concern that this was a multi-year program that was more problematic. He noted that the agreement had reporting requirements.

Councilmember Pitman suggested making the annual payment a separate action by Council. Councilmember Brewster agreed with the annual review requirement and suggested it for all TIF districts. Councilmember Ulledalen commented that Council could also decide that it was too complicated and did not want to do it again in the future. Mr. Sparboe stated that it took risk away from the City because it was a long-term agreement based on yearly payments that were dependent on payment of property taxes. Mr. Krueger stated he was required to provide quarterly reports and would include the status of those projects in his reports. Councilmember McCall agreed that the report was a good idea. She said it could be used as a model, but it was not set in stone and could change.

Ms. Volek distributed information that was not part of the agreement, but had been proposed by Mr. Sparboe. She explained it addressed some of the risk being taken and requested an ongoing payment. Mr. Krueger explained that the request was to grant First

Interstate Bank the ability to receive catch-up payments if they had a bad year followed by a better year. He said that allowed catch-up on payments, but did not legally bind the City into any indebtedness to First Interstate Bank. He pointed out it was up to the Council but did not think it would ever be an issue. Ms. Volek pointed out that the provision was not in the proposed agreement and required action to add it if Council chose to do so.

Ms. Volek advised that Mr. Marty Connell was present and that he had a proposal to reduce system development fees for properties in the east district that were still in the county. His proposal concerned an incentive of lower system development fees to encourage annexation.

Mr. Connell explained the long history of bad relationships between the City and property owners in the east end. He said some properties were in the county with city water and sewer and did not pay for the system. He displayed a map of land from 13<sup>th</sup> Avenue North to Enterprise and described infrastructure deficiencies with an estimated cost of \$6.5 million to repair and install. He reviewed an annexation schedule that identified about 46 landowners that had properties within the district and estimated the system development fees to annex and connect to utilities. Mr. Connell stated it would be much easier if all the properties were annexed at the same time. He explained the proposal was to get people to annex by September 1, 2009, and the city would waive the system development fees. He noted the benefit was that the City would collect taxes for three or four years before any money was expended. He said the City could use the tax dollars to pay the utility department for the forgone system development fees. He noted that BIRD Board members were willing to talk with the landowners to explain the annexation possibility.

Public Works Director Dave Mumford clarified that county properties paid for water and sewer services, but the lines belonged to the County and were not maintained by the City. He expressed his concern that the properties had a total exemption from system development fees. He estimated the cost for new water and sewer lines as needed, replacement lines as needed and streets at \$6.5 million. Mr. Connell stated that the BIRD did not want any other spending until those infrastructure improvements were made, except for incentives for projects like for First Interstate Bank.

Councilmember Ulledalen asked who was responsible to repair the county sewer and water lines. Mr. Mumford answered that it was the responsibility of the property owner because the County did not maintain the lines.

Councilmember Astle asked if that area had BUFSA fire protection. Ms. Volek responded that they probably did, but some of the commercial properties did not need a lot of protection.

Councilmember McCall asked if that was a formal proposal from the BIRD. Mr. Connell said it was not a formal proposal, but an offer of help to encourage the property owners to annex.

Ms. Volek confirmed that the idea was endorsed by the BIRD Board. She voiced her concern that there was not an infill policy and it was being done as an ad-hoc and could set a precedent. She said staff was working on an infill policy that would likely be presented in the fall. Councilmember Veis stated that he liked the incentives but did not know if the utility funds should be used to attract money for the General Fund. Mr. Connell advised that the BIRD was looking for ways to get these properties in the city but would consider other incentives. Councilmember Veis said the problem was that they were not interchangeable

pots of money, so he did not want General Fund dollars to reimburse the utility funds. He said he might consider discounted fees, but not complete forgiveness of them.

Councilmember Brewster advised that he wondered if the delay of the fee for five years would be a good enough incentive. He said he wanted staff to work on it and bring options and recommendations back to Council.

<b>TOPIC #7</b>	<b><i>Energy Issues</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Ms. Volek advised that Rick Reid from Montana Dakota Utilities was present to provide an update on the methane gas project at the landfill. Mr. Reid introduced David Hood, MDU Gas Superintendent, who was in charge of the landfill project. Mr. Reid reported that three test wells were drilled and they proved to be as good as hoped. He added that they ran into a couple of problems that did not stop the project, but could slow it down. He explained that one problem was that projections were based on \$6 gas, but it was currently at \$2.31. He stated they also believed the depth was 120 feet at the landfill, but it was only about 90 feet, which meant more wells had to be drilled to get the same amount of gas, which also increased the project's costs. He explained the contract expired August 2010 and MDU intended to be up and extracting gas by then. Mr. Reid stated he was glad the project started when it did and it would be good for Billings.

Ms. Volek referenced a draft proposal from The Jamison Group LLC, and Diamond B Companies, Inc. to investigate the feasibility of a 10 megawatt generation plant at the Wastewater Treatment Plant, using wood chips, sludge and methane. She explained that the study would be funded by some of the energy grants available through the American Recovery and Reinvestment Act and would not involve the City's allocation of approximately \$1 million. She said the City could determine if it wanted to go forward after the feasibility study was done. She noted that an RFP would be needed for the project if it went forward.

Mr. Mumford advised that Public Works had been looking at a megawatt generator plant there anyway and it would be good to have an independent study. He noted that the TMDL standards could cost \$40-60 million if the existing plant and process was just updated. He said that generator plant could be an option to get federal dollars to do that.

Councilmember Astle asked about the size of the plant. Councilmember Brewster compared it to Mystic Lake, which was an 11 megawatt plant and Corette, which was about 150 megawatts.

Ms. Volek advised that the State informed Mr. Jamison that there was wood fuel available within a reasonable distance from Billings. She pointed out that Mr. Jamison's group wanted to sell the bonds. She asked if Council was interested in hearing more at a future meeting.

Councilmember Pitman asked if that was a project similar to the methane collection at the landfill and if the City did not find other ways to do things, it cost more. Mr. Mumford advised that was correct.

Councilmember McCall asked how the decision would be made about whether to or how to proceed with the project after the study was done. Ms. Volek explained that the decision was whether to apply for a feasibility grant. She said an RFP process would begin after the feasibility study if the project was to go forward. Mr. Mumford stated that it was different from the landfill project in that there were multiple companies that could be interested. Councilmember Veis noted that a plant could be built and contracted with MDU or Northwestern Energy to run it. He asked if others should be considered to do the study. Mr. Mumford advised that the group needed the city as a conduit to apply for the grant.

Ms. Volek advised there was a quick turnaround on the ARRA, so the timeline needed to be reviewed for the grants to determine if there was time to solicit for others to conduct the study, or if it was necessary to proceed right away. Mr. Mumford stated that the study would answer the question whether it was feasible, and until the grant became available, the City would have had to pay for the study.

It was Council consensus to move ahead with The Jamison Group, LLC, and Diamond B Companies, Inc. with a specific proposal, and allow them to proceed to step 4 of their proposal.

#### Additional Information:

Councilmember Ronquillo asked about the Jackson Street Sidewalks Phase 2 project listed on the monthly report from Public Works and whether it started at State Avenue. He also asked if it was true that an SID was not passed for that project. Mr. Mumford advised that he would check into Councilmember Ronquillo's questions.

Councilmember Ruegamer reported that the Babcock Theater project was about 30% complete and on budget. He said a tour could be scheduled sometime in May.

Councilmember Ruegamer commented that the Federal courthouse was to be completed by 2012 and the only reason he had heard about the cost increase was that it would be bigger and better. Councilmember Clark said that the County Commissioners indicated at a recent meeting that redundant equipment, such as two heating and cooling units, was also an extra cost factor. Councilmember Ruegamer said a Bureau of Reclamation and Bureau of Indian Affairs building would be built at the same time but would be leased to the government and placed on the tax rolls. He said the Battin Building would have to be given away to make it worthwhile to demolish and reuse the property. Councilmember Clark advised that it would be dealt with after the current occupants were moved out.

Councilmember Ruegamer commented that the Billings Gazette could not resist taking a swipe at the City. He said a recent Gazette editorial stated that the red light fine should stay the same, but did not comment that if \$75 of every \$95 was given away, the City would lose quite a bit of revenue. He said the article noted that "some Councilmembers" indicated the fine would be raised, but as far as he knew, only one Councilmember visited with the reporter and it took six Councilmembers to make any decisions. He said it stirred up a lot of citizens for no good reason.