

# City Council Work Session

November 16, 2009  
5:30 PM  
Community Center

**ATTENDANCE:**

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

**Guests:** Tom Hanel, Angela Cimmino

**ADJOURN TIME:** 9:50 p.m.

## Agenda

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

- None.

<b>TOPIC #2</b>	<b><i>Radio System</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Lex Rudder introduced himself as a consultant of GeoComm. He explained that a study was done to look at radio systems, and a more detailed report would be left for staff review. He said the current 800 MHz public safety system was examined. He advised that the big issue was that the current system was no longer supported by the manufacturer. He said staff had done a good job maintaining it and working with the manufacturer, but in June, 2011, the manufacturer's repair of the equipment would cease. He explained that the system would not be supportable through normal means within a couple of years. He advised that there were gaps in service with the current system throughout the City and it would not meet future growth projections. He reviewed the four options considered: 1) rebuild current system, the most expensive option; 2) rebuild it and make it work with the State's system; 3) build a 700 MHz system and make it work with the State's system; 4) build a VHF system and cooperate with the State and Big Sky 11. He noted that Option #4 was the least expensive option and the recommended one. He explained that the drawback of Option #4 was that the State was not ready to license it yet. He said there were ways to do it, but it would be expensive and difficult.

Councilmember McCall asked about the lifespan of the current system. Ms. Volek advised it was implemented in 1996. Mr. Rudder explained that the current system was hampered by the interference with phone lines and that was what caused the manufacturers to back out of that equipment. He said the VHF system required less infrastructure and was estimated to cost \$13.5 million or as little as \$8.9 million. Mr. Rudder advised that there were sources of funding for a regional radio system and the State felt it could provide a \$1.5 million

piece of equipment. He added that grants were available and could cover up to 90% of the cost. He pointed out that cost estimates were priced at retail, but competitive bids should come in lower. Councilmember Pitman asked if there was any value to the current system. Mr. Rudder stated he was not aware of any market for the system unless someone wanted it for spare parts.

Councilmember McCall asked what other large Montana cities were doing. Mr. Rudder advised that he did not know, but Billings was key to the rest of the state. Assistant Fire Chief Frank Odermann stated that Billings was the only large city that did not use VHF. Mr. Rudder added that in-building penetration was good for VHF with four transmitters in the community, and would result in better coverage and communication abilities. Councilmember McCall asked if there was a risk to not having the capability of getting messages out from inside a building.

Councilmember Ulledalen asked about a timeline. Mr. Rudder said if started right away, the City was probably going to have to operate about three months without any support. Ms. Volek explained that staff wanted to work with the State to hire someone to write a RFP for the system purchase. She said that would be the Council's next decision point.

Councilmember Pitman asked if cell phone use would be reduced. Ms. Volek advised that the cell phones had a different purpose and the usage should not change.

<b>TOPIC #3</b>	<b><i>Outer Belt Loop</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Councilmember Veis reported that the item was discussed at the recent PCC meeting. He said the Council had provided flexible language and it turned out that others wanted more specific language and the eventual decision was to go from I90/94 to Hwy 312.

Councilmember Pitman asked how it was switched. Councilmember Veis said he was not sure because the Council had asked Stefan Streeter from Montana Department of Transportation and that was what was needed. Councilmember Ulledalen advised that a Federal Highways representative spoke at that PCC meeting, but he did not understand what the person was trying to say; it was confusing. He said the project may have to be scaled back.

Councilmember Ulledalen stated that he had heard before that if a project was abandoned or changed, the money that had been spent had to be repaid. He said that the current project was changed and nobody had said anything about repayment. Public Works Director Dave Mumford explained that the project was still in the EIS phase, so it could be changed without having to repay anything. Planning and Community Services Director Candi Beaudry stated that what was heard at the PCC meeting was different than what was stated before. She said she was told that flexibility was wanted for the EIS process and it was unknown if it was more expeditious to continue on the entire route, or to scale the EIS back to a phase. She said they heard that morning at the PCC meeting that it was still a possibility, but prior to that, the implication was that the most expeditious way was to complete it as originally scoped. Councilmember Ulledalen commented that a lot of money had been spent on the EIS and if it was left on a shelf for too long, it would have to be redone. He added that Commissioner Kennedy stated for the first time that he had doubts that funding could be obtained. Councilmember Ulledalen added that it might have to be considered during the planning process if there would not be transportation projects. Mr. Mumford pointed out that the Heights Water District could supply water and could encourage growth even if the City did not annex. Councilmember Veis

commented that priorities needed to be set for future transportation projects. Ms. Beaudry advised that the transportation plan would be wrapped up in the next couple of months and would include the priorities provided by the Council. She noted that the TIP was an annual update on projects. Councilmember Ulledalen said that could be a reason to meet with the Planning Board so it knew what the City wanted, not just was the County Commissioners wanted.

<b>TOPIC #4</b>	<b><i>Medical Marijuana Ordinance</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Councilmember Pitman stated he did not know where to go with it. He said he heard from Mr. Higgins that he was having trouble finding rental property, and property owners may be taking care of the issue without a City regulation. He said he spoke with Congressman Rehberg who stated he was not sure he would go down that road at the current time either. Councilmember Pitman stated that the Council learned that providers should not operate from their homes, and smoking in public places was not allowed, so they were kind of restricted to commercial property anyway. Ms. Volek clarified that the providers could run a home business, but could not have customers at their home. She said they could mail order or deliver. Ms. Beaudry confirmed that was true and said the use could not be for retail purposes.

Councilmember Ruegamer stated he was against it because he felt the City was stepping into a quagmire trying to regulate it. He said the medical marijuana was expensive - about \$400 per ounce and felt it was cheaper to buy it on the street. He said there should not be any worries about selling it to kids because they could not afford it. He said more information was needed.

Councilmember Ulledalen said he felt the City should work with legislators to adopt reasonable rules. He asked if MLCT was doing anything about it. Ms. Volek advised she would check on that. City Attorney Brent Brooks advised that a Helena attorney contacted him and indicated that he knew most of the people that testified at the Council meeting and was planning to meet with them and could be in touch with a proposal from that group. He added that State Statutes were not specific enough and the Department of Health and Human Services had not developed rules even though they were ordered to do so by the Legislature. Mr. Brooks stated his opinion was that it could not be banned outright because the State had taken it upon itself to regulate it, but did not really address authority of local municipalities to regulate the activity.

Councilmember McCall suggested tracking the amendments that went along with that bill to see which legislators were involved. Ms. Volek advised that staff and Lobbyist Ed Bartlett were meeting with Wanda Grinde the next day.

Councilmember Pitman advised that he heard from a local legislator that indicated that the Legislature was not willing to address it for fears that it was a step toward legalizing all marijuana usage. Councilmember Ulledalen mentioned that there may be a need to establish protection for residential neighborhoods.

Councilmember Astle advised that he knew of a medical doctor that disagreed with the potential of 44,000 patients and did not feel it was always effective. Councilmember Astle asked if the State had passed a law that contradicted federal law and could even be unconstitutional. Mr. Brooks explained that he would not consider it unconstitutional, but the federal law said it was illegal, except the U.S. Attorney General directed state Attorney Generals to not prosecute the use and distribution of medical marijuana. Councilmember Astle asked if the City could ban

the medical marijuana use and dispensing since it was against federal law. Mr. Brooks cautioned that the City would get in trouble if it did that because the State took it upon itself to make it lawful in Montana as long as the statute regarding location of use was followed. Councilmember Ulledalen stated he would be interested in hearing from the medical community. Councilmember Pitman said he heard from residents during the last week that preferred that activity located in commercial areas. Councilmember Veis asked why the new businesses could not be restricted to certain commercial zones. Mr. Brooks and Ms. Beaudry agreed. Councilmember Astle asked if growing it was considered a commercial operation also. Councilmember McCall said it was not any different than another home-based business as long as customers did not come to the home. Mr. Brooks reported that the Boulder City Council passed an emergency ordinance to restrict the medical marijuana to certain zones and that a news article indicated that Boulder was dealing with the same issues and asking the same questions. He added that the State of Colorado passed the law and left as many unanswered questions as the Montana Legislature.

Councilmember Ulledalen requested reports from the Planning Department relative to code enforcement issues and from the Police Department's standpoint. Ms. Volek referred to an article from Detroit, Michigan, regarding the number of permits issued in the previous six months, and the businesses that have developed as a result of the clinics.

Ms. Volek suggested an initiative regarding Council's preference at the next Council meeting. Councilmember Ronquillo asked Police Chief St. John about arrest statistics for individuals who were caught driving while under the influence of marijuana. Chief St. John explained that a blood test had to be done and it had to be determined that alcohol was not involved, so he expected the percentage to be less than 10%. Chief St. John said he had a discussion with Mr. Higgins, but he was still opposed to it because it was a gateway drug. He said those businesses became a target for theft and burglary, and the City's liability increased during arrest and search procedures. He said there had already been instances when neighbors complained about the odor of marijuana and it turned out the resident had a medical marijuana card.

Councilmember Ulledalen asked if it was possible to limit the number of businesses. Mr. Brooks advised it would be difficult to single out a business to set limits. Councilmember McCall asked if there was a limit to the number of plants and patients a caregiver could have. Mr. Brooks and Deputy City Attorney Craig Hensel explained that caregivers were not limited to the number of registered patients and could have up to six plants for each patient.

Councilmember Veis asked if there was a something that could be set on an interim basis until the details could be discussed and reviewed. Ms. Beaudry advised that the ordinance presented at the previous Council meeting could be used, or it could be restricted just to certain districts and classified as what it was. She noted that other cities outside Montana had imposed a moratorium on it. Mr. Brooks said the issue was the Medical Marijuana Act that did not contain enough details, yet the cities had the ability to pass interim ordinances but he urged caution to avoid being sued. Councilmember Gaghen asked if there was a good definition of a clinic. Ms. Beaudry said there was. Councilmember Veis asked Ms. Beaudry if there were any zoning classifications that fit that issue. Ms. Beaudry said there was not with that approach. Ms. Volek said one suggestion was to hire an expert to help develop a permanent ordinance.

Councilmember Veis asked if there was interest among Councilmembers to have an ad-hoc committee. Councilmember Ulledalen stated he felt it would provide an opportunity to involve other sectors of the community.

*A break was taken 6:50 p.m. – 7:00 p.m.*

<b>TOPIC #5</b>	<b><i>Department Business Plans</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

*Legal Department Business Plan*

City Attorney Brent Brooks presented the Legal Department’s Business Plan that included a review of the staffing levels and funding sources. He noted that the department did not produce any direct revenue, but prosecution of criminal cases generated municipal court fines. Mr. Brooks presented data regarding personnel expenses for the next five fiscal years, along with operating and maintenance costs for the same time period.

Mr. Brooks reviewed criminal division trends that indicated even though there was a slight decline in the number of new cases during the past three years, there was an increase in the number of probation revocation requests. He said that indicated there was good value in the private probation companies. He added that more cases were being contested, approximately 500 per year per prosecutor, likely due to the creation of the public defender system. He advised that there had been increasing complexity of non-traffic cases such as domestic violence, assault, and criminal mischief. Mr. Brooks referred to the special purpose courts (DUI and Mental Health) which required more prosecutor time.

Mr. Brooks reviewed the civil division trends which reflected increases in oral/written requests, document drafting, labor issues, public document requests and participation with MMIA and outside counsel in high-risk civil litigation.

Mr. Brooks reviewed future challenges in the criminal and civil divisions. He reviewed new and current ideas that could be addressed such as basic information regarding land use, contracts, litigation, and insurance; quarterly reports; a Domestic Violence Court; future public safety levy; liability insurance; and civil rights claims.

Mr. Brooks stated that he tried to quantify costs and determined that criminal cases cost about \$280 each and civil assistance cost about \$66 per hour. Councilmember Veis asked if a cost was quantified for land use issues. Mr. Brooks explained that was difficult to determine because there were so many variables. He said something like a new development would increase caseloads, but it was difficult to provide a number. Councilmember Ulledalen asked if it was possible to determine how much time was put into a subdivision review because he felt that at some point, the City should be able to collect those costs. Mr. Brooks said staff could start tracking the time spent on those issues.

Councilmember Pitman asked about costs of private legal service or specialized assistance. Mr. Brooks responded that it could be determined for civil cases, but not for criminal cases because it was pretty specialized and attorneys would have to be deputized as special prosecutors. Ms. Volek suggested using data from recent annexations. Councilmember Astle suggested using a cost per square mile, which would provide a ballpark figure.

Councilmember Veis stated that having the information about the cost of Yellowstone Club Estates would be helpful and that the Shiloh corridor subdivisions should be tacked as well.

Mr. Brooks advised that some of the costs were recovered indirectly through an internal cost allocation. Councilmembers suggested billing developers for subdivision review.

Councilmember Veis asked Mr. Brooks what he would do if he was told he had to cut his budget by 10%. Mr. Brooks advised that O&M and the overall budget would be reduced 3-5%, but after that people would be cut. Councilmember Ulledalen asked what would happen if the state and federal grants were not available. Mr. Brooks said even if the grants were modest, they were essential. He said if the grants were not available; the City would have to absorb the expense of the employees supported by the grants and if staff had to be cut, that person's experience, training and knowledge walked out the door. Councilmember Pitman asked about staff retention. Mr. Brooks stated he encouraged his staff to make the City a career and he was proud that there had been a low turnover rate in his department.

*The remainder of the meeting was not recorded and minutes are based on brief notes from staff.*

### *Police Department Business Plan*

- Police Chief Rich St. John provided an overview of his department's business plan.
- Councilmember Ulledalen commented that the bicycles and yellow shirts were visible and made a difference in the downtown area.
- Councilmember Ronquillo spoke about a ride-along experience. He said officers received a lot of calls and the volunteers that worked with the department should be recognized.
- Chief St. John reported that one person had volunteered about 2000 hours.
- Councilmember Ulledalen asked about the number of retirements expected over the next five years.
- Chief St. John advised he expected about ten.
- Councilmember Veis asked how the cost of growth could be estimated.
- Chief St. John advised he could provide a ballpark estimate but it depended a lot on the kind of neighborhood/land use.
- Councilmember Ulledalen expressed his concern about the low level of expectations on property thefts. He said the public did not think that they should call the Police Department or that it would do any good. He noted that the state correctional facilities staffing may be short and the state was giving us an unfunded mandate. He said work was needed on a cooperative arrangement with the state.
- Councilmember Veis suggested a billing procedure for X number of service calls.
- Councilmember Pitman asked if there were a lot of false alarms.
- Chief St. John explained that they dropped responses for over use, but could charge for service. He said alarm companies worked hard to reduce false alarms because they did not want to be charged.
- Councilmember McCall asked about proposals for consolidation with the Yellowstone County Sheriff's Office.
- Chief St. John stated he would bring proposals when they were done. He noted it was mostly for support services.
- Councilmember McCall asked about association conflicts.

- Chief St. John referenced conflicts between agencies. He said there was not much of that here, but there would be big problems if that changed.
- Councilmember Clark asked if anyone else charged for services from non-profit groups.
- Chief St. John stated he was not aware of anyone doing that.

#### *Fire Department Business Plan*

- Fire Chief Paul Dextras presented his department's business plan.
- Councilmember Ulledalen asked if was possible to consider setting a boundary and not providing public fire service beyond it, and instead establishing a private fire service company or something similar. Chief Dextras stated that citizens wanted equitable service. He said there were other ways to reduce initial expenses and provide higher level service when population/building load demanded it.
- Chief Dextras advised his department was looking at ways to increase revenues, such as from fees (insurance) but people did not like that idea.

*Business plan presentations were also made for Internal Services and Parks, Recreation and Public Lands, but no notes were taken or recorded.*

<b>Additional Information:</b>
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Ms. Volek asked if the Council was willing to meet with staff November 30 on strategic planning. It was agreed to meet 5-8 p.m.