

City Council Work Session

September 7, 2010
5:30 PM
Council Chambers

ATTENDANCE:

Mayor/Council (please check) X Hanel, X Ronquillo, X Gaghen, X Cimmino, X Pitman, X McFadden, X Ruegamer, Ulledalen, X McCall, X Astle, X Clark.

ADJOURN TIME: 6:55 p.m.

Agenda

TOPIC #1	<i>2011 Unified Planning Work Program</i>
PRESENTER	
NOTES/OUTCOME	

Transportation Planner Scott Walker explained that the Unified Planning Work Program document was presented every year to review how staff spent federal transportation funds. He explained the review process and noted that the Technical Advisory Committee recommended approval of the document. He said the document would be presented to the Council at its regular meeting on September 13, and then to the County Commissioners that same week. He began his PowerPoint presentation with a review of the twelve work elements and the reimbursement process for each element.

Mr. Walker reviewed funding sources: the City of Billings, Yellowstone County, the Planning mill levy, and federal funds. He explained that fewer federal funds were allocated because of the way they were budgeted by the state due to the uncertainty of federal funds. He pointed out that about \$288,000 of federal funds were left on the table due to the lack of local matching funds. Councilmember McCall asked about the match that would be needed to use those unspent federal funds. Mr. Walker explained that it depended on how a project was tied to federal transportation. He said \$200,000 was probably a fair estimate for the entire \$288,000, but it all depended on how much could be put toward transportation elements.

Mr. Walker reviewed a comparison of FY2010 and FY2011 budgets for the elements. He said the contingency amount was significantly different because the federal allocation had not been received yet.

Mr. Walker explained the percentages displayed for the work elements. He advised that they tried to get as much leverage as possible from the federal funds.

Mr. Walker reviewed the staffing information of the Planning Division which reflected vacancies due to layoffs. He said it was determined to leave staffing untouched so if the proposed mill levy was approved, some staff would be hired back. Councilmember Gaghen asked if a particular position had been prioritized for rehire if the planning levy was approved. Planning Division Manager Wyeth Friday explained that they would likely design a position to

do some of the long range neighborhood/community planning and then would adjust current activities to maximize the staff.

Mr. Walker reviewed FY2011 priorities and highlighted accomplishments from FY2010.

Mr. Walker referred to unspent contingencies. He said more local funds would allow leveraging of more federal funds. He commented that for a city the size of Billings, more federal funds should be spent. He stated that it had been an ongoing issue.

Councilmember McCall suggested Mr. Walker clarify with his presentation that unspent contingencies were actually unspent federal dollars. She cautioned that it could be taken out of context.

Ms. Volek explained that the federal transportation bill was in the Federal Legislature. She referred to a group, T4 America that was working with the Federal Government to ensure the passage of a new transportation bill. She said the co-chair of the organization, John Rober Smith, would be in Billings September 21-22 to look at the trails and the MET Transit Center. She noted it would be helpful if someone from the City Council was present at the September 21 tour to discuss the City's transportation needs. She asked interested councilmembers to let her know if they could attend.

The public comment period for that item was opened. There were no speakers, and the public comment period was closed.

TOPIC #2	<i>Public Safety Levy II Tax Recapture</i>
PRESENTER	
NOTES/OUTCOME	

Assistant City Administrator Bruce McCandless explained the potential recapture of funds through the public safety levy. He explained that due to reduced valuations from the Department of Revenue, the City did not collect about \$500,000 of that public safety levy. He advised that the public safety levy was expressed as dollars while other levies were expressed as mills, which resulted in the significant loss due to the reduced valuation. He noted that other cities were able to recapture the funds that were not levied, and that although Billings did not have that provision in the Charter, staff consulted with legal counsel and the County Treasurer and determined that the City had the authority to recapture those dollars. He noted that the FY2011 budget was built on the idea that the money would be recaptured, but if not, the budget was still okay. He said if the Council wanted staff to try to recapture the funds, a resolution would be presented for approval at the September 27, 2010, meeting.

Councilmember Clark asked if that meant more funds would be transferred from the General Fund to the Public Safety Fund. Mr. McCandless said that was correct.

Councilmember Cimmino expressed her support of a proposed resolution on the September 27 agenda for recapture of those funds.

Councilmember Ruegamer reminded everyone that a public hearing would be held, and nothing secretive was being done. He said he also supported the recapture. He noted that the public safety levy was presented to voters twice and it was approved twice, so he did not think it would be a big issue.

Councilmember Ronquillo stated he felt that as long as it was emphasized it was a one-time increase, people would not object. He said the public needed to know that the loss was due to the reappraisal. Mr. McCandless confirmed that it was correct that it was a one-year increase and that the levy would go back down the next year.

Councilmember McFadden asked if it was correct that the recaptured funds would be paid by the taxpayers. Mr. McCandless said that was correct, they would be paid by taxpayers and would cost less than \$3 for a \$100,000 home.

Mayor Hanel stated that it seemed the general consensus was for staff to move forward with the process to recapture the funds.

The public comment period for that item was opened. There were no speakers, and the public comment period was closed.

TOPIC #3	<i>Recycling Option</i>
PRESENTER	
NOTES/OUTCOME	

Public Works Director Dave Mumford referred to a recent proposal from a company that wanted to receive the City's refuse for a recycling program, and there were concerns and questions regarding the current recycling and how a change would affect the current operations. He provided an overview of the current recycling being done with electronics, waste oil, hazardous waste, yard waste, Christmas trees, and methane gas recycling with Montana Dakota Utilities, and coordination with Earth First. He explained that cities across the country were running out of landfill space, but Billings had adequate space. He said the City had approximately 175-200 years life expectancy with its landfill land.

Mr. Mumford spoke about the methane gas extraction being done at the landfill by MDU. He said the General Fund revenue was expected to be about \$500,000 per year when methane rates returned to their previous level, but even with the lower rate, the City should receive \$200,000-\$300,000 per year. He noted that MDU had invested about \$10 million and the extraction would go on line at the end of the year or the first of 2011. He explained that if the green material was not taken to the landfill, the MDU process would only last about 25-30 years, instead of 200 years with the green material.

Mr. Mumford explained that franchise fee revenue would also be impacted if changes were made. He said the City's refuse brought in over \$100,000, and the total revenue was nearly \$500,000 for all franchise fees. He said the total revenue that could be lost if significant changes were made to the refuse operation was about \$1.2 million per year. He noted that the fees were all General Fund revenues, so when recycling was considered, that needed to be considered.

Mr. Mumford stated that recycling was a major issue with the community and the citizen survey reflected its importance. He said staff considered whether recycling would save money in staffing areas and determined that any savings would be minimal because the refuse would still have to be dealt with. He noted that the landfill staff was small in number, so there would not be large savings in that area.

Mr. Mumford advised that staff's recommendation was to continue exploring recycling options. He stated that tipping fees were extremely low, so low that it was cost effective for out-of-state communities to use the Billings landfill. He explained that the low tipping fees were a reason recycling companies were not that interested in Billings since tipping fees were part of the revenue they would get. Mr. Mumford advised that his recommendation was to request information from recycling companies interested in the City's waste to determine what they would want to do, but to specifically target companies interested in glass, plastics and metals, which would allow the City to continue collecting the organics for the MDU methane extraction

project. He added that a budget analysis could be done to consider using all the available land as a mega landfill by taking in larger communities and charging an additional fee that would generate additional revenues. He said the larger partnership would create more interest for a recycling company to perform curbside recycling for the non-organic materials.

Councilmember Ronquillo advised that he had heard that with the City's low tipping fees, Powell, WY, found it to be less expensive to ship waste to the Billings landfill rather than have to build a facility there. He asked if hazardous waste was being collected at no charge. Mr. Mumford explained that the hazardous waste was typically for local residents, but the waste was taken from residents of other counties.

Councilmember Ronquillo asked about the yard waste recycling. Mr. Mumford said there were still areas that had not received the new containers yet.

Councilmember Astle advised that his brother-in-law, an engineer that worked in landfill permitting, reviewed the evaluation and commented that it made no sense to pay someone to do what the City was already doing.

Councilmember McFadden asked if there was a simple method of managing the landfill specifically for future methane production. Mr. Mumford explained how the refuse was handled at the landfill to separate it as much as possible. He spoke about condensation that came from the methane extraction that was not desirable and needed to go back into the ground at the extraction area. He noted that if the landfill did not continue to grow, there would not be a place for that water, because injecting it back into the ground helped produce more methane.

Councilmember Ruegamer referred to the contact with MDU and said he expected the City would continue to do what it took to create the methane gas. He said the City needed to be careful that the spirit of the contract was followed and he would fight any change to it.

Councilmember Ruegamer asked if Green Montana was the company that indicated it was working with five communities that was later to be found untrue. Ms. Volek advised that she checked with city managers at two of the five communities and was informed that the City administration had not heard of them, but it was possible the company was working with private organizations in those cities.

Councilmember McCall stated she thought Mr. Mumford's proposal was great, and felt it would be a popular concept with the residents.

Councilmember Gaghan stated she did not want to jeopardize the partnership with MDU.

Mr. Mumford advised that the contract with MDU was silent regarding the recycling of other materials, because he felt it was probably assumed it would continue.

Mr. Rick Reid of MDU commented that the success of the partnership was that the biodegradables went back into the landfill to continue producing the methane. He added that MDU was neutral on the recycling of metals, glass and plastics. He noted that they were on schedule to be on line December 1. Mr. Reid stated there were 64 wells in place at the landfill now, and there would be a total of 200.

Councilmember Ruegamer repeated that as long as he had anything to say, the City would not ignore the spirit of the contract. Mr. Reid introduced David Hood, Gas Superintendent in the Rocky Mountain Region and the project manager for the landfill project. Ms. Volek noted that Mr. Hood was also a member of the Development Process Advisory Review Board.

The public comment period for that item was opened.

- **Joe White, Billings, MT**, spoke about the volume of recycled materials that were piled up at Pacific Recycling in mid-city. He said he thought it would be a good time to ask that company to move a large part of their dump outside of the city, possibly to Lockwood.

Councilmember Clark commented that he did not think Lockwood would like that. Mr. White suggested an area along the river near the Exxon plant.

There were no other speakers, and the public comment period was closed.

TOPIC #4	<i>National League of Cities</i>
PRESENTER	
NOTES/OUTCOME	

Ms. Volek advised that the annual conference would be held November 30-December 4, in Denver, Colorado, which was a drivable distance from Billings. She noted that the early registration deadline was September 15. She said the major conference topic was sustainability. Ms. Volek advised that there had been some discussion about whether councilmembers should be asked to attend, and if so, how many. Councilmember McCall suggested flying to Denver rather than driving due to potential poor weather conditions. Councilmember Ruegamer suggested sending no more than two people, and said it was a worthwhile conference to attend. Mayor Hanel stated that he might be interested in attending.

TOPIC #5	<i>Public Comment on Non-agenda Items</i>
PRESENTER	
NOTES/OUTCOME	

- **Kevin Nelson, 4235 Bruce Avenue**, referred to a previous meeting when he and Councilmember Ruegamer got into a little argument regarding his involvement with the Downtown Billings Partnership. Mr. Nelson distributed a copy of meeting minutes, the list of attendees, and the motion made at the meeting he referred to in his previous testimony. He stated that the Code of Ethics allowed the public to expect that elected officials would conduct themselves in a manner that preserved public confidence and were to avoid personal and private interest. He said a city councilmember could not sit on a private corporation's body that was funded with city dollars, and then vote on those matters. He said Ms. Volek was also listed as a Director of Downtown Billings Partnership in the Montana Corporation Annual Report. He said they had the duty to represent a corporation, they also had a duty to represent the city and those interests could not be separated. He said none of the council should seek a seat on any board, along with the upper echelon of the City. He recommended that those members recused themselves from that board because it was unethical, and they could not represent two entities with shared interests.

Councilmember Astle asked Mr. Nelson if he brought that up to County Commissioner John Ostlund. Mr. Nelson said he was not paid with city funds. Ms. Volek pointed out that Mr. Ostlund was an alternate at that time, and the Board voted to reinstate the commissioners as full voting members on the board.

Ms. Volek advised that there had been discussion a couple years ago about councilmembers serving on both the Partnership Board and the Council. She said the decision was made at that time that the City Administrator would be the voting member and a councilmember would be a backup. She said she was not present at the July, 2009, meeting Mr. Nelson was referring to. She said it was a conscious decision by the Council to have a representative on the board that made decisions about how City funds going into that effort were allocated. She said it was not intended that the City representative would bring recommendations back and vote on them, which was the reason the City Administrator was the voting representative. She said the involvement had started at least six years ago.

Mayor Hanel commented that any councilmember or City staff member was frequently reminded of potential conflict and had the option of recusing themselves from any vote. He pointed out that votes were ruled by a majority. He said he was not aware of any conflicts that had been brought to his attention since he was elected mayor, and he was sure that if there had been any, he would have known about it by then.

Councilmember Ruegamer pointed out that he never voted at those meetings, and was not a voting member and could not have seconded a motion. He said it was an error that he seconded a motion. He said he attended the meetings, but rarely said anything during the discussions.

Councilmember McFadden asked if anyone received payment for serving on the boards. Ms. Volek said they did not, although the Board had paid staff, but there was no benefit provided to the volunteers that served on the board.

- **Joe Splinter, 937 N. 24th Street**, provided an update on disc golf. He said it was brought to his attention the previous week that there was a lot of trash in the park and some mats were in the creek. He said he went to the park and cleaned up the trash, which only filled a quarter of a 13 gallon bag, and he found the mats in place. He assured the council that he had checked on it and there must have been some miscommunication. He announced a fundraiser for disc golf on Saturday, September 11.

Mayor Hanel thanked Mr. Splinter for his efforts and commented that he had observed other disc golf players cleaning up the park as well. Mr. Splinter said most of the feedback he had heard was positive and the players mostly cleaned up after themselves.

Councilmember McFadden asked if there were any plans to install disc golf baskets at the planned water park at Sahara Park. Mr. Splinter said that idea would be explored after the issues were dealt with in Pioneer Park.

- **Jim Rot, 3316 Lynn**, stated that he had several meetings with the Parks Department during the past month. He said a plan was in place regarding implementation of the winter course on the south side of the park, as well as construction of the course on the north side. He said timing and staff issues had put a kink in the original timeline. He said he proposed finalizing the layout of the south course so it could be played early to allow the rehabilitation to begin on the existing course. He explained that fill dirt and compost had been purchased by the disc golf group and was being spread as weather allowed. He said coordination would occur with Park staff as the new baskets were installed. He spoke of the September 11 fundraiser, and future fundraising activities that were planned. He said he hoped to provide a better update in a month. He said the Council had given them a trust they did not intend to betray.

- **Martin Albert, 4130 Morgan,** stated that he purchased a mobile home in June and attempted to put it on a City lot, but was informed by Code Enforcement that it was illegal to place one on a lot that had not had one there in the past year. He said it bothered him that on Morgan, from Jackson to Hollowell, there were numerous violations of junk vehicles, people living in campers, building violations, excessive parking of construction vehicles, a vacant fire-damaged house and other things that made it look like a junk area. He said he was issued a citation and had until September 16 to move the mobile home, which he would do in the next couple of weeks. He said some of the junk vehicles and trailers he mentioned were there a year and a half ago when he started looking at the property on Morgan. He said he understood people having to do what they had to do, but could not see the gross amount of violations that were not addressed, yet his mobile home was addressed.

Mayor Hanel asked Ms. Volek for clarification that the area was zoned R7000. Ms. Volek advised that was correct. Mayor Hanel explained that had there been a mobile home on that property within the previous twelve-month period, Mr. Albert would have been grandfathered because he would have been replacing a mobile home with another mobile home. He added that initially it was thought that a mobile home had been there in the proper time frame, but was later learned that it had been several years since one was there and the mobile home was not allowed due to the zoning. He assured Mr. Martin that Code Enforcement officers would be informed of the other violations Mr. Albert mentioned and appropriate action would be taken. Mayor Hanel asked Mr. Hanel if he would be able to get the mobile home moved within the time frame. Mr. Albert said he could.

There were no other speakers, and the public comment period was closed.

Additional Information:

Councilmember Ruegamer told Ms. Volek that the memo from Financial Services Manager Pat Weber regarding the public safety levy was the best he had ever presented. Ms. Volek advised she would pass that on. He said that the memos were usually difficult to understand, but that one was excellent.

Councilmember Ronquillo inquired about the Jackson Street sidewalk project that was not yet complete. Ms. Volek advised she would check on it.

Councilmember McFadden stated he was concerned that some of the items voted on were in the negative depending on staff's recommendation, which could be confusing to the public. He suggested a system where the council voted on the item rather than whether or not to approve staff's recommendation. Ms. Volek advised that some of the motions came from other entities such as the Zoning Commission. She said staff typically made a recommendation, but the Council could state its own motion. She said staff would try to make it more clear for Council and the public. Councilmember McFadden said he thought it would be more respectful to vote on an issue rather than a recommendation.

The meeting was adjourned.