

# City Council Work Session

November 1, 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, X Ulledalen, X McCall, X Astle, X Clark.

**ADJOURN TIME:** 7:27 p.m.

## Agenda

<b>TOPIC #1</b>	<b><i>FY11 First Quarter Updates (Budget, Initiatives, Downtown Billings Partnership, Strategic Plan, Pending Litigation [Executive Session])</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Ms. Volek advised that budget updates were provided in the Friday packet. Mr. McCandless pointed out that first quarter budget reports did not typically reflect all the revenue collected. Mayor Hanel asked Mr. McCandless if there were any items that needed particular attention. Mr. McCandless said there were not.

Ms. Volek referred to the list of initiatives. She suggested removing the items that had been completed. City Attorney Brent Brooks provided a brief explanation of the initiative regarding council absences. Councilmembers agreed to review the item since the initiative was approved prior to the terms of some of the councilmembers.

Councilmember Ronquillo asked about demolition of the Naval Reserve Center. Mr. McCandless explained that an environmental remediation company would soon be under contract to remediate the asbestos, and then complete the demolition. He said the building should be down by spring.

Councilmember Pitman asked about the 25 cent surcharge on tickets for Dehler Park. Ms. Volek explained that bond counsel was concerned whether that would breach the construction cap, but legal opinion was expected in the next couple of weeks.

Ms. Volek referred to the Downtown Billings Partnership report provided in the Friday packet. Mr. Greg Krueger provided a brief review of the report and said the most major project in progress was the new parking structure. He said they hoped to have a construction plan and information regarding land acquisition opportunities to present to Council in December. Councilmember Astle asked for an update on the Northern Hotel project. Mr. Krueger said the process had slowed due to financing.

Ms. Volek advised that the only item that had changed regarding the Strategic Plan was that a community conversation was not possible during the fall. She stated that she expected to have a report on financing by year end.

Ms. Volek suggested holding the Executive Session regarding pending litigation at the end of the meeting.

Councilmembers agreed that Ms. Volek should remove completed initiatives from the list.

Councilmember Pitman said the medical marijuana zoning issue could be marked complete.

Councilmember Pitman referred to the item regarding right-of-way purchase for the Inner Belt Loop. Councilmember Ulledalen explained that the issue was to make sure the land was secured in some form so it was in place when needed. Ms. Volek stated that did not know how much land had been secured, but knew that the design was nearly done and work would continue on that project over the winter.

Councilmember Astle asked about the random drug testing. Ms. Volek said it was still in progress with the IAFF.

Councilmember Pitman referred to the business plan item. Ms. Volek said she was working on it, but it was delayed while she worked on contract negotiations and the Bresnan transfer.

Councilmember Ruegamer stated he did not want to take ‘no’ for an answer regarding the ticket surcharge. He said bond counsel should provide a detailed explanation if the surcharge could not be added since it had been discussed for three years. Councilmember Ulledalen asked if directing the money to a specific fund would ease the legal concern. Ms. Volek explained that bond counsel was exploring legislation related to that situation. Councilmember Ruegamer said it was for long-term maintenance and improvements.

Councilmember McCall stated that about a year and a half earlier, there was discussion about forming an ad-hoc group to study lighting districts, and asked if Council was still interested in that. Councilmember Ulledalen stated that he had a conversation with Debbie Singer from Northwest Energy and she informed him that she had worked with Public Works and information would be presented to the Council in the future.

Councilmember Ulledalen spoke about initiatives related to unused parkland and said some initiatives overlapped. Ms. Volek advised that disposal of land would be an item on an upcoming work session.

The public comment period for that item was opened.

- **Greg Krueger, 3408 St. Johns**, said he was speaking as a private citizen. He said he often heard comments that tax increment financing was a burden to citizens outside the district, but his residential property tax went down so he did not believe those comments were credible.

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

<b>TOPIC #2</b>	<b><i>Tax Incentive Program</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

Mr. McCandless advised that he would review how that program was being handled to see if anything should be done differently. He provided a PowerPoint presentation and reviewed the incentives allowed by law. He reviewed the exemption criteria and rates for each program.

Mr. McCandless explained that there were four types of programs, but the City only adopted three of them. He explained that the Yellowstone Historic Preservation Board asked the council not to adopt the 1601 program because it was not sure about review criteria and the ability for staff to respond to applications.

Mr. McCandless said the question was whether the Council wanted to continue offering the incentives and if any changes should be made in the process.

Councilmember McCall asked if the programs were working as intended. Mr. McCandless advised that he was only aware of one instance when the incentive was withdrawn.

Councilmember Clark said it always bothered him that it was supposed to be an incentive for people to do those things, but they did not apply for incentives until after construction had begun or was finished. Mr. McCandless explained that applications often came from BSEDA several months after being submitted. He said he thought it was due to the fact that businesses were more focused on their business and the project than they were on the tax incentive.

Councilmember Pitman asked why there were no service industry incentives. Mr. McCandless stated that the City could only consider businesses that were within the State law. Councilmember Ulledalen said he thought the State needed to examine its programs because other states had better incentives.

Mr. McCandless asked if Council wanted staff to adopt the 1601 historic preservation incentive program. Mr. McCandless said it was possible that would help with the development of Minnesota Avenue where the historic designation was recently obtained. Mr. McCandless advised that the program was in place around the late 1980's and he did not think it was ever used. Councilmember Cimmino commented that she was in favor of checking into it. Councilmember Gaghen spoke about other communities that had utilized the program. Councilmember Ulledalen suggested consulting with the Historic Preservation Board before going further. Mr. McCandless said he would try to get on their agenda to discuss that.

Mr. McCandless asked if the definition of industry in the 1401 program should be refined. Councilmembers agreed it should be continued as is.

Mr. McCandless referred to the 1501 section and asked if it should apply to residential properties, whether the \$500,000 investment requirement should be changed, or if the percentage of taxes abated in years one through four should be changed. Councilmembers agreed the residential component did not need to be changed; agreed to leave the \$500,000 investment requirement unchanged; and agreed to leave the percentage unchanged.

Councilmember Clark stated he thought the programs were intended to create new jobs, rather than allow people to add on to a home. Councilmember Pitman expressed his concern that people could manipulate the residential portion of the program to get the incentive. Mr. McCandless noted that the Council had the opportunity to review each application and had some discretion. He advised that in regard to Councilmember Clark's comments, the application asked about job creation, but it was not a requirement of the program.

Mr. McCandless asked about changes to the 1502 program. Councilmembers agreed the exemption period should be left unchanged, and agreed the exemption should be applied to all local levies approved by the City.

The public comment period for that item was opened.

- **Tom Zurbuchen, 1747 Wicks Lane**, said the total exemption period should be lowered. He said business should not be given a 10 year break because property would likely depreciate and would not have a high taxable value at the end of that time.

Mayor Hanel said he understood Mr. Zurbuchen’s concerns, but if the incentive was not provided in the first place, the revenue generated and jobs would not have been in place during that exemption period. Mr. Zurbuchen, stated that most of the applications did not come forward until the remodel was done, and if they needed the incentive to do the remodel, the application would be there first, not last. Councilmember Ulledalen noted that in many cases, the finance package was at BSEDA for a period of time before the Council knew about it. Mr. Zurbuchen suggested a variable incentive depending on when the application came forward.

- **Kevin Nelson, 4235 Bruce**, said he would like a provision to exempt any property in a tax increment district from tax incentives. He added that he was concerned that public hearings were not required for programs 1501 and 1502. He said the City should not race to the bottom and cautioned about offering additional incentives. He referred to other states that had problems.

Mayor Hanel commented that taxes were local, and incentives and tax collections were not comparable to other states. Councilmember Ulledalen said Mr. Nelson’s comment was inaccurate because states that had most problems relied on sales taxes and with unemployment, no one was spending, and their problems were not related to tax incentives.

Mr. Nelson stated that the City relied on property taxes, so they should not be given up. He said he felt it was especially harmful for education funding.

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

<b>TOPIC #3</b>	<b><i>Public Comment</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- **Tom Zurbuchen, 1747 Wicks Lane**, spoke about comments made at the October 18 work session concerning arterial street fees. He stated that Mr. Mumford said that when the State gave Rimrock Road, Shiloh Road Airport Road, and Bench connection, the maintenance would tax the arterial funds. He referred to minutes from the October 18, 2010, meeting and the minutes of August 16, 2004, when arterial fees were mentioned for the first time. He stated that a Committee recommended arterial fees to replace SIDs. He referred to Ordinance 08-5478 that said fees were for construction and/or reconstruction or arterial roadways. He said the ordinance did not allow collection for maintenance or upgrades. He advised he could not support the fee now if it was being used that way because it was illegal. He said he wanted the Council to direct the City Administrator to stop that practice.

Mayor Hanel informed Mr. Zurbuchen that his concern was documented and follow-up would be done.

- **Kevin Nelson 4235 Bruce**, said that in the past he had requested work session agendas and material in advance before and could not get it in a timely manner. He said the Friday packet should be posted on the website for complete information. He said action was being taken on programs, such as the questions to Council about the tax incentive programs. He stated that the South Billings Boulevard Tax Increment District and

Foursquare agreement indicated that money should reimburse the arterial fees and since the tax increment district now had money, he wanted to know why the City was not complying with the agreement.

Mayor Hanel noted that it was a work session and no formal action was taken, but guidance was given to staff. He added that in regard to Mr. Nelson's concerns about the tax increment funds, he would ask staff to respond to his question.

Councilmember Ulledalen stated that it seemed reasonable to use the tax increment funds for reimbursement to arterial funds since the south group did not know what it wanted to do with the money yet.

Ms. Volek explained that Mr. McCandless documented costs related to public improvements and repayments. She said she told members of the task force that she would provide that document at the next meeting, and the document could be posted to the City's website.

Councilmember McFadden asked if construction and reconstruction were related to maintenance because he thought they might be considered the same thing. Ms. Volek stated that Mr. Zurbuchen was correct that the fee came out of the Shiloh Road discussion. She said the definition was probably a legal matter. She advised that arterial fees were being used for ADA compliance.

Councilmember Ulledalen stated he was not on the Council then, but remembered that the assessments for homes on Shiloh Road would have been up to \$16,000 per property. He said the point of the arterial fee was so that property owners did not pay a substantial portion for a road that was used by a significant portion of the community.

Councilmember Ronquillo said they had worked on the tax increment district for two years and a committee was in place to work on projects. He said they had a list of projects and were just waiting for the go-ahead.

Councilmember Astle asked if the Friday packet material could be posted on the website. Ms. Volek advised that some of the work session documentation was completed during the weekend, so timing could be an issue in some instances. Councilmember Clark clarified that Mr. Nelson wanted the Friday packet material posted to the website.

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

<b>Additional Information:</b>
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Ms. Volek advised that one of the quick response vehicles would be available for Council to see prior to the start of the next work session.

Councilmember McCall said the EDA committee discussed a celebration for Shiloh Road, but Department of Transportation was not very enthused. She asked if the City was interested in working with the County and Chamber of Commerce to organize a celebration. Mayor Hanel expressed support and said it depended on the funding requirement. Councilmember McCall advised she would work with Ms. Volek on that.

The Council adjourned to Executive Session at 7:07 p.m. The meeting was reconvened and immediately adjourned.