

City Council Work Session

August 17, 2009

5:30 PM

Community Center

ATTENDANCE:

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

ADJOURN TIME: 7:20 p.m.

Agenda

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

- **Mike Whitaker**, Parks, Recreation and Public Lands Director recognized the Billings Senior Citizens, Inc., for its \$5992 donation to refinish the community center floor.
- **Joe White** expressed his concern about demolition and moving families from downtown. He referenced a Milwaukee County article handout. Councilmember Gaghen asked if he was particularly concerned about the house on S. 26th that burned. Mr. White responded that he was not directly concerned about that instance. He added that he obtained the Milwaukee article from the Moss estate auction.

TOPIC #2	<i>Skyview Ridge Park Master Plan</i>
PRESENTER	
NOTES/OUTCOME	

The item was not electronically recorded.

Parks Planner Mark Jarvis explained that Skyview Ridge Park was located on Department of Natural Resources and Conservation land across the street from Castlerock Middle School, between Wicks and Kootenai. He advised that DNRC's plan had been approved by the PRPL Board.

DNRC Representative Jeff Bollman explained that the master plan was for entire property and parks were included in it. He advised that developed parkland was located in the east central part of the property, next to the trail corridor. He noted that the trails connected the schools. Mr. Bollman stated that the rim face was preserved and would remain in its natural state.

Mayor Tussing commented that there were probably no questions because it was too new. Mr. Whitaker advised that it would be an item on a future Council meeting.

Mayor Tussing asked if DNRC was creating the subdivision. Mr. Bollman responded that it was and that DNRC managed school trust land. He explained that five years ago, an environmental review for real estate properties was created that could or should be sold and developed.

Councilmember Pitman stated that the land was the original site for the Heights pool, but was no longer available due to subdivision and park planning.

TOPIC #3	<i>Transportation Plan Priorities</i>
PRESENTER	
NOTES/OUTCOME	

Transportation Planner Lora Mattox stated that she presented the updated plan at a work session two weeks ago. She said it was an administrative update and provided an opportunity to look at the projects within the plan to see what could be updated or if additions were needed.

Ms. Mattox distributed a map that illustrated the projects and the priorities set by the Board of County Commissioners and the Planning Board. She said the Planning Board had a different perspective and focused on connections, then grouped projects together that provided a connection. She said the Board of County Commissioners went through each project and gave it a priority. She noted there were projects from the 2005 plan that had not been completed. Councilmember Pittman asked if the projects still underway should be left on the list. Ms. Mattox recommended keeping them on the list.

Councilmember Astle stated that the Inner Belt Loop was intended to take traffic off Main, but it would then be on 32nd Street West, a two-lane road. He asked if there was a plan to expand 32nd. Ms. Mattox responded that the traffic counts may have to be reviewed further, but she was pretty certain that the engineering plan considered that and the road was probably built to accommodate the traffic that was anticipated. Councilmember Clark commented that 32nd Street West seemed to be overloaded, even before the Shiloh construction impacted it. He added that Public Works Director Dave Mumford had stated that the traffic count was already about five years ahead of what was estimated. Councilmember Ulledalen advised that when it was designed, the right-of-way was reserved for additional lanes. He said Zimmerman Trail needed to be addressed in conjunction with the Inner Belt Loop because the City would look foolish if that bottleneck was not fixed. Ms. Volek advised that an alternative being considered was tunneling as an alternative to Zimmerman and leaving Zimmerman as a bike trail. Councilmember Ulledalen explained that Mr. Mumford was working on a feasibility study to construct a tunnel that tied into the lower part of Zimmerman because it was less costly than widening the road and a significant amount of the funding could come from the earmarked funds.

Mayor Tussing asked if the Council needed to list its own priorities, and then all the priorities from the Planning Board and BOCC would be fought over at the Policy Coordinating Committee meeting. Ms. Mattox responded that the first step would be to publish all the priorities on the web site for public review, and then a weighting system could be developed as the priorities were considered. She said the public meetings were tentatively planned for September, so the Council priorities were needed as soon as possible.

Councilmember Ulledalen commented that he liked the Planning Board's rankings and felt they made sense.

Councilmember Pitman explained that the current design plan included both Wicks and Alkali Creek on the Inner Belt Loop. Councilmember Ulledalen commented that another area that needed to be addressed soon was 56th Street West to I-90 due to growth in that area.

Councilmember Pitman asked if it would be more helpful if the Council commented on the BOCC and Planning Board rankings rather than creating another version. Mayor Tussing asked if there would be a separate list for CTEP projects. Ms. Mattox advised that transit, pedestrian and bike projects were in a separate section and were being updated also. Councilmember Ulledalen asked how soon something was needed on King Avenue East to Sugar Avenue. Councilmember Ronquillo advised there was high traffic now and he wanted to see the ditch covered. Ms. Mattox said she questioned the traffic counts from MDT for that area. Councilmember Ulledalen asked what was going on with the growth in the Orchard Avenue area and how soon it needed to be addressed. Councilmember Gaghen added the area near Optimist Park that was a concern with the increased traffic in the area.

Mayor Tussing advised that if any councilmember had different ideas, they should be emailed to the rest of council to then be forwarded to Ms. Mattox.

Ms. Volek asked for comments by August 28.

TOPIC #4	<i>Electronic Devices</i>
PRESENTER	
NOTES/OUTCOME	

City Attorney Brent Brooks and Deputy City Attorney Craig Hensel distributed a draft resolution pursuant to Councilmember Pitman's initiative from 2008. Mr. Brooks advised that staff was waiting until the electronic agenda software was purchased, and since it was now in the process of being implemented, it was an opportune time to bring the policy forward. He described the resolution as a basic policy statement that gave the City Administrator the ability to develop procedures and practices, and whether there would be penalties or consequences had not been determined. Mr. Brooks noted that it was related to the Open Meetings Law provided by State Statute and if it was determined that action was taken while in violation of it, the action could be reversed by the courts. He explained that the Charter limited how the Council dealt with violations among the Council if a policy was implemented. Ms. Volek explained that it was the second policy the Council had seen in that form. She stated the previous policies were largely adopted by Administrative Order and she believed that the Council needed to set the policy, and then direct staff to develop the procedures that enacted it. She thanked Mr. Brooks and Mr. Hensel for their work on the policy. She said the question was whether penalties should exist for violations.

Mayor Tussing asked about the Council's limits or penalties. Mr. Hensel explained that it could be considered a civil infraction or an ordinance violation with criminal penalties. He referenced a State Statute that contained broad language for punishment. Mr. Brooks advised that Bozeman and Missoula experienced problems and he felt the reason Councilmember Pitman proposed the initiative was to avoid those problems.

Councilmember Ruegamer stated that the policy presupposed computer knowledge, and even though ignorance of the law was no excuse, he did not want to be punished for doing something wrong that he did not even know he was doing. He said he would not support that. He said the reason the Missoula Commission got into trouble was because the Commissioners

were texting each other during meetings and that did not occur here. Mr. Brooks clarified that the ordinance was limited to what happened at Council meetings. Councilmember Pitman explained that there would be computers at the meetings because the electronic agenda was approved and would be implemented to get away from paper usage. He said some people would have laptop computers at the meetings to access the agenda, but blackberrys and other electronic devices had to be addressed as well, so it was a matter of being proactive instead of waiting until there was a problem. Councilmember Ulledalen stated that with the current meeting format, it was obvious if anyone used an electronic device, but once laptops were in use during meetings, it would be difficult to track if someone sent an instant message. Mr. Brooks stated there would have to be a self-policing honor system.

Councilmember McCall brought up an example that during the last legislative session she was emailing a legislator during discussion, but the email did not concern the bill being considered at that time. She wondered if that same type of situation would be acceptable with Council business. Mr. Brooks advised that it could be ok under the proposed resolution if the communication was not related to an item, but it would be a distraction and if it was to be allowed, the language should be added to the resolution.

Councilmember McCall stated that if the media was on the email list, any communication would be monitored. Councilmember Astle stated that if the resolution was approved, all electronic communications during meetings would be prohibited, regardless of the topic. Mr. Brooks agreed and said that would be the easiest way to do it. Mr. Brooks advised that IT staff had indicated there was a possibility of limiting the electronic ability within the Council Chambers.

Mayor Tussing stated that situations had come up in the past when citizens had requested councilmember communications and the only ones the City had the ability to release were from City email accounts, not personal accounts on personal computers. He asked Mr. Brooks how he would address that for the computers that could be at council meetings that just contained the agenda. Mr. Hensel advised that the policy did not prevent someone from being on-line, but it could, because the idea was that there would not be any type of electronic communication going on during the meeting.

Councilmember Pitman stated it was fairly easy to self-monitor each other. He said access to the electronic agenda was fine, but other communication should not be allowed. He suggested a reprimand from Council as the only penalty at the current time, and changes could be considered later. Mayor Tussing suggested including a reference to the State Statute that allowed Council to discipline the individual member with a two-thirds vote.

Ms. Volek asked if Council was ready for the item to be on the agenda. Council consensus was that it should go forward. She said the agenda software should be in place by the September 14 meeting.

TOPIC #5	<i>Sale of Park IV Alternatives</i>
PRESENTER	
NOTES/OUTCOME	

Assistant City Administrator Bruce McCandless referred to a memo sent in the recent Friday packet that outlined four options related to the sale of the Park IV garage. He said the original contractor, Strategy 5, did the original evaluation and Phase II could be done for approximately \$14,000. He said possible methods to sell the facility were: sealed bid, auction,

or a buy-build agreement. He said the information was being presented in response to a Council initiative.

Ms. Volek added that the memo reported that School District 2 relied on the garage for parking for daytime programs at the Lincoln Center. She added that if the Library proceeded to purchase the Gainans building, some parking could be utilized for staff. Library Director Bill Cochran estimated the need for parking for about 30 staff members. Mr. Cochran advised that Gainans intended to move regardless of whether the Library occupied the building.

Councilmember Ulledalen asked if Strategy 5 had experience selling parking garages. Mr. McCandless responded that they had assisted agencies with marketing garages. He said there was some printed material available that could be shared with Council.

Councilmember Gaghen asked Mr. Cochran what the Library parking needs would be in addition to the 30 spaces he mentioned. Mr. Cochran explained that he could provide an estimate.

Councilmember Ronquillo stated there were still three different businesses in town that could be interested in the facility. He noted that the Billings Clinic had about \$5 million to spend on a garage and he thought the City should try to work with the Clinic. Ms. Volek pointed out that the Billings Clinic's grant was not for the hospital, but was the City's, which meant a City grant would be used to purchase a City property to take it off the tax roles.

Councilmember Pitman asked why the City wanted to sell the facility. Councilmember Ulledalen explained that there was no money in the parking fund, and two new parking facilities were needed in different locations. He said he thought the facility probably should not have been built because the private asset pulled people and the investment out of downtown core. He said the money could be better utilized for other projects and a private bidder would put it back on the tax roll. He said that was the only way he could see to raise enough money for new structures. He stated that Park II could probably be sold as well for the same reasons. He added that before the Park II expansion, a realtor informed him that about 60,000 square feet of downtown space in that area contained people who needed parking. He said that having available parking was critical to attracting businesses to the downtown area.

Councilmember Astle commented that the Clinic had purchased the land it needed and if it bought the garage, it would remain tax exempt. He said he felt it should be sold to a taxable entity. He noted that he knew there was a need for parking in that area.

Councilmember Ruegamer stated that according to his math, it cost about \$20,000 per space to build a new structure and the City was trying to sell that garage for \$7000 per space. Councilmember Clark explained that was because private sector could build it for less than a government agency. Mr. McCandless explained that the valuation done on the garage was on an income basis. He said the City controlled about 75% of the parking and controlled the rates, so the income that could be generated was based on the City's parking rates. He said the City essentially devalued its own asset. Councilmember Ulledalen commented that the City did not manage the garages efficiently to generate a profit. Mayor Tussing said he needed Councilmember Ulledalen to explain his logic because he stated that the City should sell one or two of the existing garages to be able to build more, yet he said the City should not own them. He asked if the reason to build more was to enhance development. Councilmember Ulledalen explained that it was to keep the money moving because the City had no other way to generate funds and there was no reason to continue owning the garages because they were not generating significant cash flow. Mayor Tussing stated he agreed with Councilmember Ruegamer about selling the structure. Mr. McCandless advised that Park IV generated about \$150,000 net

income each year and was the top producer. Councilmember Ulledalen stated that if the City was not willing to sell a structure, the process might as well stop right away because the City could not come up with money to build another parking garage.

Councilmember Clark asked if funds could be used from the TIF District. Mr. McCandless advised that the N. 27th district was not generating much yet and it would take years to generate enough cash to build a garage. Ms. Volek stated that property owners had identified infrastructure as the most critical needs. Mr. McCandless noted that the East End TIF District was still in a negative situation.

Councilmember McCall stated that it was necessary to change the operations if more garages would be built. Councilmember Ulledalen stated that he felt the best option was to utilize Strategy 5. Councilmember McCall advised that non-profit organizations that operated a facility as part of its mission were tax exempt, but she thought something not part of the core operation would be taxable, and she thought a parking garage fit into that category.

Councilmember Ruegamer stated that the worth and comparative values needed to be considered, because everything the City built went down in value. Councilmember Ulledalen explained that Park II expansion was expensive because it was an addition to an existing structure and it did not mean that the next structure would cost that much.

Councilmember Pitman stated that the management operation needed to be reviewed, even if it meant a delay for a year to work toward increasing the value before trying to sell it.

Councilmember Ulledalen stated that Stockman Bank could be informed that there was no money to build a structure at 4th and Broadway so it could proceed with its building plans.

Councilmember Clark asked about net income, how much could be added to the reserves each year, and how much debt could be taken on. Mr. McCandless advised he would provide that information to the Council.

It was Council consensus to put the Strategy 5 Phase II contract on the agenda to pursue sale of Park IV.

Councilmember Clark said he'd like to know what would be done with the building if the Library moved to the Gainans building. Mr. Cochran stated he was concerned about parking availability for a downtown library. Ms. Volek advised that decisions would be needed about whether to continue occupying the library building. She said there could be options to remain downtown and that GSA promised the current federal building would not be a perpetual shuttered building and it would be made available to federal agencies first, then local governments, then private purchasers.

Councilmember Ulledalen stated that GSA agencies could potentially move from downtown if parking was not available. Ms. Volek added that GSA had concerns about a space for Bureau of Reclamation because it needed an adjacent yard to park equipment. She added that she informed GSA that the City would not look favorably on moving the City-County Special Investigation Unit from downtown.

Planning and Community Services Director Candi Beaudry explained that BSEDA allocated \$10,000 to develop a parking overlay district that reduced the parking requirements because there was not enough land to have the required number of parking spaces.

TOPIC #6	<i>Mail Ballot Supplemental Questions</i>
PRESENTER	
NOTES/OUTCOME	

Ms. Volek distributed proposed questions provided by Councilmember Ulledalen. He noted that Elections Administrator Duane Winslow had indicated he was not confident that the questions could be included on the ballot. He suggested no more than three to five questions. Councilmember McCall agreed and thought the questions needed to be simply stated.

Mr. Brooks reported that he had discussions with Duane Winslow and with the Secretary of State's Office. He said the Secretary of State advised against including the questions, but did not prohibit it. He said it needed to be clear that the questions were not something to be voted on. He stated he was waiting to know if the election statute applied to survey questions.

Mayor Tussing asked if there were legal problems with putting questions on an election ballot and a candidate could contend that the questions influenced the outcome. Mr. Brooks asked the Secretary of State's office if the questions needed to be provided to that office prior to putting them on the ballot. Councilmember Gaghen agreed it could be murky and was not sure a valid response would be received because there would be some who were suspicious and would not respond. Councilmember Astle stated he thought if the questions were clearly marked optional, people would decide if they wanted to complete them. Mr. Brooks said anyone who challenged the election results would have to prove that the election would have been different if not conducted through mail ballot.

Councilmember Ulledalen said there could be a complication if multiple questions were asked about higher taxes because people could get suspicious and not vote 'no' on all of them. He asked if they should partner with the Chamber and its initiative to improve and expand trails. He said he was having second thoughts and felt the questions would cause confusion.

Councilmember Astle stated that mail ballots got about 70% response compared to the approximate 500 responses from the citizen survey, that did not have costs associated with it. He said he would be in favor of opinion questions but the questions would have been identified as non-binding. Councilmember Clark said he agreed that he thought people would think they were voting on the issues no matter how it was worded. He said he felt that would muddy the ballot. Councilmember Pitman agreed with Councilmember Clark.

Councilmember Ruegamer commented that he thought one of the problems was that the questions were too short and they could not be properly asked in 75 words or less.

Councilmember Clark asked if there was a way to send a separate mailing after the citizen survey discussions. Ms. Volek advised that Mr. Winslow had suggested including surveys in utility bills.

Councilmember Ulledalen stated that the mail ballot arrived in the mail and stayed at people's homes long enough to have opportunities to ask questions and talk about the questions. He noted that some method needed to be developed to get information to and from the public.

It was Council consensus not to proceed with putting questions on the mail ballot. Councilmember Gaghen commended Councilmember Ulledalen for his work developing the proposed questions.

Additional Information:

Councilmember McCall distributed Council sign-up sheets for community conversations and task force presentation schedules. Councilmember Gaghen suggested having multiple Councilmembers at the task force sessions.

Ms. Volek reported that she met with County Commissioner Kennedy earlier that day, and he requested a joint meeting since the last scheduled one was cancelled. Consensus was to schedule a lunch meeting on a Wednesday or Thursday.

Ms. Volek advised that the State of Montana had another ARRA stimulus package to offset employment losses and the City of Billings was the only Montana city that was separate from counties in being eligible for that money. She explained that the program consisted of the federal government relieving cities of 45% of the interest on recovery zone bonds. She said a decision would be needed by October 1 whether the City would participate in the program so staff would identify potential projects. She noted that if Billings did not use funds, the money would be sent to other places in the state.

Councilmember Ronquillo asked if the City was behind on the weed cutting. He referred to a property at 2812 Ninth Avenue South where weeds were six feet high and had been that way for over a month. Ms. Volek advised that the Parks Department was doing the mowing in order to lower the costs. Councilmember Clark asked if fewer notices were being sent out.