

City Council Work Session

5:30 PM
Council Chambers
Date: January 5, 2015

ATTENDANCE:

Mayor/Council (please check) Hanel, Cromley, Yakawich, Cimmino, Pitman, McFadden, Bird, Swanson, McCall, Crouch, Brown

Agenda

TOPIC #1: Street Maintenance District 1

- Dave Mumford, Public Works Director, gave a brief history of SMD's (Street Maintenance District):
 - Called Sprinkling Districts until 1983 when State Legislature passed a bill to modify the code.
 - Have not modified boundaries of districts in over 30 years.
 - Have always had 2 districts in Billings
 - SMD 1 = downtown area
 - SMD 2 = everything else

What SMDs can be used for:

Montana Code Annotated (MCA) Part 44, Special Provisions for Street Maintenance Districts, 7-12-4401(2)

- "Maintenance" as used in this part includes but is not limited to sprinkling, graveling, oiling, chip sealing, seal coating, overlaying, treating, general cleaning, sweeping, flushing, snow removal, leaf and debris removal, the operation, maintenance, and repair of traffic signal systems, the repair of traffic signs, the placement and maintenance of traffic pavement markings, curb and gutter repair, and minor sidewalk repair that includes cracking, chipping, sinking, and replacement of not more than 6 feet of sidewalk in any 100 foot portion of sidewalk.

How we spend our SMDs in Billings

	SMD 1*	SMD 2	TOTAL
Gravel Roads/Alleys	5,456	420,647	426,103
Painting (Centerline and Markings)	47,418	383,658	431,076
Sweeping	145,323	733,578	878,901
Traffic Control (Signals and Signs)	82,638	961,434	1,044,072
Snow & Ice Removal	257,421	1,300,444	1,557,865
Street Repair	42,658	2,671,965	2,714,623
TOTAL	\$580,914	\$6,471,726	\$7,052,640

*SMD 1 rate/SF is approximately 7 times SMD 2 rate

What's changed in the last 30 years?

- Increased snow removal on arterial roads
- Increased street sweeping in commercial areas to meet new storm water regulations
- Significant increase in downtown special activities in ROW that benefit all of Billings
- Increased cost of services:
 - Spread over larger area in SMD 2
 - Assessed to fixed area in SMD 1
- Improved snow removal in hospital area
- Disproportionate traffic control per lane mile in SMD 1 than in SMD 2 required by Federal Regulations
- Commercial properties in mid-town & west end are receiving the same snow removal, traffic control, & sweeping as SMD 1

The issue we're now faced with:

Revenue Shortage in SMD 1

FY 15 Estimated Cost	\$580,914
FY 15 Projected Revenues	<u>\$383,376</u>
Projected Deficit	(\$197,358)

How we got here:

- Have a better system for tracking hours and costs spent in each district (previously was estimated)
- Increase in demand for services downtown
- Very small fixed area (<1% of total square footage in Billings) being assessed for costs

How do we fix it?

- Option 1: Increase assessment amount in SMD 1 to recover costs of District
 - Requires approximately a 50% increase
- Option 2: Decrease maintenance in SMD 1
- Option 3: Merge SMD 1 and 2
 - Requires about a 5% increase for SMD 2
 - Impact to average residential property = \$4.99/year

- Councilmember Pitman asked if 50% sounded like a big number and what did the average business pay.
- Jennifer Duray, Public Works Finance Manager, said it varied. \$200,000 would be spread over about 400 properties. She said there were 7,000, and 100,000 sq. ft. properties in the downtown area. For a SMD 2, a 9,600 sq. ft. lot, the average would be about \$98 per year.
- Dave Mumford said downtown would be 7 times that amount for a property owner with the same sq. ft.
- Mayor Hanel asked if the cost breakdown for the SMD 1 was per sq. ft. of the lot, not of the structure.
- Dave Mumford said most structures were only one or two stories for commercial/residential. Downtown was multi-story and it was sq. ft. of the lot, not of the building.

- Swanson asked why the building was not appraised in that process?
- Dave Mumford said under State Statute they have 6 methods. There was the value of the property that you could assess against. Right now, they assess just on sq. footage, not on the value of the property itself. Non-profits have no value under state law and they would have no way of assessing under State Statute, yet they were a large driver of street maintenance costs.
- McCall said it made sense to merge SMD 1 and 2 together. The downside was the 5% increase for SMD 2 and what were the other down sides.
- Dave Mumford said they would have one SMD to assess.
- Councilmember Cromley agreed with Councilmember McCall and asked if it was common to have multiple SMDs in various cities.
- Dave Mumford said most cities had one SMD.
- Pitman said part of his concern with Option 3, was that District 1 got a lot of services. What was the option to decreasing some of the maintenance. We have a lot that happens downtown and the DBA maintained the downtown. Decreasing some of the maintenance, how much could we do to reduce their cost.
- Dave Mumford said the biggest items in their maintenance were snow removal and sweeping. They would have to significantly reduce both of those. Residential got less maintenance than commercial. Downtown and 24th St. was swept more often. They assessed based on the fact that everyone benefits from the street and each street had a different maintenance level requirement. We don't plow residential.
- Pitman said the downtown was demanding a lot of services. We were not billing all the way up the building. He challenged Council to try to find an option to tweak the boundaries. Maybe the logical thing was to make a more balanced district and talk to them about decreasing their costs.
- Dave Mumford said they could look at that but they wouldn't be able to do it for the next year's budget. Street maintenance hauled after every storm. They did that for all of the commercial property that was sitting on arterial and collector streets and swept all of the arterials more often than residential.
- Tina Volek, City Administrator said they could meet with the DBA and talk about what was an acceptable level of reduction and what impact that would have and then bring that back to Council.
- Dave Mumford said he was there to get direction from the Council. We couldn't continue to run a deficit.
- Brown asked if downtown got as much time?
- Dave Mumford said they were assessed exactly what time and materials were used. He said a 5% increase to SMD 2 would give the same rate across the entire City.
- Bird said the way we are doing it was the most practical and simplified way.
- Yakawich said he would say no increase and would like to see Dave have a breakdown of where that money went to the next time Council met. He asked how could they address that \$200,000 deficit.
- Dave Mumford said the money didn't go anywhere. That was what costs were for trucks, gas, snow removal, deicer, equipment operators. We track what it costs

exactly to do the work in each district. It had never been enough to catch up. The only way to reduce cost was to reduce service.

- Tina Volek said the \$580,000 did not represent revenue that came in, it represented expenditure. They have never had sufficient revenue from the District to match those expenditures and have not had money come in and then delayed or deferred to something else and have taken that out of the funding sources. She said they haven't had enough money, and have taken that out of other funding sources. Because they differentiated between funds, you see the number much larger than if you were doing it with just a General Fund Budget that takes into account all the revenue, but also all the expenses of Public Works. That was an expenditure we have never had revenue to match out of that District. We have to take it out of House Bill 124 which we could be using for other things. That number was going to increase sufficiently and eventually even House Bill 124 won't match it.
- McFadden said there was only one Option that would be workable and practical, and that was Option 3. We can't expect to double the rates of the downtown businesses.
- Pitman said he thought that was going to be the question that this Council and the future Council were going to be asking of every Department. Who was going to pay for what and how much were they going to pay, or did they want less services.
- Dave Mumford said the reason SMD 2 can provide the service level it does on all the arterials of the King Ave. S., 24th and Broadwater, and on residential streets, we sweep them 2-3 times a year. We chip/seal and repair when there are cracks, but they were not plowed and hauled. The downtown had no residential to subsidize the commercial and had to pay for its services.
- McCall thought it made more sense to merge the two districts. She agreed with Councilmember McFadden's comments. The heart of the city was downtown and very active. There are major services and businesses downtown. People in this community are going to take advantage of services and she thought it was time to look at a comprehensive SMD fund.
- Swanson suggested taking a look at the fair market value of the assessment.
- Dave Mumford said if they did it by assessed value, then all of the nonprofits (schools, etc.) would not pay anything because they have no assessed value under state code. That was why for years the City had taken a simpler route of sq. footage.
- Mayor Hanel asked for some clarification on the arterials.
- Dave Mumford said Montana Ave., 1st Ave. North, Main Street, and 27th St. are State owned. The MDT plowed and patched them. We hauled the downtown because the State didn't haul. We do provide sweeping on a regular basis as part of this district.
- Tina Volek said they would bring discussion back to next Work Session, January 20.
- Yakawich asked Mr. Mumford to look into Option 2 as well.

Public comment:

- Lisa Harmon, Executive Director for the Downtown Billings Alliance, said merging two districts looked good but Board would discuss further. Downtown owners felt that services have decreased because the City had grown, and high per sq. ft. value contributed to the tax base.
- Mayor Hanel asked if DBA was hearing from downtown business owners if they felt the amount they were paying now was satisfactory, or too much.
- Lisa Harmon said many business owners have felt for a long time that it was out of proportion to the services they received. Downtown was dense and contributes to the tax base and they felt it was justified they would have more service for the amount of activity that it brought. Some say they were paying more than their fair share.

TOPIC #2: Bicycle / Pedestrian Advisory Committee Report

- The Advisory Committee was not able to attend and was excused.

Public Comment: None

TOPIC #3: Providing Water and Wastewater Service Outside City Limits

- Dave Mumford, Public Work Director, gave a Power Point Presentation and said he wanted Council's input on general policy and 3 specific property requests. He asked if the City of Billings should provide wastewater and/or water service, outside city limits.

**Guidelines for providing water and wastewater service established
in the City of Billings Water and Wastewater Rules and Regulations
adopted in 2009 by City Administrator
Section 26-101. Regulations**

The City Administrator shall promulgate and publish rules and regulations for administration and operation of the municipal water and wastewater utilities. Those rules and regulations shall, as a minimum include the rules and regulations under Montana Code Annotated, Section 69-7-201.

**Guidelines for providing water and wastewater service
established in the City of Billings
Chapter 28-1 Intent and Purpose**

- 1) The intent and purpose of the rules and regulations set forth in this chapter is to: Adopt an official wastewater service area that specifically designates that particular territory which is to be served with wastewater service from the municipal wastewater system;
- 2) Provide for an orderly, planned, and cost effective method of enlarging the wastewater service area so adopted;
- 3) Promote annexation to the corporate city limits of all properties to be served with municipal wastewater service from the municipal wastewater system; and,
- 4) Ensure public participation and comment in the decision making process with respect to all enlargements of the wastewater service area of the City of Billings hereafter to be granted by the City Council.

Chapter 28-4. Annexation Requirements

- 1) All properties to be included within the wastewater service area shall be annexed or an attempt at annexation shall be made first and before any wastewater area

enlargement applications may be considered. Further, that whenever possible the property being considered for inclusion in the wastewater service area shall be annexed to the City rather than accepting waivers of the property owner's right to protest annexation of said property to the City.

Waivers may be accepted by the City in its sole discretion only in those particular cases where good and sufficient cause is shown and a hardship would result if waivers were not accepted.

Any waivers must be in legal form as approved by the City Attorney; be recorded with the County Clerk and Recorder, Yellowstone County, Montana; run with the land; and shall be signed by owners of the majority of the land area and by a majority of the land owners of the area to be considered for inclusion in the wastewater service area.

- 2) A prospective applicant shall first petition the City to annex the property involved prior to submission of a wastewater service area enlargement application. The City Council shall then consider such petition.
- 3) The Public Works Director shall notify in writing the prospective applicant of denial of annexation or right to file waivers or both, and approval or denial of enlargement of the service area. If approved the applicant shall be notified as to when the requirements set forth in this section have been satisfactorily completed and authorize said applicant to proceed with the service area enlargement application.

Billings Customers Outside Water and Wastewater Service Area

- MetraPark
- Lockwood Sewer Service Area
- Phillips 66
- Heights Water District

Request for Service Outside Sewer Area

- ExxonMobil
- Blaine's Trailer Court
- Lockwood Industrial Park Area

Current Conditions of Requested Service Areas

Lockwood

- In 2007, City Council approved a cost benefit analysis that showed it was not beneficial to the City to annex the Lockwood area.
- City Council approved Lockwood wastewater service area.
- Area not available for sewer service without Billings.
- Requested areas outside Lockwood Service Area.
- Montana Department of Environmental Quality non-degradation determination and mixing zone regulations.
- Cost to meet MDEQ and EPA wastewater discharge regulations is extremely expensive.

Blaine's Trailer Court

- This area is not supported by staff for annexation.
- Existing sewer system is failing.
- Design option is to construct elevated sewage lagoon less than a mile above Billings' water system intakes.
- Sewage lagoon is in flood plain.
- Potential environmental risk to Yellowstone River.
- High cost to construct.
- Future MDEQ and EPA discharge standards.

Proposed Criteria for Service Outside City Limits

- Area not supported for future annexation into Billings.
- Not competing with current or future commercial/industrial development in Billings.
- Capability of Billings Public Works to provide desired services.
- Environmental protection of the Yellowstone River.
- Pay franchise fee and surcharge to the General Fund (currently 10% of gross revenue).

Options

- No water or wastewater service outside of the City limits.
- Staff to provide City Council with recommendation on each request for Council direction and approval.

- Bird asked what were the environmental risks on the wastewater part and what were the benefits to the City and the environment? If not done, what was the impact?
- Dave Mumford pointed out the ExxonMobil site in Lockwood. They currently treated their wastewater, but they would have to meet new requirements for arsenics, selenium, nitrogen and phosphorous coming up in the future which create issues for them cost wise. What was occurring more was the complexity of dealing with federal and state regulations for both water and wastewater and are getting to the point where small systems were harder to meet guidelines. We are in the process of moving towards a \$55M upgrade that we hope to get this through in about 10-12 years.
- Bird asked if we extended sewer to the Blaine Trailer Court, was there any reason why it wouldn't be practical to also extend water just in terms of cost?
- Dave Mumford said they could provide water and sewer service. They have requested sewer and they have the ability on Blue Creek Road to provide water.
- Cromley asked Mr. Mumford to explain franchise fee and GF surcharge.
- Dave Mumford said when they paid our sewer and water bill, they paid a franchise fee (4-5% of gross revenues) that goes to the General Fund.
- Cromley asked if that surcharge could be negotiated depending upon the individual situation.
- Dave Mumford said yes.
- Yakawich asked if they could handle the intake of larger areas.
- Dave Mumford said yes. In a design of the new wastewater treatment plant that they are building next year, they took into account that they would be growing. They were moving up to a 35 million gallon a day plant.
- Pitman said there was no way to recover the cost of going all the way out to Briarwood but this was a way to offset some of the cost and increase some revenues. It was the right thing to do and the City would make money at the same time.
- McCall said they need to consider all three of these and she thought it was an impact economically. She asked Mr. Mumford about the experience they were having with Phillips 66?
- Dave Mumford said they have been great partners. They developed and tested a good system to insure that any upsets would not get into our system and it was monitored constantly.

- McCall said for any of these projects there would be system development fees which would be at their cost to come into the system. They would pay wastewater rates to Public Works and in addition to that, the franchise and area service fees would go into the General Fund.
- Bird asked what the risks were.
- Dave Mumford said one of the risks was there are environmental concerns that could happen.
- Bird asked if there was going to be a dollar cost for the City.
- Dave Mumford said no. The system development fee they would have was to pay for a portion of the infrastructure that all of their current residential customers have paid for.
- Cromley said these contracts were more or less perpetual. He asked if there was any length of time or were there any circumstances under which the City could ever stop providing the service.
- Dave Mumford said except for the Heights Water District and MetraPark, the Lockwood Sewer and Water District, and Phillips 66 have where they or the City of Billings can cancel contracts. He said the fee rates are looked at on a bi-annual year.
- Yakawich thought they should annex Blaine's Trailer Court into the City.
- Mayor Hanel said it made sense to move forward with that.
- Dave Mumford said he would start working on contracts, and bring back to Council more information.

Public Comment:

- John Ostlund, Yellowstone County Commissioner of District 1 (Lockwood, Exxon, Conoco, Blue Creek, Briarwood, and Blaine's Trailer Court), said there was an opportunity to move forward and serve the citizens and it could be a revenue generator for the City. He also addressed Councilmember Bird and said they do have a great relationship with MetraPark and the City of Billings with the water and sewer, and the treatment plant is on Yellowstone County property.
- Monica Mainland, Manager of Exxon Mobile Billings Refinery, said they see themselves as partners with the City in this discussion. The City really had worked and looked in advance at the anticipated regulatory change. With a lot of foresight the City decided to invest back in 2011 in an expanded capacity at the wastewater treatment plant. They have been looking at their options and they have come to the conclusion that working with the City was their lead option. Their wastewater proposal was similar to that of Phillips66 Refinery which started sending its wastewater to the City in 2014. ExxonMobil will follow important safety protocols, would pretreat the water and do continuous monitoring. We would communicate regularly with the staff at the treatment plant. We felt strongly about protecting the river and the environment. It was our commitment that just as we send water back to the Yellowstone River in good condition, we would continue to send water to the City that would meet its requirements. We are one of the largest taxpayers in Yellowstone County with a local property tax bill of more than \$5M per year. Our employees serve on many boards. Beyond that are sponsorships, contributions, scholarships and outreach effort. The proposed wastewater project option allows Billings Refinery to honor its

commitment to environmental safety and community outreach while helping us to remain economically viable.

- McCall asked if they were under any compliance orders right now with DEQ?
- Monica Mainland said no. We are currently working on a permit with the DEQ. We expect to have a compliance date in the 2019 time frame. Obviously we would have some interest in discussing with the City whether we tied in earlier than that.
- Al Blain, an Owner of Meadowlark Properties (Blaine's Trailer Court), said he and his brother have tried to update the Trailer Court. There are 225 mobile homes. They have improved the water system and brought it up to standards and the streets have been repaved. The wastewater is currently disposed of through ground water. As Mr. Mumford said, it was not the best way to dispose of wastewater. Those systems fail and everything ends up downhill at some point. We are trying to be proactive. The system was currently working and we are under no order from the DEQ.
- Steve Arveschoug, Executive Director of Big Sky Economic Development, said when we have an existing company that wants to expand or grow, we need to be prepared to work with them. The partnership that we are proposing was a partnership between the City who would provide the water and sewer service, to a potential targeted economic development district in the Lockwood concept area. We did a study with Kadrmas Lee and Jackson Engineering Firm looking at all the potential areas for industrial development in our community. The Lockwood concept area was the area that we believe was most conducive to the type of development that would support the growth of existing and future industry. We have been instructed by our Board of Directors and by the Yellowstone County Commissioners to work on a TEDD (Targeted Economic Development District) Proposal. Similar to the Downtown TIF District. It was for providing resources to build adequate infrastructure that supports value added industry and private investment. We have just started our outreach process starting next week on Monday. We would present that information to the Yellowstone County Commissioners in early March with the proposed boundary for the TEDD, and the declaration of infrastructure deficiencies. Once we have gone through that step and with the approval of the County Commissioners, we would look at developing what was called a Comprehensive Development Plan. The final decision would rest with our Yellowstone County Commissioners on creating the TEDD. If we were going to provide that industrial space for existing and future business, we need a partnership with the City, County, the property owners in Lockwood, and private industry through the Trailhead Commerce Park.
- McFadden asked what the time frame with developers was.
- Steve Arveschoug said they have planned on looking to make investments in 2015 related to Trailhead Commerce Park. They need assurances that infrastructure would be in place and to know that the TEDD would be there to help finance the infrastructure investment.

TOPIC #4: Council Discussion

- Yakawich asked Dave Mumford if Public Works would consider plowing to the middle on State and Division?
- Dave Mumford said both are state routes, so they didn't plow them. Would get back to Council to confirm or correct.
- Bird said next business meeting, she would introduce a Council Initiative requesting another \$15k for Optimist Park Master Plan. SBURA discussion about matching \$ to do a good plan.
- Swanson passed out a letter he had from Wayne Gustafson about City downzoning and said he would sponsor an Initiative.
- Brown said soon he was going to discuss the open position in the Building Division.
- Bird said Meadowlark/Blaine's – Received a call from Vince Ruegamer and he would be pleased that City's moving that direction.

TOPIC #5: Public Comment on Items not on the Agenda

- None

ADDITIONAL INFORMATION:

- Tina Volek reminded Council of the Saturday morning meeting at the Parks and Recreation Dept. Council requested a meeting on the Public Safety funding, 8-12 pm. Would have General Fund and Public Safety Depts. heads, but no others unless Council directed otherwise. It was open to the public.
Next Innovations Group Meeting would be on Wednesday, January 7, 3-5 pm at the Library.
Tina said a Councilmember asked about meeting Mustangs' new owner; willing to come here to meet Council on Feb 17 at the Work Session or at a separate meeting.
- Mayor Hanel requested time outside of the Work Session.
- Tina Volek said staff would work on it and announce later.

ADJOURN TIME: 8:07 pm