

City Council Work Session

October 15, 2007
5:30 PM
Community Center

ATTENDANCE:

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

ADJOURN TIME:

Agenda

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

- No Speakers

TOPIC #2	<i>Board and Commission Reports</i>
PRESENTER	
NOTES/OUTCOME	

- None

TOPIC #3	<i>Legislative Representatives Ernie Dutton & Roy Brown</i>
PRESENTER	
NOTES/OUTCOME	

- Legislators Roy Brown and Ernie Dutton:
- Councilmember Veis: Three issues that Council wanted to discuss; local option/resort tax, tax increment, and transportation.
- Mr. Brown: \$1.4 billion excess that wasn't anticipated and makes it difficult to pass new taxes. Revenue sharing was the only time that local option even came close to passing. Rural legislators, even many "urban" legislators have rural constituents, and there is a strong negative backlash from them. Minor issue was one bill was carried by legislator not well respected among Senators, and stated Gillan's bill didn't go very far.
- Mr. Dutton: referred to local option tax as a lightning rod. He did like the bill that created sales tax and required 100% offset in property taxes. No immediate benefit to

local governments, but would allow the local electors to decide how to fund their services (property or sales).

- Councilmember Ruegamer: reasons for failure are excuses. Rural opposition is key. Really need to have the Yellowstone County delegation firmly behind the proposal. MLCT conference showed that a small percentage of legislators are keeping locals from voting on this matter. Revenue sharing is extortion and I don't believe that Billings will ever support local option with revenue sharing. Three percent = \$10 to \$12 million/year. We could use that money for constructive items.
- Councilmember Ulledalen: statewide tax reform is probably not going to occur in our lifetime. If we want to continue growing the community, we need tax revenues. Balancing business and growth interests with the rural, elderly, anti-tax groups is hard, but we need Legislature's help for us to grow. Recognize that statewide tax will not work, but thought that local tax would work well.
- Mr. Brown: need to get small towns behind the local option tax and need to have one bill supported by everyone including MLCT.
- Councilmember Boyer: in regard to the MLCT conference – Larry Swanson says if large cities don't flourish, the small towns will suffer more because they're feeling effects of growth with no money to accommodate it. Can't continue to increase property taxes.
- Mr. Brown: have lots of constituents tell him they don't pay property tax, so local option just adds a sales tax.
- Mayor Tussing: could agree to some revenue sharing, because we would still come out ahead.
- Mr. Dutton: there is no revenue sharing in my bill. It is a two step approach. Luxury tax gets away from regressivity. Realtors have always supported local option/resort/sales tax. Red Lodge, West Yellowstone, etc. are examples of what a resort tax will do. Use that term, not a local option tax.
- Councilmember Boyer: resort tax title is opposed by people outside of Billings. Let us vote.
- Councilmember Ruegamer: we didn't invent the term "resort tax." It's a tourist tax.
- Councilmember Veis: Defensive posture on TIF. Happy with what we have and afraid that encroachments will erode effectiveness.
- Mr. Brown: Mr. Dutton and I agree it's a positive decision. Department of Revenue is fast and clever with the rules. We'll do anything that will help.
- City Administrator Volek: would be helpful if a legislator would accompany us to next meeting with DOR.
- Mr. Dutton: Bohlinger used to own property downtown and should support this issue.
- Councilmember Veis: transportation issues – take lots of time to get a road built. Anything that you can do to help would be appreciated.
- Mr. Dutton: Legislature doesn't have a very active role in DOT matters because funding is virtually automatic.
- Councilmember Ulledalen: have to make decisions about how the city grows and if we can't depend on federal money or getting to keep the federal money when the state becomes involved in the projects. Putting us in a position of having to slow or stop growth because we may not be able to get the dollars flowing out of Helena.
- Mr. Brown: tell us how we can help.
- Councilmember Jones: cutting through bureaucracy is a big challenge.
- Mr. Dutton: if Legislators want to work with staff, who do we work with?

- City Administrator Volek: we'll get together a group for you.
- Councilmember Ulledalen: We have inherited long term problems. Large cities are all experiencing the same problems. If we stop accepting federal dollars, it will send a message.
- Councilmember Veis: need accountability on timeframes. Projects take too long, the price goes up on projects and DOT doesn't care nor is accountable.
- Councilmember Ulledalen: working with Legislators now.
- Mr. Dutton: very few legislators have experience with local governments, and conducting meetings is an important step. You're doing what you need to do by talking early.

TOPIC #4	<i>Agreement with Lockwood Sewer District</i>
PRESENTER	
NOTES/OUTCOME	

- City Administrator Volek: Council asked that this item be put on the agenda for the October 22 Council Meeting.
- Councilmember Clark: Has the City Attorney looked at the contract?
- City Attorney Brooks: I have not been involved in negotiations. Have only looked at fail safes, such as indemnification and insurance. Tell us your issues and we'll address them.
- Councilmember Brewster: Rather see a financial daily penalty that can be enforced and that is meaningful. We need enforceable process to regulate strong waste.
- Councilmember Ronquillo: Why do we need an arbitrator in the agreement? Don't want a third party deciding our fate.
- City Attorney Brooks: Two sections; on rates and all other matters that might come into dispute. Arbitration for rates is pretty common practice. Could eliminate the other arbitration item.
- Mayor Tussing: Don't want to saddle future councils with something that they can't live with. We want to protect the city.
- Councilmember Ulledalen: signing a contract with Lockwood district. What recourse do we have if they go out of business?
- City Attorney Brooks: can do that, just saying that we haven't negotiated but will do that, if asked.
- Councilmember Gaghen: opportunity to work with this group, room to negotiate, have to be responsible given our recent contract experience.
- Councilmember Clark: same place as the Mayor. Negotiating with an entity without status? Not like dealing with another city.
- Councilmember Veis: much different from dealing with a school district?
- City Attorney Brooks: no, not much different. Bond that the City could execute on if Lockwood violates the agreement is just an example, and not uncommon practice.
- Councilmember Ulledalen: triple rates for overage? What if their residents don't pay or if the district doesn't pay the bills?

- City Attorney Brooks: A bond would work for that.
- Councilmember Brewster: if they exceed the flow limit, the excess fee applies only to the excess. Not enough of a disincentive to violate the limits. Feel we need a daily fine or charge for excess discharges.
- Councilmember Ulledalen: water quality and TMDLs are rising issues. Can't control who users are in the district and they could impact our ability to treat and discharge.
- Councilmember Veis: district dissolution is not easy – can't be done by the board, it has to be voted on. If the vote goes that way and if Lockwood annexes, the assets and liabilities would become to the City's liabilities.
- Councilmember Brewster: asked about fees at last meeting. Surcharges instead of a percent profit could go to the General Fund?
- Dave Mumford: might be able to do it; but at first, and at our rates, this is a small amount of money. \$10,000 - \$25,000 per year above operating costs.
- Councilmember Veis: regarding exhibit C, could we run it out to 2025?
- Al Towleron: We could, but why if the district is going to build-out by about 2017.
- City Administrator Volek: Staff needs direction, as Lockwood wants quick action. There will be a delay if staff gets more involved with negotiations.
- Councilmember Veis: Monetary fines for overruns of gallons or strength?
- Councilmember Brewster: want financial penalties or incentives, not termination of service.
- Councilmember Veis: We could insert a paragraph that says \$X fine/day? We like the idea of a bond.
- Councilmember Boyer: do we really need a delay?
- Mr. Mumford: staff might be able to perform, but Lockwood would need time to consider.
- Councilmember Brewster: make it clear that strength penalty is the same as for city dischargers.
- Councilmember Brewster: SDF, new rates or trigger new negotiations at 80% - 90% of capacity, as opposed to 100%.
- Mr. Mumford: Does Council have a surcharge or penalty amount in mind?
- Councilmember Ulledalen: Could you make it contingent upon the rate study, and say it would be a percentage?
- Mr. Mumford: Sure, we could do that.
- City Administrator Volek: agreement is with an entity, but a violation by an individual, causes the whole district to pay.
- Mr. Mumford: 15 percent profit is in the agreement. If Council wants something different, just tell us. Council had already approved this contract once, so we brought the same agreement back to you. Didn't negotiate anything because we didn't know that we needed to.
- Mayor Tussing: Asked if there was a spokesperson from Lockwood who could expedite the process.

- Dick Larsen: If you're talking about a performance bond, there should not be a problem with that.
- Councilmember Veis: Stiff, immediate penalties for violations, not disconnection.
- Mr. Larsen: One concern is that the district does not control zoning and that can impact the sewage flow. Need to get notification out to concerned parties.
- Councilmember Boyer: Does this need to be in the contract?
- Mr. Larsen: no, it's with an outside party Board of County Commissioners (BOCC).
- Councilmember Clark: residential lots go to commercial use or higher density residential.
- City Administrator Volek: An element we look at under rezoning is water and sewer use in reference to demand. Can easily be part of the process as long as city and county planning stays together.
- Mr. Larsen: With a triggering device, when we're at 80 or 90 percent, we agree this is a good safety net.
- Councilmember Boyer: members of council and district board will change and we have to make sure this agreement works for everyone.
- Mr. Larsen: Agreed, as the Board is structured the same as City Council; it consists of elected officials that will change in the future.
- Councilmember Veis: surcharge, performance bond, renegotiate at 85 percent and financial penalties rather than disconnections.
- Mr. Larsen: are these the only barriers to approval?
- Mr. Mumford: one week to get this done may be too short. Is three weeks acceptable?
- Mr. Larsen: From the time you get the approval, it takes 75 days to get to a ballot and were hoping to have election before the end of year. The real deadline is October 2008, as that's when the grant expires. Can this item be early on the agenda?
- Mayor Tussing: it's late on the agenda on October 22, but it could be earlier if we delay until the November 13 Council Meeting.
- Councilmember Veis: What is the drop dead date?
- Mr. Larsen: Nov. 13
- Mayor Tussing: We want a good product, not a quick product.
- Councilmember Jones: make sure that we have equal rules for City and for Lockwood, and if not, rationale why.
- Mr. Larsen: share drafts with us as they're being developed.

TOPIC #5	<i>North 27th Street TIFD District Expansion</i>
PRESENTER	
NOTES/OUTCOME	

- Greg Krueger: Downtown Billings Partnership (DBP) Board wants to see this project happen by March 2008. Sunset of 1976 TIF and plans for new 27th Street District. History of district and DBP. State law changes in 2005 and allows us to carry over

funds past district sunset to use for approved projects. Urban Renewal Plan survives sunset of the TIF. Can't continue the 1976 district values, but the new 27th Street district will have the new, higher values.

- Councilmember Boyer: can we extend the 'old' TIF?
- Mr. Krueger: no, and explains why. Passes out budgets and drawings of potential projects. \$2.8 million left in fund after March. \$200,000 approx for DBP operations through FY 2009. Priorities: 1) new federal courthouse project – lots of options, but want to run it to ground; 2) railroad crossing quiet zone; and 3) project to convert one-way streets to two-way streets.
- Councilmember Boyer: BOCC consensus that TIF should not be used for the GSA courthouse, don't particularly want to move the Sheriff's office, seem to be convinced that the building will get built without the public subsidy. We need to be careful with what is spent with the new TIF. Stockman Bank wants to build a seven story building but they need public parking.
- Councilmember Ulledalen: spent a lot of time talking with GSA and got farther apart as we talked. Afraid that we will get months/years down the road and have nothing.
- Mr. Krueger: proposal is that if GSA fails, then we move on to other projects. Tonight we need some feedback on whether these projects are acceptable.
- Councilmember Ruegamer: Can we use any of the \$2.8 million on 4th and Broadway.
- Mr. Krueger: probably could do it technically, but difficult due to short time frame, politically and with DOR. Plan to bring you a development agreement in November.
- Don Olson: want the federal project and move outside of downtown is possible if we can't give them the land they need.
- Councilmember Ulledalen: why a concern about parking?
- Mr. Krueger: GSA not concerned, but the county is. GSA project has the potential to jump-start plans to put a parking garage at 4th and Broadway and Montana Ave., improvements, streetlights, and assemble other lands for redevelopment: Stockman will do a \$15 million building if they have parking availability. Gazette has already invested \$3 million. 251 space parking garage will cost about \$5 million and we could keep about 50 surface spaces for the Library.
- Councilmember Veis: moving forward with selling Park IV, if so what is the timeframe?
- Assistant City Attorney McCandless: don't know actual time-frame, but working on it.
- Mr. Krueger: sketches of Stockman Bank and parking new facility (which would be similar to Park I) were presented. Present proposal does not include the Library and there is a little space left between the parking structure and the Library.
- Mr. Krueger: development agreement would include buying land for GSA courthouse, working with Public Works to install quiet zone (\$1 million), planning and implementation of one way street conversions. Relatively cheap to convert streets that are east of 27th but others will cost a lot more. Will spend all dollars by end of FY-2009. Development agreement puts DBP into the 4th and Broadway project. Want to expand the 27th Street district early in 2008. Questions?
- Councilmember Boyer: in new district, if we spend increments on the GSA project, would that jeopardize 4th and Broadway?
- Mr. Krueger: won't bring you a proposal that does this.

- Mr. Olson: agreed. Remember that GSA building will be a design excellence project, giving us one of the state-of-the art buildings in the area. Speculators are buying land in vicinity because they believe GSA will increase the value. Either GSA will commit by the end of the year, or we move on to the other priorities.
- Councilmember Ulledalen: agree with strategy.
- Councilmember Veis: if DBP buys the land for GSA project, will there be money for the quiet zone project?
- Mr. Krueger: maybe, but if not, there will be money from the new district that might do it. Want to get them under contract soon to avoid problems with DOR and others. OK on projects and OK on N. 27th Street district?
- Mr. Olson: let us know how you feel tonight.
- Councilmember Brewster: don't like the street work, but can support it all.
- Councilmember Boyer: Development agreement by end of year?
- Krueger and Olson: yes
- Councilmember Gaghen: can't let GSA leave the downtown.
- Consensus is to approve.

TOPIC #6	<i>Report on Building Energy Audit</i>
PRESENTER	
NOTES/OUTCOME	

- City Administrator Volek: Introduced Committee members. Give you status and make recommendations. Move forward with your approval. Reviews history of building audit. National Center for Appropriate Technology (NCAT) recommendations are supported by committee, some reservations about Library due to its potential sale/move/remodel, etc.... Council had questions; pilot project? NCAT recommends to not do a pilot project but instead do a phased performance contract. Phase 1 would be a more thorough audit, 2 more phases of retrofit. Minimizes our financial risk. Small pieces become more expensive and administratively burdensome. RFQ or RFP to force contractors to put cards on the table at the same time. Energy Services Coalition RFP format is already done and we could use. Use it to solicit and to select consultant. Audit costs are our risk, but if we move forward with construction, audit costs are included and the savings are guaranteed. Energy savings list from NCAT is in the handout.
- Mayor Tussing: really good plan, we need to move forward.
- City Administrator Volek: compliments staff.
- Councilmember Veis: City would issue an RFP, select contractor for City projects or would all contractors have chance to do the audit?
- City Administrator Volek: we select one company, which would be our partner, after the walk through.
- Councilmember Veis: State program that makes up any savings not realized? Bonds?
- City Administrator Volek: no, the State program allows us to select one firm without RFP. City would issue revenue bonds but company guarantees the savings.

- Councilmember Veis: after audit is done, can City do just part of the project?
- Mark Evangeline: yes, but project list shows cost and savings and savings period has to be less than life of equipment and could not cherry pick. Company guarantees the savings.
- Debbie Singer: contractor would work with NorthWestern Energy to identify rebates and other funding sources.
- Councilmember Ronquillo: audit unknown is always what the rates will be, so estimates are just that.
- Councilmember Veis: any idea of the bonding amount?
- Mr. Evangeline: no, that is found only after the detailed audit. City will have to pay for the audit costs if it doesn't proceed with construction.
- Councilmember Veis: do we have to pay for every facet of audit?
- Mr. Evangeline: with phased project it can be somewhat selective but it's not unlimited.
- Councilmember Veis: can we exclude some buildings or types of improvements? Can we add it later?
- Mr. Evangeline: yes and yes.
- Saree Couture: can set parameters for audit, such as not considering anything that has over 15 years payback.
- Mr. Evangeline: issue may be whether City can cross budgetary or fund boundaries if savings in one fund are better than another – can one offset the other. Don't yet know the answers in all cases.
- Councilmember Ulledalen: savings from frequency drives on motors?
- Mr. Evangeline: 23-25% savings on all changes at airport, but don't know what each change will produce. Lighting and motors are big savers.
- Councilmember Ronquillo will serve as Council representative on the RFP selection committee.

TOPIC #7	<i>Executive Session – Litigation Strategy</i>
PRESENTER	
NOTES/OUTCOME	

- Move into executive session at 8:08 p.m.

Additional Information:
