

# City Council Work Session

November 6, 2006

5:30 PM

Community Center

## ATTENDANCE:

Mayor/Council (please check)  Tussing,  Ronquillo,  Gaghen,  Stevens,  Brewster,  Veis,  Ruegamer,  Ulledalen,  Boyer,  Jones,  Clark.

ADJOURN TIME: 8:55 P.M.

## Agenda

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

- JOE WHITE OF 926 N. 30<sup>TH</sup> ST. spoke on the bird droppings in the downtown area, adding it is dangerous to pedestrians and pets exposed to the droppings.
- JOHN DEVITT OF 4236 TRAILMASTER DR., State Representative for Road Runners of America, said he would like to serve on the committee if the Council creates one for the Special Events issue. He said he could contribute some insight because his group plans/schedules activities and events all around the U.S.
- DIANE STANDISH OF 1634 HWY 87 EAST, representing the Montana Women's Run, said she is concerned about the permit for special events. She offered to serve on a committee, and added that, "It could be short-sighted to solve one problem by creating a huge, long list of other problems... The permit fee could get help to create a healthy, happy and interesting community."
- EKKIE WEDUL OF 3412 BEN HOGAN LANE said she is a long time member of the Yellowstone Rimrunners and also the coordinator for the Montana Women's Run. Ms. Wedul said she has coordinated many "running" events in the City and added that she thought these events will go away if the permit fees are implemented. "Most of these people do not plan 90 days ahead of time for a little event that will involve 50 people. They (the events) don't make much money either. I'm very excited that you have a committee to look into this. I think you need to do that, not only for the fees, but also for the extra insurance that is costing us so much money," she stated.
- RACHEL COX OF THE BILLINGS ASSN. OF REALTORS said she was one of the co-sponsors of the Montana Realtor Run. She said this was the third year for that event and they gave approximately \$15,300 to Tumbleweed as a result. Ms. Cox said the entire event takes about two hours. "To pay a \$2,000 figure, we could have given Tumbleweed \$17,300. There are so many good quality of life issues that this community supports and sponsors... I just think you will have higher community involvement, better quality of

life and better participation in all community events if you don't charge these high fees," she stated. Ms. Cox also noted that groups would also be able to give back more to the community without having to pay the high fees.

- KAREN SANFORD GALL OF 3110 EAST MCDONALD said she works for the Big Sky State Games and they have a good relationship with the City Parks & Rec. Dept and the Downtown Billings Assn. Ms. Gall said the rates for insurance have created concern. She noted that she understands the City is following the State tort limits, "but I want to inform you that not all communities are following this. In fact, I've done some research and looked at what Great Falls, Bozeman, Missoula, Rapid City, SD, Boise, ID and a number of other cities. The majority of the communities in the state are now adopting the \$1.5 Million – and this is the larger communities in some respects, but not for necessarily for events like fun runs or parades. Some require no insurance at all' a number of them require no insurance at all for parades or fun runs. With alcohol involved, I can see where you might want to consider the \$1.5 Million. There is a great hardship on events having to come up with \$2 Million, because as you know no one writes insurance for \$1.5 Million," she stated. Ms. Sanford Gall also noted the issue of the fee. She said the proposal being presented this evening shows rates for San Francisco, Denver, etc. Ms. Sanford Gall said that all the communities she contacted did not have fees anywhere near what those larger cities were charging. "Some had fees that graduated up as there were more participants, but no one was near that. Many had no fee for a fun run or parade," she stated. Ms. Sanford Gall said she would understand a permit fee that was reasonable, but \$150 would put some of these groups out of business. She also spoke on the cleaning deposit – referring again to the other communities she contacted. "No one in the other communities have any type of cleaning deposit. What they do have is ... requiring groups to clean up after themselves. There should be a repercussion if you don't. We have that on the books already; it's called littering. Or you can fine people. There was one community that had a \$200 fine for noncompliance," she stated. Ms. Sanford Gall said that requiring organizations to write a check for \$1000 for a cleaning deposit not only creates more work, but some groups do not have the money to do that.

<b>TOPIC #2</b>	<b><i>Board &amp; Commission Reports</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- Mayor Tussing noted there were no Board and Commission Reports this evening.

<b>TOPIC #3</b>	<b><i>Legislative Review</i></b>
<b>PRESENTER</b>	Jani McCall
<b>NOTES/OUTCOME</b>	

- City Administrator Tina Volek noted that this item will be on the Council's regular agenda at its last meeting in November. Tonight's presentation is a review and an opportunity for the Council to comment on the compiled legislative priorities.

- City Lobbyist Jani McCall noted this is the fourth draft of the Legislative Priorities document. Ms. McCall said she met with the City's Leadership Team last week. The team offered additional ideas and changes, which have been included in the version the Council is seeing this evening.
- Ms. McCall covered each section individually. Local Government Powers is a brief statement about the City maintaining local support versus state control. She noted she wanted the Council to pay close attention to the statement, "The City of Billings supports in general the Montana League of Cities and Towns 2007 Legislative Resolutions". Ms. McCall said she has taken some of the League resolutions and placed them in the discussion document this evening.
- RE: FINANCE & TAXATION. Ms. McCall identified the major issues in this section as: voter approved local option/resort tax authority for local governments, statewide sales tax, accommodations tax distribution, business equipment taxes, tax increment finance & business improvement districts; and a realty transfer tax. She said she included two statements on the local option/resort tax authority; the first is a statement on the resort tax itself and would remove the limitations from the resort tax law, allowing communities to determine how they would like to customize a tax like this and then take it to a vote of its residents. This is the statement that supports the position of the Chamber and the Big Sky Economic Development Authority (BSEDA). The second statement is the resolution that the League has approved and is the approach they will take, which is a voter-approved local option tax of up to 4% on goods and services connected to tourism, with a 25% distribution to surrounding counties.
- Councilmember Veis noted that the City supports the resort tax bill and the League supports the local option tax bill. Councilmember Ruegamer said the Council needs to see a revenue calculation for both the resort tax and the local option tax. Councilmember Veis said Lynda Moss received a letter from the Dept. of Revenue stating a 1% resort tax would generate about \$3.9 Million. He said Alec Hansen from the Montana League of Cities and Towns has a spreadsheet that has differing amounts, depending on what is taxed for what a local option tax would generate. Councilmember Veis said the spreadsheet has about six different options. Ms. McCall said if the City went for a full 4% resort tax, approximately \$12 Million in revenue would be generated for Billings. She also noted that a minimum 5% break in property taxes would be included in these proposals. Councilmember Veis said he believed the City should support the position of the Yellowstone County Commissioners, the Chamber of Commerce and BSEDA – which is the resort tax option.
- Ms. McCall said what happened at the last session was that these bills stay in the system for quite a while because they are so controversial. The bills were not heard until the second or third month of the session, and then were held in committee for quite a long time. She cautioned the Council that if they go only with the resort tax bill, "we venture into this area of really splitting off from the rest of the large cities, our peers. There is some reaction with that. We've dealt with that before. We deal with it every session. Billings seems to be isolated on one or two issues; we're used to it and it will probably happen again," she stated.
- Councilmember Veis said he thought most of the large cities were more interested in the resort tax bill instead of the option tax bill with revenue sharing. He noted however that

many cities also have the opinion that a bill will not pass without some type of revenue sharing. Ms. McCall said the chances of either bill passing in the next legislative session are not very high. She said the history of this covers 26 years and she has been involved nearly ten years. Ms. McCall said what typically happens is an urban/rural split; the imperative becomes one of showing the rural legislators that their communities can benefit from this as well.

- Ms. Volek said one of the things she and Ms. McCall have discussed is the possibility of Ms. McCall doing a 30-minute legislative update by conference call before each work session and regular meeting of the Council, while the Legislature is in session. This would enable the Council to also give her some guidance and allow the Council some flexibility to deal with issues like this bill, one that the City is sponsoring and it disappears or “morphs” in some way during the session.
- RE: Statewide Sales Tax. Ms. McCall said this is one of the League resolutions. She asked for guidance from the Council as to whether to include it. Councilmember Veis said he was not sure the Council should support a statewide sales tax. Mayor Tussing said he wanted to see the “details” before he would make a decision on whether to support it. Councilmember Stevens said, “One thing that became apparent to me during the debate was that the State is really controlling how much gets to the local level. They are really tying our hands. And I’m really not excited about giving them 4%, because I don’t think the citizens will get a property tax break like they would deserve for that, and I don’t think it would get back to the cities. It’s the cities that are providing the essential services of water, sewer, police, fire, etc. That just doesn’t sit well with me.”
- RE: Accommodations Tax Distribution. Ms. McCall said this is also a League resolution. She noted that the League will support distributing 3% of the accommodations tax to local governments where it is collected to cover the cost of services and facilities. The other option would be that 3% would be added to the accommodations tax to go to infrastructure in cities and towns. Councilmember Clark asked how much is given back to the Chamber for advertising tourist trade. Charles Brooks from the Chamber said it receives about 1% of what the City brings in from tourism. Councilmember Ulledalen reminded the Council that Custer Country receives the accommodations tax and distributes it. Ms. McCall said this will be a difficult bill and a battle in the legislature.
- Business Equipment Taxes. Ms. McCall said this is a League resolution, noting she does not have the details yet. The Council directed her to leave this item in the priority list.
- Tax Increment Finance & Business Improvement Districts. Ms. McCall said this is a broad statement of support at this time. Councilmember Veis asked to insert the word “urban” in these items.
- Realty Transfer Tax. Ms. McCall said this tax would be for a realty transfer tax of 1% for property tax relief and to provide local governments with the discretion to determine the rest of the proceeds. Councilmember Veis said this comes from Whitefish, adding that he did not have an opinion on it either way, since it required voter approval and implementation by individual communities. He said the realtors will oppose this tax. Ms. McCall said what the legislature often does is group bills together and review them in committee. The consensus of the Council was to remove this from the priority list.

Ms. McCall noted some of the other resolutions presented by the League: (1) revising the public defender law to require that the growth factor for the entitlement program be

applied BEFORE assessments are subtracted; the Council consensus was to leave this on the list. (2) Clarifying the law on the phase-in of property values after each reappraisal cycle and its application to new contractions. (3) Allowing cities and towns to sell bonds through local banks; the Council consensus was to strike this item from the list. (4) Increasing the debt limit on general obligation bonds from 1.5% of assessed value to an amount that is less restrictive; the Council consensus was to leave this on the list. (5) Allowing local governments to attach insurance claim payments to cover the cost of demolishing structures that have been destroyed by fire or other causes; the Council consensus was to leave this on the list. (6) Prohibiting state agencies from requiring unreasonable indemnification clauses as a condition of loans made to local governments; the Council consensus was to leave this on the list. (7) Allowing cities and towns to adopt separate water and sewer rates for low income residents; the Council consensus was to leave this on the list. (8) Funding continuation of the Main Street Program at the level recommended in the executive budget; the Council consensus was to leave this on the list, and (9) Requiring written requests for reproduction of public information. Ms. McCall noted that this has been a request from City Attorney Brent Brooks. The Council consensus was to leave this on the list and add a general statement as to the proposal.

- **RE: LAND USE, PROPERTY & ENVIRONMENTAL REGULATION.** Ms. McCall said the major areas issues in this category include: (1) annexation and development standards, (2) appropriate regulatory authority, (3) mega landfill facilities, and (4) privatization.
- **Re: Annexation and development standards.** Ms. McCall said Candi Beaudry of the Planning Dept. provided input on this item, which she has summarized in the bullet points. The Council consensus was to include this item in the list.
- **Re: Appropriate regulatory authority.** Ms. Beaudry said this would affirm municipal building codes enforcement authority by allowing BOTH a city, or city-county planning board to serve as a zoning commission by modifying its membership requirements, modify and streamline the purpose and criteria for zone changes and monitor all eminent domain bills and oppose those that would further restrict the authority of local governments and private utilities to condemn property. The Council consensus was to keep this item on the list, but monitor to determine a position.
- **Re: Mega landfill facilities.** Public Works Director Dave Mumford noted that the consultant they have hired has advised them to hold off on this legislation. The Council directed Ms. McCall to strike this item from the priority listing.
- **Re: Privatization.** The Council consensus was to keep this item on the list.
- **RE: PUBLIC HEALTH, SAFETY AND CITY EMPLOYEE RELATIONS.** Ms. McCall said some of the issues include enforcement of safety belt and helmet laws, enhancement of safety communication services, timelines for firefighter suspension actions and police arbitrations, and monitoring public employee retirement system bills. Councilmember Ruegamer asked if there are any proposals for putting new employees on a 401(k) instead. Ms. McCall said she did not have any of the draft language yet, but would let the council know of any proposals when she gets them. Ms. Volek noted employees already have the choice of choosing a defined benefit or defined contribution plan option, adding that many places are forcing employees to move to a defined contribution plan.

- **RE: COMMUNITY & REGIONAL PRIVATE/PUBLIC COALITIONS & PARTNERSHIPS.** Ms. McCall said this section includes issues on (1) quality education, (2) quality health care, and (3) economic development. She said this gives the City an opportunity to support its partners in the community. Ms. McCall said these are general statements of support. She will be bringing specific bills and issues to the Council's attention as they arise in session.
- Ms. McCall concluded by noting that Yellowstone County will be supporting the veterans cemetery, funding for the drug court, the public defender bill and funding for mental health drop-in centers, not only in Billings, but statewide.
- See Handout attached at end of Minutes.

<b>TOPIC #4</b>	<b>CY07 Par-3 Budget and O&amp;M Review</b>
<b>PRESENTER</b>	<b>Duncan Peete and Jeff Mrchak</b>
<b>NOTES/OUTCOME</b>	

- Acting Parks & Recreation Director Gene Blackwell said the Exchange City Golf Course (ECGC) Board of Directors prepares an annual report to the Council concerning operations and the state of the golf course, as well as the proposed budget for the coming year.
- Duncan Peete, Vice President of the Exchange City Golf Corporation, gave a brief overview of the operations of the golf course. Mr. Peete said several major developments occurred on the golf course this year – a new pump station and new underground lines at a cost of \$85,000. The other major development was filling the vacancy created by Mark Walker, the superintendent for 15 years. Chas Walker, Mark's chief assistant, was promoted to the superintendent position effective October 1<sup>st</sup>.
- Mr. Peete said approximately 20,000 rounds of golf were played this year, not including those individuals that purchased memberships. Of those 20,000 rounds, between 13-14,000 rounds were 9-hole rounds. He noted that the practice range also had good attendance and a lot of use this year.
- He spoke about the clubhouse project. Mr. Peete said two payments remain on the loan for this project. The balance owed at this time is \$85,000. A payment will be made in August 2007. A bond of \$58,000 will cover the final payment, so the clubhouse will be fully paid off by August 2008.
- Jeff Mrchak, President of the Exchange City Golf Corporation spoke on the 2007 budget. He pointed several items of interest: (1) the ECGC is not requesting an increase in the greens fee, but is anticipating an increase in the 18-hole round fee for the 2008 budget.
- He said the range is considered one of the best ranges in the City and has been a constant source of revenue for the ECGC. The range fees have not been increased in at least six years. The Board is requesting a \$0.50/bucket across the board increase, which still leaves the range fee lower than anyone else in town. Par 3 has four bucket sizes, which range in price from \$2.50 to \$6.75/bucket. Mr. Mrchak noted that all the range balls were replaced this year through a sponsorship program. He noted that the ball replacement

cost is about \$8,000/year, so the sponsorship program helped immensely. It made for  $\frac{3}{4}$  of the balls.

- Mr. Mrchak said the Board is also recommending adding another cart to its fleet. The new superintendent will be starting at about \$14,000 less than the previous superintendent. A new assistant will not be hired until spring, so there will be some vacancy savings realized. Salaries for the other professional staff have stayed flat. A COLA has been budgeted.
- Councilmember Ruegamer asked what has been happening with the rounds played over the years. Mr. Mrchak said a few years ago, the Board did a 12-15 year analysis. The highest number of rounds played was in the early 1990s with about 27 – 28,000 rounds. He noted that the number of rounds played during the period reviewed showed that numbers were pretty static, with only a couple of spikes. Mr. Mrchak said that number is highly dependent on “Mother Nature”.
- Councilmember Stevens asked about the miscellaneous expenses for the Clubhouse. Mr. Mrchak said it includes an annual allocation for unusual expenses such as replacement of windshields on cars in the parking lot that hit by balls or for flowers for the family of a senior member who died. He noted that some years it is needed, others it is not. Mr. Mrchak also noted that the budget also includes the purchase of at least one new mower each year.
- Ms. Volek said this is a model contract and it will be utilized for Cobb Field and a contract with the Mustangs if the bond issue is approved by the voters at tomorrow’s election.
- Councilmember Stevens asked about the tree replacement item. She noted that the Public Works Dept has started a tree farm and asked if it could be utilized to assist in the tree replacement at Par 3. Mr. Mrchak said they budget \$1500-\$2500 each year for trees. He said he was open to suggestions as to where to get trees. Mr. Mumford said the tree farm is just getting started, but said this would be a matter to discuss in the future. Mr. Blackwell said the Parks Dept. does have access to trees and has worked with Par 3 in the past.
- Councilmember Ruegamer noted a net cash income of \$121,000 in the budget. He asked was the distribution breakdown was. Mr. Mrchak said the ECGC is anticipating a \$30,000 distribution from the 2006 budget -- \$20,000 which would go to the City and \$10,000 to the Exchange Club. In 2007, it is hoped that there will be more dollars left to do some of the long-term commitments and make a larger distribution.
- Councilmember Ulledalen asked what the Exchange Club does with the distribution it receives. Mr. Mrchak said the funds are restricted to outdoor/public access-type projects. The funds have been used for projects at the zoo, park projects, and purchasing playground equipment, etc. He said after the loan is paid off, it is their hope that more money will be available for distribution.
- See Handout attached at end of Minutes.

<b>TOPIC#5</b>	<b>Water/Wastewater Master Plan</b>
<b>PRESENTER</b>	Craig Habben
<b>NOTES/OUTCOME</b>	

- Public Works Director Dave Mumford said the presentation this evening would cover the 20-year Water/Wastewater Management Master Plan. He noted that Craig Habben of HDR Engineering and Ray Armstrong of HKM Engineering prepared the plan and will present the highlights of this plan this evening. Additionally Mr. Mumford he will present the highlights of the Water & Wastewater Financial Plan update that was done in conjunction with the master plan. He noted that the City will need to invest over \$260 Million over the next ten years to keep the system up to par to meet the growth of the community. A population growth rate of 2% was utilized in the plan projections.
- Craig Habben said the master plan was 90% complete by May. In June the initial presentation was made to the Public Utilities Board. The final report was presented to the Board in August, after which they recommended approval of the master plan.
- He said the primary tasks of the master plan included: (1) planning, (2) water supply analysis, (3) water treatment evaluation, (4) wastewater regulations analysis, (5) wastewater treatment evaluation, (6) water distribution analysis, (7) wastewater collection system analysis, and (8) water system emergency delivery.
- Mr. Habben said the primary objective of the planning task was to evaluate the water and wastewater systems to determine population for the service area, demand by pressure zone, flow by collection basis and determining criteria for 2015 and 2025 conditions. He noted that they utilized the annexation map as the service area.
- The result for water service area demand was 61 million gallons/day (mgd) by 2015 and 68 mgd by 2025. He noted the once the filter building project is completed, the plant capacity will be 60 mgd. Mr. Habben said this means that by 2015, the City will need more capacity at it water plant.
- The result for the wastewater service area demand was 22 mgd by 2015 and 24.8 mgd by 2025. The current capacity is 26 mgd. He said this means that the City needs to start planning for additional wastewater plant capacity in about 15 years.
- Mr. Habben said the water supply has not been finally approved by the State Water Board. Currently the City had three (3) water rights – the original 1885 water right (72 cfs, 46.5 mgd), a 1906 water right (100 cfs, 64.6 mgd) and a 1945 water right (62 cfs, 40.1 mgd). He noted that on an average basis, the City would be fine for quite a while, but in peak demand, the City is already into the second water right for peak summertime flow. Mr. Habben noted that the City also obtained a water reservation in 1980. This is an ability to pull water from the Yellowstone River during high flows, store it and use it at a later date.
- He noted that the key points regarding water supply are: (1) the City is currently into the 1906 right during peak demand in the summer, (2) there is a potential of being called on those rights by other users such as BBWA and Huntley project, (3) portions of existing rights can be moved to a new diversion location such as a new west end water plant, (4) shares from irrigation ditches could be purchased; the down side is that the irrigation ditches have seasonal demand/use in the summer, (5) off-stream storage could be stored

upstream and the river could be used as a conduit to bring water down to the water plant, and (6) the water reservation expires in 2010; an extension may be necessary.

- Mr. Habben said the main project for water treatment is the new filter building. The project is over one-half complete at this time and should be completed by October 2007. This project will increase plant capacity to 60 mgd. The total cost of this project with the maintenance building is \$17 Million.
- He noted also that the water treatment regulations were reviewed. One recent regulation regarding bacteria in source water was noted. The City has already been testing for cryptosporidium, so no additional treatment was necessary for that rule. Mr. Habben noted that they are just beginning the study to address the regulation regarding disinfection. He noted that based on history, it is not anticipated that the any problem with compliance will be found in this area. Councilmember Veis asked if they are reviewing the possibility of a need for membrane filtration. Mr. Habben said the City's levels are so low, that additional treatment is not warranted at this time.
- Mr. Habben said the plan also included evaluating the existing plant. No additional capacity is needed at this time. Some of the anticipated short-term projects include: upgrade of the L-structure (where the main intake is from the river), expansion of low service pump station #1 (the first pump station in the pretreatment program), motor replacement for the High Service pump and UV disinfection. The long-term projects include: pretreatment upgrade, upgrade of the chemical feed facility, additional motor replacement of High Service pumps and an upgrade of the screening facilities.
- He said the plan also considered how to expand capacity. Three options for expanding the existing plant and four options for a west end plant were evaluated. The study indicated that additional capacity will be needed about 2014.
- In regard to wastewater regulations, Mr. Habben noted that the discharge permit has now been finalized. Some of the major issues associated with the permit include: a more stringent E-Coli limit (which means more disinfection via higher chlorine or UV treatment) and a mixing zone study (to evaluate how well the effluent is distributing). The second permit cycle will address an ammonia limit and nutrient removal (i.e. removal of nitrogen and phosphorus from the wastewater stream).
- He said another wastewater regulation that will be coming into play shortly is the TMDL – i.e. the Total Maximum Daily Loading limit. This is a program through EPA that considers watersheds – i.e. everything that contributes to the Yellowstone River (Ex: septic tanks, storm water runoffs, livestock, and wastewater.)
- Mr. Habben also noted upcoming projects for wastewater treatment: (1) disinfection upgrade, (2) equipment upgrades and replacements, (3) the mixing zone study, (4) an outfall diffuser, (5) evaluation of the equalization basin, (6) nitrification and de-nitrification, and (7) phosphorus removal.
- He added that two projects concerning water distribution are the Walter Pump Station (\$1.8 Million) and Zones 4 storage and Zone 5 lift pump station project (\$6.5 Million). Mr. Habben said the capacity for wastewater collection is currently adequate and is adequate for near-future capacity. Minor pipeline requirements will be required for capacity and trunk extensions for the west end, the Heights, Briarwood and Alkali Creek. The Five Mile lift station will need an expansion and at least two new lift stations to serve Briarwood and Southwest Billings will also be necessary.

- Mr. Habben said emergency delivery of water was also analyzed. Utilizing current equipment and facilities, it is anticipated that about 20 mgd was needed. To reach this level would require two additional generators at the water treatment plant, six additional generators in the distribution system and other improvements to address local outages. Mr. Mumford added that this is a critical issue on which the City needs to work.
- To summarize, Mr. Mumford said the key points for the Council to consider are:
  1. the City needs additional water capacity within the next ten years. Where and how the City will do that will be a big decision for the community. Does the City stay within its borders and area and do it or look more regionally and try to help other communities at the same time?
  2. to keep the existing system operational and taking care of future capacity will require an investment of approximately \$260 Million. In order to fund that amount, under the current system (with system development fees (SDFs), construction fees, and rates), the water rates would average 9%/year increases, wastewater rates – 8%, and the City would incur debt of about \$165 Million over the next ten years.
- See Handout attached at end of Minutes.

<b>TOPIC #6</b>	<b><i>Special Events Resolution Proposal</i></b>
<b>PRESENTER</b>	<b>Lisa Woods, DBA; Brent Brooks, City attorney and Chris Hoiness of FBS Hoiness LaBar Insurance</b>
<b>NOTES/OUTCOME</b>	

- Interim Parks and Recreation Director Gene Blackwell said Staff is trying to balance the value created by special events in the community with the City's interests and needs. He noted that over the past months, representatives from the City Administrator's Office, the Parks Dept., the City Attorney's Office, the Downtown Billings Partnership, and the Downtown Billings Association have been discussing the issues and problems with the current system of handling special events.
- City Administrator Tina Volek informed the Council that rather than increasing, the Parks budget is decreasing. In 2004 the expenditures were \$4.3 million; this year the dept. is budgeted for \$3.8 million. She noted that this is indicative of the revenue available for this General Fund account.
- Lisa Woods of the Downtown Billings Partnership noted that Staff is recommending that a task force be created to review the special events needs and process. She said the group that has been meeting to discuss the current process is asking that the Council establish a policy that includes: (1) an application fee to cover permit processing and service expenses, (2) collection of refundable cleanup deposits, and (3) continue to require event insurance that equals state tort liability limits, offer "excess" event insurance and to create an ad hoc committee to develop recommendations for future Council consideration.

- Ms. Woods briefly described the present events process. She noted the biggest problem is that the applications are not submitted in a timely manner and insurance issues have arisen. Garbage has been another issue. Ms. Woods described the proposed event process which addresses the three items noted above. She said that in the 2006 Event season, from January through September 61 permits were issued for special events. An average of 8 hours of administrative time is spent on processing one permit – including staff from Police, Fire, City Attorney's Office, etc. The total costs add up to over \$10,000 per year for the City.
- She said the proposal includes: (1) completion of an application and payment of a fee, (2) a clean-up deposit – as a set fee or a sliding scale, (3) a certificate of insurance showing the City as an additional insured with a minimum of \$750,000 per individual claim and \$1,500,000 per occurrence, (4) a map of the event and staging information, (5) a cover letter explaining the event, (6) a clean-up plan and contact information, and (7) a traffic plan if closing streets. Ms. Woods also noted the comparison of application fees charged by other cities – both larger than Billings and smaller than Billings.
- Councilmember Jones suggested that instead of charging a deposit up front, charge for the cleanup costs and if these charges are not paid, the event sponsor will not get another permit. Councilmember Ruegamer said this would not address the problem if the event was a one-time event.
- City Attorney Brent Brooks spoke on MMIA insurance basics - membership, coverage limits, state tort limit, etc. MMIA is not a traditional insurance carrier, but a self-insured risk retention pool made up of 120+ Montana "city" members. He noted that the City pays the first \$25,000 of any event where the City is assessed a judgment or MMIA determines a claim must be paid. Mr. Brooks said this is a \$25,000 deductible for every situation where the City and the MMIA may have to pay something. He noted the state tort liability limit or cap is \$1,500,000. This means that the State through the 1987 Legislature said that any event where a governmental entity is found liable, the maximum amount of money per event or incident to be paid out is \$1,500,000.
- Chris Hoiness of FBS Hoiness Labar Insurance, the City's insurance agent of record said he does not represent the MMIA. He noted that he agreed to volunteer his time to be an advocate for the City and do some counseling to the City for "no dollars". Mr. Hoiness said as an insurance professional, he knows that a lot of people, businesses, nonprofits, etc. carry insurance for \$1,000,000. The problem in this matter is the state statute. In the insurance industry, one can have a \$500,000 limit, and then an umbrella needs to be purchased to reach the \$1,500,000 limit. This umbrella creates the "rub" because that is where the cost is incurred.
- Mr. Hoiness said he was directed to find a carrier that the City could have available on a special event as the "last resort". He explained that a master policy (with a \$2 Million limit in the name of the City of Billings and the "user"). The annual deposit is \$2,075. If no event sponsor needed this last-resort coverage, the City would pay the entire amount. If an event sponsor needed insurance, the user would apply through the permit process and be charged on a sliding scale, based on the event attendance. Ms. Volek said this insurance would be an alternative and presented as a non-mandatory courtesy if the

sponsor does not have insurance elsewhere. Sponsors would still be encouraged to have their own coverage.

- Mayor Tussing asked if the City would be paying this premium each year. Ms. Volek said yes, and each year the City would need to decide if it wanted to continue to offer this option. Councilmember Ulledalen asked if this amount could be incorporated into the fee. Mr. Hoiness replied the City may not want to do that because some event sponsors already carry their own insurance in the appropriate amount.
- Mr. Hoiness said the issue the Council needs to decide is: “do you want to let the users use \$1 Million, which most people have and leave the City unprotected for the \$500,000 gap, or do we want to make the user – in all events – have the \$1.5 Million.” He noted that this limit started with construction projects in the City – i.e. all contracts require all contractors to carry the \$1.5 Million, adding it is probably appropriate because construction is high risk. Now the policy for these limits has been established throughout the City organization as the \$1.5 Million, which is the correct amount required to “protect” the City of Billings from claims. “I think that is the question, and the cost to the user is right in between this,” he noted.
- Councilmember Jones asked what Mr. Hoiness would recommend as a solution. Mr. Hoiness said that as an adviser to the City’s risk management practices, he would recommend that if the tort cap is \$1.5 Million, the City should always require that amount as the maximum liability – for a user or a contractor or professional consultant. He said the decision the City needs to make is whether the City’s insurance or the user’s insurance goes first and how much should it be. Councilmember Jones asked if liquor liability is included in that amount. Mr. Hoiness said it was not included and is usually not included in the base policy. To distribute liquor requires a license, so an event sponsor typically has someone with a license distribute liquor for the event. Coverage is usually a separate rider and an additional cost. Most sponsors that want alcohol contract with a licensed vendor/caterer and that party is responsible for the liquor liability insurance.
- Councilmember Stevens reminded the Council that during the HOG rally, the county coverage was paid for by BSEDA, but the City had to pay for its own coverage.
- Ms. Volek said she understands the Council wants the City to obtain insurance to cover the City and the City is not willing to accept liability for the difference between \$1 Million (which is standard) and the tort limit of \$1.5 Million. She said the Council needs to make a decision on (1) the application fee, (2) the refundable cleanup deposit, (3) whether Staff should pursue the “event” insurance and (4) should an ad hoc committee be created to review the proposal. Ms. Volek said if the Council is interested in creating an ad hoc committee, Staff can come back to the Council with some recommendations for committee composition and would prepare a resolution to name an ad-hoc committee to continue working on this issue and to recommend specifics.
- Councilmember Ulledalen asked if the City closes streets for everyone that asks. Mr. Blackwell said that has been part of this entire process. Sometimes a significant amount of Staff time is devoted to processing requests. The DBA is doing most of the permitting and coordination for downtown events. City Staff still contributes a lot of work by City departments trying to make the events happen and successful with minimal disruption.

Councilmember Ulledalen suggested that this question of what/who can obtain a permit should be assigned to the ad hoc committee. Ms. Woods said criteria does need to be established because more people are living downtown and restrictions will be needed on events.

- City Attorney Brent Brooks suggested: (1) the committee be given specific direction as to its tasks and (2) that Staff and the committee look at other cities for best practices. Councilmember Ruegamer suggested that the committee include a representative of Bright 'N Beautiful.
- See Handout attached at end of Minutes.

<b>TOPIC #7</b>	<b><i>Council Appointments to (1) National League of Cities and (2) Joint Library Board with COT</i></b>
<b>PRESENTER</b>	<b>Tina Volek</b>
<b>NOTES/OUTCOME</b>	

- City Administrator Tina Volek said at the end of the NLC meeting in December in Reno, there will be a vote on a platform and the City needs to appoint a voting delegate and an alternate. She noted the only two councilmembers scheduled to be available at that time are Councilmembers Jones and Gaghen. Councilmember Veis said he would be there on Saturday and would volunteer if he's still in town, but would check his flight.
- Councilmember Gaghen was designated as the alternate. Ms. Volek said the issue should be clarified at a Council meeting, through Council Initiative.
- The Mayor and Council requested clarification on how councilmembers are chosen for the MLCT board.
- Ms. Volek noted that a board will be created for the joint Library/COT facility. Councilmember Gaghen volunteered for the Library/COT committee. She noted this also needs to be formalized at a regular council meeting.

#### **Additional Information:**

- City Administrator Tina Volek said the Council is scheduled to meet with the strategic planning facilitator next Tuesday night – November 14<sup>th</sup> with a follow-up on December 2<sup>nd</sup> for an all-day session. She noted several councilmembers have indicated to her that they would like to delay the strategic planning wrap-up to January. She asked for direction on this scheduling. The consensus was to finish it soon and to leave it as scheduled for next week (Tuesday evening, November 14) and all day on Saturday, December 2 for the final session with dept. heads. Ms. Volek said she will email a reminder to Council to confirm attendance.

- Ms. Volek announced that the FY 2008 – FY 2012 CIP public comment meetings will be held 11/29, 12/6, 12/13 and 12/20 at the four public middle schools.
- Ms. Volek asked for direction on the Council's January meetings. The consensus was to: (1) cancel the work session on January 2; (2) schedule work sessions on January 15 and 29 and (3) have regular meetings on January 8 and 22.
- Councilmember Jones asked that Rick Leuthold (from Engineering Inc.) present the results of his study for a proposal for off-stream raw water storage at a future work session.
- Councilmember Ruegamer spoke about a Kiwanis fundraiser idea -- a City of Billings' license plate. He said there is a \$4,000 application fee to the state, and all will be collected from club members, adding that no money would be required from the City. Fees would be paid to the City by the state. The proposal is for one-half to stay with the City and one-half to go to the Kiwanis for community projects. Councilmember Ruegamer will bring back more specifics when available. He said the City of Shelby does this and receives a check for \$2,000 each month. He said the Kiwanis sees this as an avenue for publicity for Kiwanis, but more importantly an income stream for the City and an impetus to give other people ideas of ways to help the City. Ms. Volek said the City will have to review under what terms the City adopted the current logo to see if this would present a conflict. Councilmember Veis said he would like to see a similar effort for the Cobb Field facility.
- Councilmember Ronquillo said a turkey dinner will be served on Friday, November 10, from 10:00 a.m. – 2:00 p.m. for Garfield School Appreciation Day.
- Councilmember Veis asked if work sessions could be held at various locations, such as at retirement homes. Ms. Volek said the primary problems will be with amplification and recording.

Mayor Tussing: adjourned meeting at 8:55 p.m.

Respectfully submitted,  
Marita Herold, City Clerk