

Recorded minutes for items #1-7 not available.

City Council Work Session

January 22, 2008

5:30 PM

Community Center

ATTENDANCE:

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

ADJOURN TIME: 10:35 p.m.

Agenda

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

- Mayor Tussing introduced Mark Astle, nominee for Ward 5 Councilmember to replace Don Jones
- The public comment period was opened. There were no speakers, and the public comment period closed.

TOPIC #2	<i>Representative McGillvray</i>
PRESENTER	
NOTES/OUTCOME	

Councilmember Veis introduced and welcomed Representative McGillvray. Representative McGillvray offered his congratulations to newly elected council members.

Considerable discussion took place regarding local option sales tax, revenue sharing, tax increment financing and transportation projects/management/planning, funding, etc. Even though Mayor Tussing said the City is in favor of a 3% tax which would generate approximately \$12 million a year, Representative McGillvray stated that rural legislators are not in favor of that option unless there is benefit to their areas as well. Representative McGillvray indicated that he would not support statewide control over tax increment funding; the control should remain on the local level.

Council members expressed their frustration with the Montana Department of Transportation over past construction projects. Representative McGillvray stated that he would like the Governor to direct that administration to work better with local agencies.

Councilmember Ulledalen indicated that Billings is growing and delays in infrastructure improvements such as the road issues, results in 100,000 people providing the tax dollars to support a community of 300,000 people. With that in mind, it is hard to wait for tax reform.

Representative McGillvray offered to assist with lobby efforts of other legislators for necessary assistance when the City is able to provide the appropriate information he would need to adequately represent it. Mayor Tussing thanked Representative McGillvray for taking the time to meet with the Council.

TOPIC #3	<i>Billings Branding Initiative</i>
PRESENTER	
NOTES/OUTCOME	

Mayor Tussing explained that a branding initiative ties in with strategic planning efforts. Recently a consultant visited Billings and inquired what Billings is doing to attract visitors. Last August John Brewer, Billings Chamber CEO/President, stated that the Chamber of Commerce was considering a branding initiative. The current slogans could remain in tact; they could be improved for marketing purposes.

Sheri Nalt of Big Sky Economic Development explained that branding is big, requires organization, is emotional, experiential and delivers a promise. It is not an advertising slogan and doesn't require explanation to the viewer. She added that managing a brand and identity are critical. John Brewer reviewed other cities' use of brands and slogans in their promotional materials.

Chamber of Commerce Chair Kendall Merrick said a branding website will be running within a few days. That site will include surveys with two sets of questions for local and remote respondents. In addition, a community workshop will be held on January 30. Celebrate Billings is working on this and will host a breakfast on March 11 with a national consultant/writer.

Mayor Tussing reported that there have been numerous volunteer hours from local experts. He would like to link this survey from the City's website.

Mayor Tussing thanked the Chamber of Commerce and John Brewer for their work on this project. He indicated he will sponsor a Council initiative to expend \$2000 of the Council Contingency Fund toward this effort. John Brewer said he hopes to have the brand launched by July.

TOPIC #4	<i>Pool and Cemetery Fees Adjustments</i>
PRESENTER	Joe Fedin
NOTES/OUTCOME	

Recreation Superintendent Joe Fedin reported that it is necessary to seek fee increases for the city's pools due to rising costs of utilities, pool supplies and equipment, and staffing requirements to meet state standards. It will be recommended to increase daily fees \$.50 - \$1 and season passes \$18-\$30. Rental fees will also be increased but that number hasn't been reviewed by the Parks, Recreation and Public Lands Board yet. Park rental fees may also be

increased from \$5 to \$50 due to increased costs. That fee increase could generate about \$13,000 per year. Parks, Recreation and Public Lands Board would like the increased fees to go into a dedicated fund for major repairs or replacements

Mr. Fedin also reported on a proposal to increase the alcohol permit fee from \$25 to \$50. The permit holder is required to provide the alcohol free of charge unless they have a state license to sell it. Discussion followed about the possibility of charging more for the permits that allow vendors to sell alcohol. A final proposal will be forthcoming later in the year.

Councilmember Ronquillo indicated that the park shelters should be cleared of transients if fees are going to increase. He would also like to see the South Park pool expanded and concessions available there as well.

City Administrator Volek stated that a study of the Athletic Pool replacement will start soon. Parks/Recreation/Public Lands Director Mike Whitaker stated that the pool replacement study will be co-funded by a competitive swim team.

Cemetery Superintendent Lee Stadtmiller reported on a proposed increase of cemetery fees mainly due to operating and maintenance cost increases. The proposed 10% fee increase would generate approximately \$9400 per year. He added that the last fee increases were in 2004. The Parks, Recreation and Public Lands Board has reviewed and approved the fee increase.

City Administrator Volek and Assistant City Administrator Bruce McCandless reported that TID funds have been included in budget projections for several years and are absorbed into the general fund and PSF revenues and used to support those on-going costs. Councilmember McCall expressed concern that fee increases will hurt low-income individuals. Discussion followed regarding scholarship options.

TOPIC #5	<i>E-sign code Amendment Report</i>
PRESENTER	Nicole Cromwell
NOTES/OUTCOME	

Nicole Cromwell, Zoning Coordinator, passed out a memo from City Attorney Brent Brooks in response to a sign owner's complaint along with a summary of the December staff report. The December report addressed five issues related to Electronic Message Display (EMD) signs. The issues were researched in response to Council's request after passage of the ordinance that amended the City's Sign Code to further regulate EMD signs.

Ms. Cromwell stated that Council approved all but one recommendation from the sign code committee, which allows video to continue to be shown on the existing, permitted signs. Discussion followed regarding whether or not various signage complies with regulations.

The issues that were researched as a result of the December meeting were:

- Minimum separation distances to residential zones
- Landscaping requirements for new signs
- Nonconforming operations of existing signs
- Sign size
- Safety issues

Each issue reviewed contained varying numbers of regulatory alternatives that Council considered.

Brief discussion followed regarding each of the issues and available options to ensure compliance and safety in regard to EMD signs. Ms. Cromwell stated that she would not be making a recommendation at this time. Any initiation of action regarding these issues would have to come from Council and would result in the cycle of public hearings with the zoning commission and then to Council. Ms. Cromwell indicated that the sign committee is not recommending anything at this time and the safest course of action is to do nothing.

City Administrator Volek said that since this is new information, it can be discussed and reviewed further at a future meeting, but signs will continue to be built in that time. She suggested Council could review each item and get consensus on how to move forward. Councilmember Gaghen stated that even though the options are clearly presented, she would prefer to defer any decision. Councilmembers Veis and Stevens expressed their preference to reach a decision now. Ms. Volek stated that some of the items could be deferred to the next work session on February 4, and again as action items in March. After further discussion, it was decided to vote on the issues this evening. The results were as follows:

1. Minimum separation distances to residential zones

Regulatory Alternatives:

- Do not change existing sign code – **3 votes**
- Amend the sign code to require a minimum separation from a residential zone for all freestanding signs
- Amend the sign code to prohibit EMD signs within a certain distance from a residential zone
- Amend the sign code to prohibit any illuminated sign within a certain distance from a residential zone if the sign is visible from the residential zone. – **4 votes**
- Amend the sign code to require all illuminated signs to be monument signs. – **1 vote**

2. Landscaping for New EMD Signs

Regulatory Alternatives:

- Do not change existing sign code – **2 votes**
- Amend the sign code to require a minimum amount of landscaping for all new freestanding signs and when nonconforming freestanding signs are structurally altered or when an EMD sign is added to an existing sign. – **8 votes**

3. Nonconforming Signs and Amortization

Regulatory Alternatives:

- Do not change existing sign code – **2 votes**
- Amend the sign code to require conformity with the sign regulations within a certain time period for all nonconforming signs. – **5 votes**
- Amend the sign code to require conformity with sign regulations within a certain time period for all nonconforming EMD signs.

4. Maximum EMD Sign Size

Regulatory Alternatives:

- Do not change existing sign code – **5 votes**

- Amend the sign code to reduce the maximum size of an EMD sign either by reducing the percentage of total sign area (currently 40%) or as an absolute maximum. – **4 votes**
- Amend the sign code to reduce the maximum size of an EMD sign and require a minimum letter or graphic size to ensure legibility of an EMD sign. Minimum letter size can be based on street type. – **2 votes**

5. Public Safety and EMD Signs

Regulatory Alternatives:

- Do not change existing sign code – **4 votes**
- Amend the sign code to prohibit EMD signs within a certain distance of a traffic signal. – **5 votes**
- Amend the sign code to prohibit EMD signs or other freestanding signs within the same horizontal plane unless separated by a minimum distance between the signs. – **2 votes**
- Amend the sign code to prohibit EMD signs within a certain distance of pre-determined intersections or road segments based on current traffic safety data and traffic volume data. – **3 votes**
- Amend the sign code to require a minimum letter or graphic size to ensure legibility of an EMD sign. Minimum letter size can be based on street type. – **0 votes**

TOPIC #6	<i>MDT Road Funding</i>
PRESENTER	
NOTES/OUTCOME	

Councilmember Ulledalen posed the question whether or not someone should appear at the Revenue and Transportation Committee meeting on February 8 to talk about MDT issues. He didn't know if we have a slot on the agenda that date but the City of Missoula may be there too. We would have the opportunity to express concerns to the committee and talk about possible solutions regarding ICAP charges and what costs it is applied against. We would probably have about one-half hour on the agenda. If we don't attend in February, the next opportunity would be at the April meeting, or unresolved issues could be re-addressed at that time. Council members expressed their agreement with attending. Councilmember Ronquillo suggested attending to have the opportunity to determine what the Legislature and MDT are thinking. Councilmember Ulledalen stated that he reviewed the Legislative Auditor report. He found the report to be helpful in response to questions about what could be done. Chapter 5 details what other states do and provides suggestions to manage the ICAP charges. Legislature could establish a bank to advance funding ICAP, but no one has requested it. Missoula City officials and Public Works Director Dave Mumford have suggestions for what to talk about too. It seems to only be Missoula and Billings who are concerned. Great Falls might address the committee as well because they are also an MPO.

Councilmember Ronquillo suggested inviting the Montana Department of Transportation Director to a future meeting.

Public Works Director Mumford reported that crews are working in the Heights today and worked downtown last night. Over 1400 hours of overtime have been logged as a result of the recent snow storm. He has received several complaints from residents about driveways because graders weren't used; only front end plows. Sidewalks are the responsibility of property owners.

TOPIC #7	<i>Lockwood Wastewater Agreement Clarifications</i>
PRESENTER	
NOTES/OUTCOME	

City Attorney Brent Brooks provided a brief review of this issue. On November 13, Council approved a version of this agreement. A November 30 letter from Attorney Terry Seifert asked for changes to the agreement and subsequent meetings have been held among staff from the City and Lockwood Wastewater. Underlines and strikeouts occurred after the November 13 version that Council approved. The changes and discussion are as follows:

Section 4 Reserve Capacity: request to clarify when 80% capacity is used and what happens, and then what happens when it gets close to 100%.

Councilmember Veis stated that he felt this was confusing language. Deputy Director of Public Works Alan Towleron said that the intent is to establish a threshold at which Lockwood has to discuss reserve capacity. It intends to say that we guarantee 80% but after that, we have to negotiate for capacity up to 100%. Mr. Brooks said the potential conflict could be eliminated with simple language changes without changing the intent.

Section 19: surcharge does not apply to the SDF and franchise fee amounts

Section 21: clarify payment procedures on the SDFs.

Section 25: initial term is 15 years, upon notice 4 additional 10 year terms.

Section 26: if district doesn't meet standards, contract immediately terminates.

Section 29: changed from undetermined penalty to a fixed sum.

Sections 30-32 cover regulatory and statutory violations.

In Section 30, Lockwood is required to provide security for performance which allows Council to approve alternatives to a performance bond. Also, Section 30 concerns indemnification for statutory or regulator breach. The revisions in Sections 30 do not change the substantive duties of Lockwood or Billings.

Councilmember Stevens inquired about Attachment 1 and whether the director is identified. Mr. Brooks responded that it is the Public Works Director and that would be clarified. In response to Councilmember Veis's question about attorney fees, Mr. Brooks indicated that we are in favor of each party paying their own costs. That practice shows more cooperation and works better for public agencies like Billings and Lockwood. That will be reflected in the language of the agreement.

Councilmember Ruegamer asked why Section 23 is this here and if it applies to original rate or future rates and what is the advantage for city? Mr. Towleron explained that it applies to all rate changes and is similar to what we do with Heights Water District and baseball arbitration. Mr. Brooks added that we would typically select an arbitrator who is familiar with water/wastewater issues instead of an unfamiliar judge or jury. Councilmember Ruegamer stated that he felt arbitration only favors Lockwood. Councilmember Veis said that if we don't agree on rates, this allows a resolution method but Councilmember Ruegamer added that since we're providing a service and the rates are within reason, there should not be an appeal. Mayor Tussing asked if Council would like an item on the agenda regarding a process for setting rates. It was decided to put this item on the February 11 agenda to discuss the dispute resolution procedure.

TOPIC #8	<i>Animal Shelter Privatization RFP</i>
PRESENTER	
NOTES/OUTCOME	

City Administrator Volek reported that this issue includes quite a bit of research and she apologized for not allowing Council to see this sooner. A request for proposals was distributed to Council members. This is a similar issue from South Carolina to California, including Great Falls. The pertinent material starts in section 5 on Scope of Work and on page 14 at the pricing matrix. On Page 7, the number of stray cats handled should be corrected to 1300 and add almost 300 others handled. This RFP relies heavily on documents from Las Cruces, NM, some from Canada and Richmond County, VA. Richmond is asking for animal control and shelter services. Montana statute does not seem to allow the city to delegate or contract out the control part of the work. The RFP calls for the City to handle the animal control aspect and retain animals for the established retention period then turn them over to the shelter to handle adoption, etc. Both the animal control and the shelter functions will share the facility and the building could be physically divided. Ms. Volek said that this does provide an opportunity to include Yellowstone County and a contract could be in effect on July 1. If the County levy passes, taxes would be collected in November, so we would not accept county animals until January, 2009.

Councilmember Clark asked how the city gets the funds if they are collected by the county. Ms. Volek stated there would have to be a contract between the City and County. Council members discussed a similar arrangement with the Council on Aging and how funds are collected and divided among the various agencies that provide services, but there is uncertainty how the county would divide the animal levy.

Councilmember Veis stated that Board of County Commissioners had discretion on what to do with county animals before and changed course; couldn't they do that with the levy? A contracting agency could seek the county money. Ms. Volek responded that how much that

agency receives can impact the amount of money that the agency receives from the city. Las Cruces had a good solicitation and proposed contract, but could not come to terms with their selected agency. Spokane just renewed an agreement for about 3 times the former fee because they couldn't get anyone else to do it. We should agree to a contract only if we have assurance that the operation will cost the same or less than at present. A county levy could offset increased costs, and not cost the City any more than at present. We could have 2 or 3 bidders. There was consensus that we should allow a provider to use a shelter other than our own.

Mayor Tussing asked if a contractor could take the strays and captured animals for us. Ms. Volek replied that it may be possible, but the City can't eliminate its responsibility and possible liability. Since animal care agencies market the animals, we don't, but that could change if we had more money. Councilmember Stevens added that other types of agencies have more sources of money than cities.

Councilmember McCall inquired about quality standards – how they are evaluated and how we ensure they are complied with. Ms. Volek stated that standards are in the RFP. Ms. McCall asked if we should require our staff to meet the national standards.

Ms. Volek explained the difference between humane or a no-kill operation. Some shelters are selective in the animals it takes, but this RFP requires the shelter to take all animals turned over to them. We have requested performance security, although not all similar agencies require one. She asked if the Council would want a buy-out near the term of the agreement and/or offer to sell the shelter to the contractor. There is no debt on the present shelter.

Mayor Tussing stated that he is under the impression that animal care groups would not support the levy if the shelter isn't privatized. Councilmembers Stevens, Clark and Ulledalen indicated that they have heard the same thing. Ms. Volek stated that we are attempting to rebuild relationships with agencies by agreeing to allow them to adopt animals for a specific period before the City euthanizes them. Council agreed it probably does not want to have a say in the director selection.

Councilmember Stevens stated that interested agencies are not willing to identify themselves because they are afraid of retaliation. Mayor Tussing stated that it would be much more efficient to have one group responsible for the sheltering duties and he doesn't agree with splitting any of that responsibility. He feels we should not go through with this effort without assurance that groups will support a levy. Councilmember Stevens said she has voiced complaints for the last two years about the customer service provided by the animal control shelter and it was finally addressed this week. There isn't a foster care program at the shelter and there is a high kill rate. She believes private groups can do some of these things better. After further discussion, Ms. Volek asked if Council would want our staff to handle animals during a holding period or turn them over to the provider. Councilmember Stevens said separating the animal care duties from the control duties should allow the animal control staff to perform their control duties. Ms. Volek stated that there may be a requirement for some additional insurance to protect our liability depending on the arrangement. It was the group's consensus that the vendor would be responsible for working with other animal care groups.

Ms. Volek inquired about what kind of working and reporting relationship is desirable with the successful vendor. In the case of the Par 3 model, the group works very autonomously and reports to the Council on an annual basis. The RFP calls for regular reporting about where the animals have gone. Council agreed that there be some ongoing, consistent accountability and would like regular reporting to the City Council – at least during the initial period until we determine how this is working. The reporting schedule could be revised in the future.

Councilmember Clark asked if there has been any discussion with the Board of County Commissioners about what they intend to do with the levy money. Councilmember Veis added that he wonders what kind of support there will be for the levy and what will happen if it fails. Ms. Volek asked Council who should be responsible for upkeep and maintenance of the shelter. There was agreement that the routine janitorial duties would be completed by the vendor and the City would maintain responsibility for all other maintenance issues.

City Administrator Volek stated that the RFP addresses collection of most fees. License fees are collected by others as well as the city – some local veterinarians can collect the dog license fees. City collection provides reporting and accountability. Council agreed that the hours of operation could be set in the contract and used as an evaluation factor.

Ms. Volek said that if Council can provide comments to her by Friday, the staff could review this next week and the RFP could be out by the end of next week. The RFP would not have to come before the council, but the contract would. Councilmember Veis asked if 30 days enough time to respond to this issue. Ms. Volek said she was told that the County Commissioners have to decide on ballot issues by March 20, so the RFP needs to be published and a contractor selected to give the County some guidance on the levy election. Councilmember Veis indicated that it will be difficult to negotiate a contract when nobody will really want to commit until the outcome of the mill levy. Councilmember Ruegamer suggested a memorandum of understanding with the County Commissioners regarding how the levy money will be used so we know if there is any extra money for our operations, whether the levy is coming to this shelter, etc. Ms. Volek pointed out that we had a long-standing arrangement with the Board of County Commissioners who basically notified us about 2 months before the expiration of the agreement that they wanted to pull out. We allowed them an extension so they could make arrangements with a private party to take over the operations. Our long-standing contract was voided when it expired and they felt the fee was too high. The fee represented our actual cost for a new facility and their fair share of that cost. Ms. Volek stated that in 2004 about half of the sheltered animals were euthanized and half were adopted or returned to owners. The number of animals is down now that the county is out of the shelter, so our euthanization rate is also down because there isn't as much crowding/demand.

City Administrator Volek stated that the RFP should be out by January 31 if we want responses by the end of February. She stated that she understands there have been issues and she'd like to have an opportunity to address those issues with the staff. She had a difficult talk with shelter staff today, telling them that some may be laid off. Customer service training will be scheduled for both animal control and police staff this year. Ms. Volek would also like time to reestablish relationships with the veterinarians.

City Administrator Volek indicated that there are many different ways to operate around the country, but she is not aware of any others that have a shared facility relationship like this. One thing to remember as well is that there cannot be any retail sales from this facility. Councilmember Veis stated that animal control and shelter operations have to get better. It's an emotional issue for people. Ms. Volek responded that she thinks the staff works well with animals but need improvement with their customer service skills which is being addressed.

Councilmember Veis suggested that shelter staff/PD should be permitted to respond to the RFP. Shelter staff could suggest process and other changes that would make things better. Mayor Tussing asked about the volunteers who used to assist with the shelter duties. Police Chief St John said that when the county pulled out, there was insufficient supervision and

changing work requirements which resulted in volunteer numbers dropping from about 20 to about 8.

City Administrator Volek asked if Council wishes to proceed on the announced timetable. If so, comments are needed by Friday. She will work with staff to incorporate suggested comments/changes.

Additional Information:

Councilmember Ronquillo asked if comments on land sales were to be provided? Ms. Volek stated she would email the questions to Council

City Administrator Volek announced that the City has not received a formal offer from School District #2 on Cottonwood Park land. Councilmember Ruegamer stated that School District #2 is willing to meet with city officials, specifically Ms. Volek and Dave Mumford. Malcolm Goodrich should be contacted with proposed dates for a meeting.