

# City Council Work Session

5:30 PM  
Council Chambers  
Date: November 17, 2014

## ATTENDANCE:

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

## Agenda

### TOPIC #1: SEC Bond Continuing Disclosure

- Andy Zoeller – Finance Dept. Accounting Manager:

#### **SECURITIES AND EXCHANGE COMMISSION (SEC)**

#### **Municipal Continuing Disclosure Cooperation (MCDC) Initiative**

#### **Annual Continuing Disclosure**

- The City prepares an Official Statement (OS) when bonds are issued containing continuing disclosure requirements.
- The City hired a third party the “Reporting Agent” to file, annually, the City’s CAFR and prepare the Annual Report containing disclosure information from the OS.
  - City Council approved contract last meeting of October 2004.

#### **MCDC Initiative**

- SEC announced the initiative March 10, 2014.
- Provide the opportunity for issuers and underwriters of securities to self-report any instances of material misstatements in bond offering documents.
  - Did not define what was material.
- If issuers self-report, recommended enforcement action by the SEC
  - Will be that no civil penalties are imposed upon the issuer (City of Billings).
  - SEC will recommend a cease and desist proceeding as well as require the issuer establish appropriate corrective policies.
    - ❖ The City of Billings consents to the proceeding while neither admitting nor denying wrong doing.

#### **Disclosure Data Gathering**

- The City’s Reporting Agent spent weeks comparing requirements in the OS to what had been filed in the continuing disclosure statements for the years 2005 through 2013.
- They provided their findings to the Finance Department and City’s Bond Counsel.

- Based on their findings, the Finance Director, Bond Counsel, and Reporting Agent have spent the past several weeks determining if there was need to self-report

#### **City of Billings Self-Reporting**

- An underwriter reported the City to the SEC because the 2005 CAFR was filed late.
- As a result, our Bond Counsel advised the City to Self-Report.
  - Tina Volek, Bruce McCandless, Brent Brooks and Pat Weber agreed with Bond Counsel.
- The City would report.
  - Based on the information available to the City, it appears the CAFR was submitted from 1 to 18 days late, and in the case of the 2005 CAFR, 90 days late.
    - ❖ One bond issue 180 days and all others 270 days after fiscal year end.
  - Supplemental data was missing on some SID's in 2009, 2010 and 2011.
- The City was not attempting to commit fraud by omitting any information

#### **Other Pertinent Information**

- City's Finance Director has spoken to the Reporting Agent about their future plans for continuing disclosure.
  - These include putting in place better procedures to avoid any future issues.
- The City of Billings will adopt a policy in regards to continuing disclosure to ensure future compliance.
- Other Cities, School Districts in Montana, along with departments within the State of Montana are self-reporting.

#### **Council Action**

- City Council must approve the SEC self-reporting resolution to avoid the risk of civil penalties.
  - Reporting deadline is December 1, 2014.
- City Council must also approve the policy per the SEC MCDC Initiative to ensure future compliance with the City's continuing disclosure.

- Andy Zoeller: Staff recommends that the City self-report and will adopt policies to help with the issue. The deadline is December 1. It will be on the Consent Agenda for the November 24<sup>th</sup> City Council Meeting.
- Yakawich: The Reporting Agent and the Bond Counsel, are they the same?
- Andy Zoeller: No. The Reporting Agent is Springsted, a financial group out of Minneapolis. And our Bond Counsel is Dorsey and Whitney from Missoula.
- Yakawich: Who reported the City?
- Andy Zoeller: The underwriter of one of our bonds from a prior issue reported us. We were made aware of this about 4 weeks ago.
- Pitman: Consequences of not self-reporting?
- Andy Zoeller: By self-reporting, we are not going to have these proceedings with SEC. They examine them on a case by case basis, and determine what they

think is material. If we don't report and they tell us we were reported again, there may be potential financial consequences.

- Crouch: Do we have other 3<sup>rd</sup> parties that report to governmental agencies?
- Tina Volek: Yes. Probably from banking. We are also required to meet what are called "general accepted accounting" practices or GASB (Government Accounting Standards Board). We are also required to follow the dictates of GASB. I am sure they have some requirements for reporting from other outside third parties. The Bond Counsel is here to say the bonds that were issued are good and have the value that is being represented. Their reputation is important in this business. In midsize or smaller communities, there is one Bond Counsel in the State. That happens to be the predominant one in Montana, Dorsey & Whitney. They would not want to do anything that would impinge on their reputation. I think it is better for all of us that we go ahead with this.
- Mayor Hanel: It would be my recommendation to move forward on the Agenda for November 24.
- Public Comment: None

## **TOPIC #2: Proposed Expansion of EBURD and Meeting of TIFD Communication Accord Committee**

- Marty Connell – 2903 Radcliff Dr., Billings, MT: There is a little over 10 acres that are opposed to annex into the City. (Marty showed a Power Point presentation with the proposed expansion that will be on a January Agenda.) We have two phases: Phase one has 12 new parcels applying for annexation. There is an area in the white and in the blue on Main St. That area has been sold by Cliff Hansen to the Berry's. The Berry's want to bring that area into the City, but Cliff put a clause in the Contract for Deed, that if they wanted to come into the City, they had to pay him \$100,000, or pay off the contracts. Their intention is to come into the City, but they feel they have to wait until they get a developer. The other properties that will never come in will be the areas from 6<sup>th</sup> Ave. N. That is all Rimrock and there is no development. Other white areas are people who don't want to come in and pay more taxes. There is the Empire Manufacturing Facility who has 6 acres and doesn't want to be annexed. They have all City services and if they come into the City, the only benefit is, they pay \$18,000 more a year in taxes. At some time, the Empire Manufacturing Facility will be put up for sale, and someone who wants to develop it will annex into the City. That is the area where we have all applications in and fees have been paid. (Marty showed the new areas on Power Point.) Other areas outside the yellow lines are still County land. Because of a letter from the Attorney General's Office, we can't include County land. If these people don't annex into the City now, we can include them in a future TIF district. What are our future plans? The North Park Task Force is getting organized and they want to be part of EBURD in order to access TIF money, to get rid of the slum housing, meth houses, etc., and build affordable housing. We are not including that this January, but will be coming back to it. When we originally drew the board, we didn't know what we were doing. We will look at that and see what we want to include, because as we get developing on

the east end, we feel affordable housing is important being right in the heart of the City.

- Mayor Hanel: Could you identify the streets to the west within the area you just talked about?
- Marty Connell: To the west, 22<sup>nd</sup> St., and across the top is the Rims, and then along the bottom is 6<sup>th</sup>. We purposely included North Park so if it needed improvements, we could use TIF funds.
- McCall: What do the colors on the map mean? (Referring to Power Point map.) Green is the current EBURD, blue is the downtown, and the pink is the idea of opposed Phase II, North Park. Our goal is to help the people that want to improve that part of town.
- Cromley: Anyone going to present at North Park Task Force?
- Marty Connell: Yes.
- Pitman: This section won't get annexed in because it is mostly Rims, but is it also because of the railroad?
- Marty Connell: No. There is some railroad there. Joe Gentry, with Rail Link believes they may annex in. He said they can't move at our time frame. It would be a benefit if we could get the railroad land annexed in. We believe that the railroad will eventually be abandoned from an economic stand point. If that happens, that is a large chunk of land for the City of Billings. It would make a great bike/walking path, and connecting the Metra to the downtown.
- Wyeth Friday – Planning Division Manager: There are 12 parcels and 6 owners that have petitioned to be annexed into the City in the area that Mr. Connell was referring to. These are showing the different properties that I have petitioned to annex (referring to Power Point). The schedule is to bring to you at the January 12 meeting for acceptance and setting the public hearings. The hearing will be on January 26. These are going to be in a package where you will get a memo and the exhibits. You will act on a resolution for each property as you would on any annexation. There are also some annexation incentive agreements that are associated with this and these will be coming forward, but acted on in a separate action than the annexation. This will all happen at the beginning of the year.
- Yakawich: How will the dirt roads be paved?
- Wyeth Friday: The Council at your last meeting took a First Action on a Contract for Design to begin the process of how the improvements will occur within this area in the next year. Dave Mumford the Public Works Director was here for that Action. There are multiple funding sources. Part of that is tied back in with the Rural Improvement District for the systems the County had in place and some of it is tied back to Public Works, and then eventually back to the Tax Increment Finance District. That is started but coming along with the effort to get the annexations completed. You did act on that design contract and that is moving forward.
- Brown: At some time, there was question about incentives?

- Tina Volek: There will be areas where we will have to extend the mains for water and sewer. It is my understanding there won't be connections to those until individuals annex into the City.
- Marty Connell: The contract was awarded to Sanderson and Stewart and they have already started the surveying. This is the first 3D surveying of an area. There are funds coming from the City, County, and the TIF funds, and then we are doing a Tax Increment Financing Bond. This project should be finished by December of 2015. Everyone will have sidewalks, curbs, gutters, streets, sanitary sewer, water, etc. If we get short on money we can't make the bond bigger. We may have to prioritize what is more important. We worked hard, and those that annexed in by the date who was in this annexation agreement will have the ability to have a preference on TIF funds for system development fees. For example, if they currently don't have water and sewer, they will have a preference to get TIF funds to pay for those. The land that joins in later will not get that incentive. The other incentive is our group the BIRD paid one fee instead of six fees to get this done.
- Cromley: There was mention of properties outside City that will still get City services?
- Wyeth Friday: There are areas in Mr. Connells slide show properties that aren't annexing right now. The improvements that are proposed will be for the entire area one time. Some of those properties will not annex now but will be expected to annex in the future.
- Cromley: What are the services they get?
- Marty Connell: We were asking Public Works how come some were getting water bills and some weren't. There are properties that have full City services that are in the County and will have the same services. The majority of them don't have City services. When somebody wants to annex in, they have to pay the system development fee, the costs of opening the street, tapping the pipe and bringing it to their property. They will get sidewalk, gutter, curb, street and storm sewer. They will not get sewer or water. Mains are installed but won't connect until annexed.
- Cromley: Do the property owners that get the services from the City pay the same rates as City residents or do they pay a premium?
- Marty Connell: It is different. There is a County water line and that's a County SID. We are in debate whether the City is going to acquire that. The Commissioners have offered it to the City. Those people will still get water if they are getting it now. The people who are already hooked up that are paying sewer, pay the same rates as everybody else. Years ago someone said "give them the services" (maybe City Administrator).
- McCall: Given the number of property owners that aren't ready to buy in yet, are these property owners involved in the EBURD.
- Marty Connell: Yes. They have been coming to the meetings. There has been no lack of input. We have people who say they are all for the project but they will not do it.

- Public Comment: None

### **TOPIC #3: Legislative Priorities**

- Ed Bartlett: I am here to talk about the Legislative Session which is soon approaching. A couple of weeks ago we had an election. That resulted in the house and senate, the caucuses that resulted in leadership being elected on both sides. The election kept the legislature the way it is right now in terms of the makeup of the House and the Senate. There is the 2015 which starts on January 5 and goes until April 27, 2017. The House will change slightly. It is now 59 Republicans and 41 Democrats. The leadership that was elected by their caucuses could change a little and the leadership is experienced legislatures. The Democrats chose the same set of leaders they had in 2013, and they are very experienced. The Republican side is almost all new people and also experienced people who will do a good job. In the Friday packet, you received draft documents from Tina, Bruce, and me. One of the documents, a Legislative Priorities, with review from you, we will submit back to you with those changes on your December 8 meeting, for approval. Having the Council adopt Legislative Priorities, it helps both you and us on our daily work with the Legislature during the session. It gives us a guide of priorities that you as Council have approved. We know by looking at your priorities and what you want to do without further discussion, what we need to do on behalf of you and the City of Billings to deal with those matters in the Legislative Session. With regard to that, as of last Friday, there were about 1,000 draft bill requests. By the time the session starts, about two weeks, there will be 2,500 bill draft requests. Bruce McCandless and I have the duty of looking at those bills and making sure that we spot the ones that we think the City will be affected by. Every other week during the Legislative Session, we have a conference call at your Work Sessions to answer your questions, make sure we are performing in the right direction that we don't have a position on at that time. The draft priority document is something we have found over the last few sessions, because it is very helpful to you and us to know in advance how we want to proceed during the session. We also use it once it is adopted by you with the Billings delegation and we use it with other Legislatures. We try to keep it two or three pages long so it is not a big document for them to review to see what positions and what priorities the City of Billings has. Didn't intend to go through the items in the bullets (referring to the Draft Legislative Priorities handout) except if you had any questions. What we have done over the years is develop this into five principle areas of topic. The most important one is Finance & Taxation. That is where we get most of our work, and where most of the bills come that you want to pay some attention to. In this particular document, that is the one with the most items. The budget is always the issue for us, the Legislature and our Governor. Over the years we also decided that local government power is important to us. We like to have authorities that you can exercise, and the self-governing powers that you have. We don't want to see those impacted negatively by the Legislature and we do our best to see that doesn't happen. The other couple of items that are in our priorities are Public Health, Safety and City Employee Relations. We pay attention to Workers

Compensation, Mental Health, and Law Enforcement. Land Use Property and Environmental Regulation is another topic. Finally, the Regional and Community Coalitions in Partnerships. We can't do this alone and we get very little traction if we do things that are just the City of Billings. We are not as successful as when we team up with other people across the State and show that we have the same interests. As a partnership we build on that and are much more successful. Will return to Council for approval on Dec. 8.

- Hanel: Where does money for new programs come from?
- Ed Bartlett: The funds for all of the new programs come from growth. No new taxes, tax rates or from cuts in other programs.
- McFadden: In the area of local government authority, is there any possibility that we could change certain state laws to give cities authority to enforce noise ordinance within county islands?
- Ed Bartlett: I would love to see that but don't expect it.
- Pitman: What do we do when legislation changes?
- McCall: City's position can change as legislation changes.
- Ed Bartlett: I have never felt the Council hasn't been there when we needed input.
- Pitman: As we go forward, this is a guiding tool. It is important at our meetings that you are corresponding those issues with us as bluntly as possible.
- Ed Bartlett: A reminder that I send a weekly written report to Tina and then she sends it to Council. It is usually included in the Friday Packet. Bruce and I talk several times a day, by email or phone. Bruce then talks to one or more of you, and then the entire Council when we need guidance. The video conferencing is not just the Council but the community every other Thursday, beginning Jan 15, at the Billings delegation lunches and teleconferences with Billings's residents. Location is the smaller room at MSU-B in the downtown office. And every Monday morning at 7:00 until the session starts. Same location.
- Cromley: This draft of the priorities we have here, is this based on what we had two years ago?
- Ed Bartlett: Yes but the bullet items are new with some changes.
- Cromley: Hospital employs a lot of people and Medicaid expansion means more money. City should support.
- Ed Bartlett: Personally agree but want the City Council to state its preference.
- Tina Volek: I agree with Mr. Bartlett and something that has come to light in the time since, we have viewed it as not having a direct impact on the City, but we have learned in our discussions on issues involving transients, especially those with substance abuse and mental health issues, this is a possible source of funding down the road for treatment for some of those individuals. That does have a direct impact on our plans to deal with that population. The Steering Committee had a meeting today and invited the chairs of the subcommittees that are working on issues. Mr. MacIntyre from the Chamber of Commerce volunteered to be the lead on our Legislative. That is one of the two primary

pieces that they are discussing as supporting and needing as part of their process. We have learned there is more of a direct impact with the City as well as the indirect one that benefits the community.

- McCall: Consider supporting medical health funding, not just monitoring. One thing I think would be helpful for the Council to have access to, if you were to send a preference list link to all Councilmembers.
- Ed Bartlett: We did have a preference list last session and my recollection was the entire Council had access to that. It wasn't just for Tina, Bruce, and me. That is how we got some of the input from you. I have started one for the City of Billings and will send link of LAWS to Council.
- McCall: I also want to mention the Local Option. Senator Larsen (Missoula) will sponsor MLCT bill. Billings Local Option Ad-Hoc working group met today. The League is in agreement but we need to begin to draft. A couple of the key pieces that our working group here in Billings talked about are, there needs to be property tax reduction. The one specific item that needs to be included in the bill draft. Otherwise it would be general, allowing communities to go to the public to vote on what a Local Option fee would include and look like. Another suggestion, a Local Option fee could go up no further than 15 years and it would have a sunset on it. They suggested a 5% individual amount collected for businesses that have to collect and report that information.
- Yakawich: You are an asset to our City Council and I hope we have a strategy for success. Could we have a strategy written down for December 8? How are we going to get our bills passed and work together as Council? Focusing on what this is all about rather than a lot of bills.
- Mayor Hanel: We have our Legal Counsel we will be relying on, and conference calls.
- Ed Bartlett: It is listening, being involved, paying attention, and responding positively to requests and do what you can to educate, inform and advocate. It changes with who are the sponsors of the bills; who are the proponents and opponents. It is always communication.
- Cimmino: We are operating in the black and should take pride in that. We rely on your expertise to keep us updated and how this will all move forward. Do you have any idea what the Governors position would be on the Local Tax Option?
- Ed Bartlett: Our Governor and the majority of Legislators are not yet excited about a Local Option. I think we can help them become excited and be more positive about it. At this stage, I would say they are not.
- Mayor Hanel: We must remain optimistic.
- Pitman: Council needs more advance notice about how to help.
- Ed Bartlett: We will do that as often and with as much notice as we can. When we do see those important bills, it would be helpful for Councilmembers to be involved personally on behalf of the City of Billings and the Council, we give you as much notice as we can, and ask only one or two of you to come up and present at a hearing on behalf of the City of Billings. We will give you as much



notice as we can, based on the notice that we are given from the Chair of the Committee and their schedule. The important thing is that you as Councilmembers are willing to come when you can to help us out. When you are not available, it is Tina, Bruce, me, or citizens of Billings. This is kind of a game plan, but the game plan is flexible and it changes a lot during the Legislative Session. I do like the fact that all of you as Councilmembers have expressed in the past and tonight, that you can do something on behalf of the City and are ready to do that.

- McFadden: Early education proposal – any comments from local school district officials?
- Ed Bartlett: I have not talked to any of the School Board here or in other parts of the State. I know the program is intended to be operated and administered through the local School Districts. It is voluntary to the extent that they are willing to do that. The whole idea is to operate and administer through the local school districts. I don't know what the Billings School District is doing about it.
- McFadden: Heard some negative comments from an official outside of Billings school. About a month ago, there was a statewide School Board Convention in town and I was speaking with one gentleman from out of town who represented School Districts in other parts of the State. This was a concern of his because there are those around the State that thought for \$35M, educationally we get very little bang for the buck. They were hoping money could be spent in other areas.
- Ed Bartlett: Passed out contact information to Council.
- Public Comment: None

#### **TOPIC #4: Council Discussion**

- Crouch: Next week I am going to bring an Initiative amending zoning code to allow a grooming business in a neighborhood commercial. The reason for the amendment is that if he sells, then it would be open for casinos or anything else that the neighborhood does not want.
- Cimmino: Could he apply for his own change?
- Tina Volek: He could but the zone change would have to be changed in order to allow an animal groom parlor which is what we are talking about. He would have to change it to community commercial, which is a larger entity and it allows a zoning that he and the neighbors feel is inappropriate. It would be a grooming parlor without boarding.
- Hanel: Update for NIOT? Did any of the Council attend?
- Swanson: There were three of us that attended. It was an excellent day. They have some of the same concerns that we have expressed tonight.
- Crouch: I was impressed with the Chief's article in the newspaper last week, listing all of the 911 times that they were called. Would like to see in newspaper every week or once a month. I think people would understand more why we need a Safety Levy.
- Mayor Hanel: Good idea but it would be time consuming.

- Tina Volek: We could do a snapshot in time. It is hard when they are short-handed. Will report back to Council at the next Work Session on this matter and find out what we can do.
- Mayor Hanel: Would like to hear what the Council thinks about getting together for half a day and converse now that the Public Safety Mill Levy did not pass, and discuss some budget options, and maybe some plans with some Dept. heads.
- Tina Volek: We had scheduled a pre-budget session at the second Work Session but we can move that to a Saturday.
- Pitman: I think it would be beneficial as a Council for us to get together at the Airport for however long it takes to have an open and honest discussion and bring back our priority based issues to discuss some options.
- Cimmino: Does that mean we would not have the Budget Session here at the Chambers where it is going to be televised?
- Tina Volek: In the past, the pre-budget session is open to the media and is not covered live. Saturday morning may be a challenge for Channel 7. This would be a pre-budget workshop to talk about what our base looks like, and where things are going. This coming year, one of the big challenges will be the Legislative Session and what it brings. We will do what the Council would like.
- Pitman: I will be leaving for the NLC (National League of Cities). If you have a chance to go to their website and there are any issues that you have, feel free to communicate throughout the week with me. I am usually one of the voting delegates and it will be just me from Montana. Encourage other councilmembers to get involved in NLC.
- Tina Volek: This is one of our major sources for influencing Legislation that will go to the Congress on behalf of cities in this country.
- Mayor Hanel: In reality, our time in Washington DC was useless. I feel we can meet with them in Montana and accomplish equally as much for a lot less cost for our taxpayers. They are willing to meet with us in Billings, MT.
- Brown: Saturday session is targeted more for the Public Safety? So we could run both, the Saturday session and the pre-budget at the Work Session?
- Tina Volek: Yes. We do a preview of what we see occurring. The Staff has already met once and has started working towards that and what we can reasonably expect. Just before the meeting tonight, Mr. Weber received the numbers through the County of what our revenues are going to be for the coming year. Also a chance for Staff to look at issues that are coming up.
- Brown: I would propose that we have both meetings. Keep the original session on the Agenda, and meet Saturday.
- McCall: I agree. The dialogue we have on Saturday morning would be a brainstorming session and the ability to sit down and talk about what options we have to make this work.
- Crouch: Before the Summit there was a group of faith leaders in the community that met. They had the idea to get involved and there were two things they were concerned about. Local Option and Medicaid expansion, because they finally understood what the problem was with homelessness. If you are concerned about them too, call and talk to your Representative Senator. A personal contact makes a lot of difference.

- McCall: I agree. One person can make a difference when you are looking at Legislation and the more personal relationships we have with our Legislators, the better chance we have of moving the right pieces of Legislation forward.
- Mayor Hanel: I did make a phone call to both Senators and the Congressman yesterday and got through to all 3. They are accessible.

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

- Marty Elizabeth Ortiz – 707 1<sup>st</sup> St. W. #6, Billings, MT: I want to thank Councilmembers Crouch, Cromley, and Yakawich that were at the Summit. I think it is important that the Council be involved with NIOT. I was concerned that the City would pursue some Legislation to outlaw feeding the homeless. I am pleased that has not come up. And the route that is being taken is to address the problem and to provide solutions. I look forward to helping and I will continue to attend the meetings. A lot of good came from the Summit. I learned a lot.
- Cimmino: I was interested of the report in the Gazette. Can you talk about the three groups that met?
- Marty Elizabeth Ortiz: The intention was to create a safe space. We needed a group with just LGBT and no (inaudible). A place where you can say what is going on and have no fear.
- Cromley: Follow-up. It was innovative. For example, we got a chance to experiment and feel what it was like to be either discriminated against or to discriminate against somebody.
- Marty Elizabeth Ortiz: A lot of people that were being discriminated against were feeling it. I had no idea it was going on. We later showed a video. Discrimination happens in front of you and you may not see it because you are not looking for it.

**ADDITIONAL INFORMATION:**

**ADJOURN TIME:** 7:27 pm