

City Council Work Session

July 21, 2008
5:30 PM
Community Center

ATTENDANCE:

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

ADJOURN TIME:

Agenda

TOPIC #1

Public Comment

PRESENTER

NOTES/OUTCOME

- **Mike Yakawich, Chairman of the South Side Neighborhood Task Force** stated his group's concern about a recent Billings Gazette article regarding a proposed sex offender treatment program. He said 25 community members met and voted to oppose the program on the South Side. He presented a letter to Council from the task force which contained information about corrections facilities on the south side and confirmed its opposition to that treatment facility in Billings. He expressed concern for neighborhood safety with the corrections activities already in the area.
- **Marion Dozier, Vice Chairman of the South Side Neighborhood Task Force** said she echoed Mr. Yakawich's comments. She said there were six pre-release centers in Montana and only Billings and Missoula accepted sex offenders. She noted the South Side of Billings already had approximately 2500 jailed or supervised felons. She urged Council to watch where the support came from if the project moved forward because she felt the support for a facility in Billings would come from groups outside the Billings area. She stated that Billings had done its share.

Mayor Tussing said he did not see the article in the paper and asked where it would be located. Ms. Dozier said the Department of Corrections advertized it would accept proposals from across the state. She said it was not certain any group would propose locating it in Billings, but the Task Force wanted to make Council aware of it if a proposal to locate it in Billings was submitted.
- **Kevin Nelson, 4235 Bruce**, said Brent Brooks and Bruce McCandless had personal interest in the MMIA as a Director and member of the Claims Committee, and both had an interest in the City of Billings and the Council. He asked which personal interest they would be representing that evening because it appeared they represented all three in the past. He asked by whose authority two meetings were closed that were supposed to be open to the public.

Councilmember Ruegamer asked Mr. McCandless if he was paid for his association with MMIA; Mr. McCandless answered that he was not. Councilmember Ruegamer pointed out that Mr. McCandless represented the City of Billings with the MMIA and it was a stretch to say it was a personal interest. He said he did not understand how it would be considered a conflict if the person represented the City.

- **Susan Grasso, 1005 Moon Valley Road**, stated that Joy Stevens was her City Council Representative. She said she called her in March to discuss the YVAS proposal which included feral cat management. She said she hoped to explain the magnitude of the feral cat population since Ms. Stevens had no experience with it. She said the estimated figures she gave Ms. Stevens for feral cat euthanasia covered a time span of 25 years. She said Ms. Stevens recently sent emails to City Council Members through which she sensationalized and twisted their discussion to suit her needs in pushing through the YVAS proposal. She noted that was not behavior befitting a City Council member, nor was it what citizens expected from their representatives.
- **Ed Gulick, 3015 10th Avenue North**, said he was the Chair of the Yellowstone Valley Citizen’s Council and appreciated the City’s biodiesel pilot study. He said as a member of the Energy and Conservation Committee, he had an opportunity to view a presentation on the biodiesel program. He said other cities had gone through the process and he believed the City staff could work through the process as well. He said cities that had used it were Fargo, ND; Ft. Collins, CO; and Minneapolis, MN. He encouraged the City to continue its use of biodiesel.
- **Catherine Schaeffer, 2113 Walter Road**, thanked the Council for taking the time to listen to testimony concerning the Billings Animal Shelter. She said she and the other people who testified in the past were not trying to fight with the YVAS, but felt they voiced real concerns to the Council. She said Chief St. John told her when she was elected to the Leadership Team that they were the experts in the rescue field. She said she was putting a letter together to inform Council where the rescue groups were coming from.

Councilmember Ruegamer asked how many animal rescue groups were in Billings. Ms. Schaeffer responded there were six groups, one of which was a bird rescue group. She stated she did not know the number of volunteers but it was probably less than 10 for each group except HHP.

- **Paul Miller, 1109 Delphinium**, encouraged the City to continue the use of biodiesel which could develop a market for local agricultural crops. He said he understood there were some problems but he felt patience would help with them.

There were no other speakers.

TOPIC #2	<i>North 27TH Street TIFD Expansion</i>
PRESENTER	
NOTES/OUTCOME	

Greg Krueger, Downtown Billings Partnership Development Director, advised he would provide a quarterly report which was also the final report on the 1976 tax increment district because the final bond payment was made in March and all the increased tax dollars from that district would flow to the taxing entities in FY 09. He said the City's share of those funds would be about \$500,000-\$800,000. Mr. Krueger stated that the district wanted to continue the tax increment financing in the core of downtown.

Mr. Krueger provided a slide presentation of buildings that were addressed in the past 10 years. He said roughly 200 projects were funded in downtown since 1998. He noted that old encumbered funds would continue with projects.

Mr. Krueger stated that the Business Improvement District was created in 2005 and there was experienced downtown management in place, along with dedicated Boards that formed an alliance. He noted those boards were: the Downtown Billings Association which consisted of merchants; the Downtown Billings Partnership which was the representative group that managed the tax increment; and the Downtown Billings Improvement District which included the property owners.

Mr. Krueger displayed a graph of the downtown taxable value from 1980 when the City stopped reinvesting tax increment funds in the downtown area and the property value declined as a result of that. He pointed out that values stayed low until 1999. He said the valuable property created would decline if the work on the blight was not continued. He noted that it cost significantly more to occupy space in the downtown area, based on a comparison between the downtown area and the west end. He said the downtown land was valuable to maintain and reinvest in, but it cost more to do so. He said the key to urban renewal was renewal and stability.

Mr. Krueger said downtown still needed to be remedied and reviewed projects that needed attention to avoid property devaluation. He said the solution was to expand the North 27th Tax Increment District during the current calendar year. He said Department of Revenue rules allowed the expansion if it was completed during the current year, and if it was done during 2008, the higher value would flow to the taxing entities. He noted there was redevelopment potential with some buildings and it was a well-known fact that a new library was needed, and the best chance to accomplish that was with tax increment funds. He noted the need for parking structures, street lights, cooperative security, and more private investment to grow the Business Improvement District. He said it was important for the partnership to assist with the implementation of the East Billings Tax Increment District plan.

Mr. Krueger reviewed the current boundaries of the North 27th Street district and the proposed expansion to N. 22nd, to 2nd Avenue South, then to N. 31st to 6th Avenue North. He said that proposed area was roughly the same footprint as the Central Business District and it was important to continue looking toward the south in the Conoco triangle and the South Side neighborhoods. He said they visited with Deering Clinic and encouraged it to use a private developer to build the new expansion so it would put that building on the tax roles. Mr. Krueger pointed out that high-value properties would enter the expanded district at the high values. He proposed renewal of the operating agreement with the Downtown Billings Partnership and a future meeting to review an expanded renewal plan.

Councilmember Astle asked Mr. Krueger if the boundary went down the middle of North 31st Street and why it could not extend to N. 32nd Street so the Transwestern I, II and III properties were included. Mr. Krueger responded that N. 31st was added because there was significant property that could be developed such as the Yegen house and George Henry's Restaurant. He noted that most of the Transwestern property was complete and there was no potential for those buildings to grow, but the other side of the street contained more vacant land or parking lot land available for development.

Mr. Krueger distributed an outline for the North 27th Urban Renewal Plan. He advised that would be used to draft an amended plan for presentation to Council on September 2, if Council was agreeable to that. City Administrator Volek advised if Council agreed, staff would be directed to add the item to the September 2 Work Session for review with a Council vote at a later date. There were no objections.

TOPIC #3	<i>MET Route and Schedule Presentation</i>
PRESENTER	
NOTES/OUTCOME	

Aviation and Transit Director Tom Binford reported that schedule adjustments had to be made to the fixed route schedule in August, 2007, to comply with an arbitration ruling to insert 15-minute breaks during every four-hour work period for the drivers. He said that change resulted in a loss of one trip per route, or a total of 12 hours of service per service day. He said that change also resulted in a ridership decline and even though there was some increase since then, it was still down about 7-1/2% overall since the changes were implemented.

Mr. Binford explained that LSC Transportation Associates recently completed a comprehensive route and schedule evaluation. He explained that the study began in December, 2007, and the third set of public meetings would be conducted July 23.

Mr. Binford said the MET system had financial troubles and since his May budget presentation, diesel costs increased 25%, and a financial forecast to FY 11 predicted a negative condition as a result of rising costs and no additional revenues. Mayor Tussing asked if the decrease in the reserve balance was mostly due to operating and maintenance, not to decreased ridership. Mr. Binford said the ridership was calculated at the current rate, and the rising costs of operation attributed to the increase in reserve usage.

Mr. Binford advised that LSC was asked to look at possible changes that would not increase O&M costs. He said MET staff and LSC staff worked hard to identify areas that were underutilized so that could be transferred to areas that needed improvement. He said the evening's report was a condensed version of the report and a more comprehensive presentation would be made during the public sessions.

A.T. Stoddard of LSC advised he would provide a brief synopsis of the project. He reviewed the extensive process of operational, financial and ridership data collection along with boarding and alighting counts. He added that an onboard survey was conducted, as well as a meeting of the drivers to obtain input to add to the service evaluation. He said public meetings were held in April to provide an evaluation of the service and the outcome of the survey. He said those meetings provided an opportunity

for community input and additional input was gained through a community survey and a downtown employee survey. Mr. Stoddard stated that additional public meetings were held and the service options were presented. He said the proposed changes were not major and had to stay within the budget constraints. He said a meeting was scheduled July 22 with the drivers to present the proposed changes to them prior to the public meetings. He said the final plan would be presented for Council approval after the public meeting process.

Councilmember Pitman asked about the cost of the biodiesel program to the program. Transit Manager Ron Wenger responded that it would cost an additional \$12,000 for the next fiscal year for two full-service buses.

Mr. Stoddard reviewed the proposed route changes to: Rimrock 2P, Lewis 6P, Alkali Route 14P, and Hilltop 15P. Mr. Stoddard then reviewed schedule changes to: Rimrock 2P, Parkhill 4D, Central 9D, Overland 12D, Southwest Route 13D, Heights Commuter Routes 15P and 18M. He noted the route and schedule changes were a result of the community/rider input and the LSC evaluation.

Mr. Stoddard advised that fares were reviewed. He noted that the last fare increase was in 1991, and pass rates for elderly, disabled and students were actually decreased in 1993 and 2002. He explained that a comparison was made with similar cities and MET fares were lower than the other cities. He reviewed fare options that reflected fare increases and the recommendation of Option #1, which was not a significant increase. He explained that fare revenue with Option #1 would increase slightly more than 5%. He said a consideration was that ridership could decrease and there was a potential for an 8% drop in ridership but it would likely build back up as people adjusted to the increases.

Councilmember Pitman asked for the potential upside of the schedule adjustments. Mr. Stoddard noted that the ridership could increase 6-8%.

Councilmember Astle asked if the changes would result in additional cost and how many riders could be lost with the changes. Mr. Stoddard responded that the expected drop could be 7%. Mr. Wenger added that more than 700,000 rides were provided in a year and the anticipated decrease would be based on that. He stated he felt the changes were commuter improvements and additional service to the South Side, along with minimal fare increases. He predicted increased ridership and revenue within six months.

Councilmember McCall asked about the mid-day service proposed for elimination on certain routes and asked if surveys were conducted to add the mid-day route or if it was always a part of the routes. Mr. Stoddard said the mid-day service was part of the route for a long time. Mr. Wenger said the community was divided into increments and routes and services were offered within walking distance so the same level of service was available. He said ridership patterns had changed.

Mayor Tussing asked if an increase was noticed with the rising costs of fuel. Mr. Wenger answered there had been a significant rider increase. He said April's ridership showed about a 7% increase from the previous year, and June's ridership reflected a slight increase from the previous year. Councilmember Gaghen asked if the regular fares were mainly downtown workers. Mr. Stoddard said there were many regular riders who purchased the monthly pass and the adult cash fare included riders for occasional use or downtown employees that did not purchase the monthly pass. Councilmember Gaghen stated her concern with the increase of the monthly pass and said it seemed like

that fare should be higher. She said she would prefer that all the fares increased an equal percentage.

Mayor Tussing asked what the ridership was like in the other cities that were used as comparison for fares. Mr. Stoddard said cities that had lower ridership and/or smaller transit systems were: Great Falls, MT; Cheyenne, WY; Grand Junction, CO; Fargo, ND; LaCrosse, WI and Topeka, KS. He added that cities with comparable ridership were: Redding, CA and Pueblo, CO; and Santa Fe, NM had slightly higher ridership.

Councilmember Ruegamer commented that he could walk less than half-mile from his home and catch four buses and had noticed low ridership on some buses.

Councilmember Astle asked about the mid-day routes that would be eliminated and where the bus and driver would be during those hours. Mr. Stoddard said the mid-day route was 10:30 a.m. – 2:30 p.m. He said the proposal was to provide morning and afternoon service on Parkill and that mid-day route would be added to the Central Avenue bus route. Mr. Stoddard stated it was not a cost savings, but a matter of putting the resource where evidence showed there was more demand.

Councilmember Ulledalen asked if there was discussion of extending service farther west on Rimrock Road. He said he received calls from people who said they would ride the bus if it went farther out. Mr. Stoddard said the West End was reviewed and there was still not enough demand to shift resources from another area. He said that even though there were some requests, the demand was still low. Councilmember Ulledalen asked about some sort of park and lock where a bike could be ridden to a location, and then parked and locked rather than loading the bike on the bus. Mr. Stoddard said it was not considered but was a possibility at a place such as Stewart Park where bike lockers could be installed.

Councilmember Clark asked if the bus went as far as the new fire station, a location he thought could work for a bike area. Councilmember Ulledalen answered that it did not go there but St. John's Nursing Home was a possibility and he would check into that.

Mr. Stoddard advised that driver meetings would be held the following day, and public meetings were scheduled for Wednesday.

Councilmember Pitman asked if park and ride had been brought up at public meetings. Mr. Stoddard responded that a few comments were made from both current and former riders. Councilmember Ulledalen asked if staff incentives were considered since there were a lot of downtown City employees. Mr. Wenger explained that there were some specific employer/employee programs that the City participated in whereby a discounted monthly rate was offered to employees and the employer paid the difference. He said a marketing effort was considered with the development of the Downtown Transfer Center to target particular businesses to negotiate a yearly contract for employee ridership. Councilmember Ulledalen asked if there was any discussion with the hospitals to match the bus schedule with their schedules since there were approximately 3,000 hospital employees with a variety of schedules. Mr. Wenger said a specific survey was conducted with one of the hospitals and start and stop time input was collected. He said the other hospital contacted MET as well regarding a program. He said MET could work with them even though the hospital had a 24/7 schedule.

Mr. Stoddard said a final draft would be presented after the public meetings. Councilmember Ronquillo stated he was glad to see that the South Side route had a good ridership.

TOPIC #4	<i>Biodiesel Pilot Study</i>
PRESENTER	
NOTES/OUTCOME	

Assistant City Administrator Bruce McCandless introduced Motor Vehicle Maintenance Manager Larry Deschene and said he would provide a six-month report on the biodiesel pilot test program the City conducted for the past seven months. He also introduced Josh Starr from Town and Country Supply, the City's fuel supplier who supplied the biodiesel product.

Mr. Deschene advised his report covered the first six months of the study: December, 2007, to May, 2008. He said a recommendation from Mayor Tussing and the Energy and Conservation Commission instructed staff to conduct the pilot program. He explained that the objective of the pilot program was to compare vehicles that operated on B10 biodiesel to vehicles that operated on petroleum diesel fuel for a 12-month period. Mr. Deschene explained that six identical pairs of various City vehicles were used for the comparison and the report he provided included various routine maintenance functions, costs and operator responses. He noted that biodiesel acted as a cleaning agent so he was cautioned to change fuel filters after the first 100 hours of usage because the biodiesel cleaned particles that existed in the engine and fuel system prior to its use. He explained that the maintenance change was made from the normal 600-hour change to the 100-hour change to accommodate that difference.

Mr. Deschene reviewed the cold weather operation and noted that some biodiesel jelling occurred during extreme cold and one sand truck stalled in the midst of operation when the filter jelled. He added that biodiesel could not be dispensed one day because it was cold and had jelled in the tank. He noted that the supplier informed him that additional cold flow improvers were not available for the biodiesel product.

Mr. Deschene reviewed the log he kept to record filter plug problems. He noted that one vehicle experienced filter plugging problems and the other 11 instances were from the temporary, above-ground dispensing tanks.

Councilmember McCall asked if there was a problem transitioning a vehicle from biodiesel back to petroleum diesel. Mr. Deschene responded that it did not seem to affect it.

Councilmember Astle said he had been told in the past that a small amount of unleaded fuel could be added to diesel to keep it from jelling during cold weather. Mr. Deschene said that was not recommended but diesel additives were available to reduce the cold plugging instances. He said the problem with biodiesel was that an additive had not been found to reduce the cold weather plugging. He noted that tank filters had to be replaced once jelling occurred.

Mr. Deschene reviewed fuel costs prior to the test period and the costs during the test period. The cost comparison indicated that the biodiesel fuel cost an average of 37 cents more per gallon than the #2 diesel fuel.

Mr. Deschene reported that the operators were asked for feedback on the equipment performance with the use of biodiesel. He said most of the responses indicated there was no change, but power changes on grades and exhaust fragrance were noted. Mayor

Tussing asked if that was good or bad. Mr. Deschene said it probably smelled less like diesel fuel.

Councilmember Ruegamer asked for an explanation of the difference between B99 and B100 biodiesel products. Mr. Deschene stated that B99 was a blend of 99% biodiesel and 1% petroleum, and B100 was 100% petroleum diesel. He added that the B99 used for the pilot study qualified for a \$1.00/gallon tax credit. Councilmember Astle asked if the vehicles would run on 100% biodiesel. Mr. Starr noted that Stillwater Mine used 70% biodiesel but removed filters which voided their vehicle warranties. Mr. Starr explained that it was done to improve air quality in compliance with the Mine Health and Safety Administration regulations. Councilmember Ulledalen asked for a generalization of the level of biodiesel that could be used without violating warranties. Mr. Starr responded that many users operated with B20 and some at the B10 and B2 levels.

Mr. Deschene advised that operators were asked for their opinion about the use of biodiesel and if there were advantages. He noted that 50% of the respondents stated that biodiesel provided disadvantages; 75% of the respondents did not believe the equipment performed better with biodiesel; and 44% indicated that they believed biodiesel burned cleaner.

Mr. Deschene said reliability was a consideration and he wanted equipment to be able to run at the -30 degree temperature point. He said the equipment operated with biodiesel was unreliable at temperatures below 26 degrees. He went on to review the advantages and disadvantages of operating with biodiesel and a summary of the test for the first six-month period.

Councilmember Gaghen asked what the filters cost since they were changed more often or unusable once the biodiesel jelled. Mr. Deschene answered that they ranged from \$5-14, depending on the equipment. He noted that the estimated annual fuel cost increase for B10 biodiesel would be \$185,000 and the fuel consumption would increase approximately 45,000 gallons. Councilmember Astle asked if the additional 45,000 gallons of biodiesel would really be cleaner than the amount of diesel fuel that would be used for the same time and usage. Mr. Starr responded that he did not know and would have to review data to determine that. Mr. Deschene explained that the City was unable to include emission testing with the project because there was not any known testing equipment in the state.

Mr. Deschene reviewed a summary of the test results and noted that the biodiesel vehicles used 666 more gallons; the fuel meter per gallon was 8% less; and the biodiesel cost 37 cents more per gallon. Councilmember Clark asked what the costs would have been without the government subsidy. Mr. Starr provided a rough estimate of approximately 10% more.

Mr. Deschene advised that the current fuel contract term was October, 2007 through September, 2008, with renewal options. He reviewed the pricing structure and advised renewal should be considered. He reviewed the current fuel prices as of July 17, 2008, which showed B10 biodiesel more expensive than dyed #2 diesel.

Councilmember Pitman asked Mr. Deschene if he had a total cost of filters used to date. Mr. Deschene responded that he did not have a breakdown of all the filters. He noted that tank filters cost about \$100 and only one vehicle filter was replaced out of sequence.

Mayor Tussing asked Mr. Deschene if he visited with other cities about their fuel usage. He said he knew that Bozeman’s fleet was entirely biodiesel. Mr. Deschene explained that he visited with Bozeman officials and was told that B20 was used mainly for its parks department and only in the summer. Mr. Starr confirmed that and said there was probably misconception on the public’s part regarding how much of Bozeman’s fleet ran on biodiesel.

City Administrator Volek advised that the test was scheduled to continue through November unless other direction was given by Council. Councilmember Pitman stated that the results would likely be the same in the second six months of the study. Mayor Tussing asked how much it would cost to continue the study for the next six months. Mr. Deschene responded that it was hard to predict, but the biodiesel had cost \$7,000 more than diesel for the first six months and it depended on what happened with fuel costs. Mr. Starr explained that biodiesel was difficult to predict because of the commodities and variables involved. He said he estimated the prices to remain close to the current price. Councilmember Ulledalen said the study could be continued with the knowledge that it cost more and someone in the community could be asked to subsidize the extra cost. Councilmember Clark asked if biodiesel was sold at any retail dealer in Billings. Mr. Starr said it was not sold at stations because there was no demand for it.

Councilmember Pitman said he did not see any point in continuing the study. Mayor Tussing said he agreed with Councilmember Ulledalen to only continue it if someone subsidized it. He noted he would consider continuation if the benefits could be quantified. Councilmember Pitman said he felt there were hidden costs not being shown because the maintenance was covered under the general maintenance but there was additional down time, repair time, etc. Mr. Deschene agreed.

Councilmembers commended Mr. Deschene for his work with the project. Councilmember Gaghen thanked Mr. Starr too for his previous explanation of the program prior to the start of the pilot study.

It was Council consensus to use the remaining biodiesel in the tanks and then return to the regular diesel use and discontinue the pilot test.

A short break was taken.

Councilmember Ulledalen commented that Conoco was experimenting with a new product that used animal fat and theoretically had none of the current problems and would be deliverable via the conventional pipeline process. He said biodiesel advocates could revisit the issue in a few years when that was available.

TOPIC #5	<i>Response to MMIA Letter</i>
PRESENTER	
NOTES/OUTCOME	

City Attorney Brent Brooks referenced the insurance article distributed in the most recent Friday packet that summarized the few cases in the country related to the topic. He said the Montana cases did not cover that issue and he, the general counsel for MMIA and other civil attorneys researched the topic. He said it was referred to as allocation of an undifferentiated verdict. He stated Council had four options in response

to the letter submitted by MMIA: 1) respond by indicating that based on the case law provided that the City preferred not to contribute to the verdict after it was paid; 2) specify an amount Council felt was fair; 3) divide the verdict 50/50 which was suggested at one time by MMIA; and 4) pay 2/3 of the verdict as recently suggested by MMIA. Mr. Brooks said mediation could be an option as well. He noted that mediation usually implied something financial would be offered even though that was not always the case because a third party could be told the City's position, so it would not become an obligation. He said the other leverage for the City was that the money had been paid already so it was incumbent on MMIA to recover funds.

Mr. Brooks pointed out that case law provided to Councilmembers indicated the City had a good argument for not paying, based on the process in that particular case when the MMIA advised the City through two reservation of rights letters what it would do under the Memorandum of Coverage. He said he had the previous and current memorandum of coverage letters available in electronic format and they were also on the MMIA website.

Mayor Tussing asked Mr. Brooks if he had a recommendation on any of the options he presented. Mr. Brooks advised that the City had a good argument to offer MMIA nothing, but he could not predict what a district court would say about it. He noted there was no downside to mediation if that was the option selected. Mr. Brooks added that he provided that same article to MMIA's counsel and articulated that the Council felt the City did not have to pay anything and cited the case laws that supported that opinion.

Councilmember Clark said he felt the case was handled badly and the City should not have to pay anything toward it.

Councilmember Astle asked Mr. Brooks if there was any change between the 2005 and 2007 memorandums of coverage. Mr. Brooks said he had not found any changes yet but had a call into Alan Hulse, CEO of MMIA, about that and discerned no change from the 2005 policy and the 2007 policy. Councilmember Astle asked if Mr. Brooks suggested mediation, not arbitration. Mr. Brooks replied that it would be informal, non-binding mediation by a third party. Councilmember Astle asked if the idea of binding arbitration came out. Mr. Brooks said he typically did not recommend arbitration. He said it could be stipulated later, but he did not recommend closing the door to ultimate litigation. Councilmember Astle said discussion was held in prior meetings about the 50/50 offer and asked if anyone had a written record of that offer or a recollection that could be pinned down. City Administrator said it could be done. Councilmember Astle asked if declaratory action was considered. Mr. Brooks responded that was considered and was available, but if the Council indicated it would not pay anything, MMIA would be responsible for pursuing a declaratory judgment action.

Councilmember Ruegamer said a jury poll was asked for and he had not seen it. City Administrator Volek said staff would obtain that. Councilmember Ruegamer said Ms. Volek and Worthington disagreed on the points of judgment. Ms. Volek said the points were: failure to supervise, two civil rights claims (free speech and retaliation), and unsafe work place. Councilmember Ruegamer said he tended to favor mediation but mediators typically sought compromises and he did not feel confident an objective mediator could be found.

Councilmember Astle said he was not a Councilmember at that time and understood the hurt feelings and high emotions that went with it, but the issue was not a lawsuit, it

was an insurance policy issue and whether the City would pay any of it. He said a mediator would mediate the insurance policy versus the lawsuit decision and it had nothing to do with the jury's decision. He suggested getting over the history.

Councilmember Pitman asked if the failure to supervise was the only count for which MMIA acknowledged coverage. Mr. Brooks said that was correct.

Councilmember Ronquillo said he thought there were records to confirm the 50/50 discussion. He added that he agreed with Councilmember Clark that the insurance policy should cover the City and it should not be required to pay more.

Councilmember McCall asked who paid the cost of mediation. Mr. Brooks said it was typically divided between the parties. He said a mediator experienced in insurance law and coverage would be needed. He noted that costs were approximately \$3-5,000 per day and the cost would be split. He anticipated one to two days of mediation.

Mayor Tussing stated he appreciated what Councilmember Astle said but asked if the City could argue to the mediator that one of the reasons the case was lost was due to the attorney chosen by MMIA, and the City felt that the attorney blew it. Mr. Brooks said a mediator would likely listen but would still focus on the insurance coverage.

Councilmember Gaghen said she assumed from what Mr. Brooks said that an out-of-state mediator would be needed. Mr. Brooks said he did not know if an out-of-state mediator would be needed but someone with similar experience would be necessary. Councilmember Gaghen said she felt there could be unintentional prejudice for one entity especially since an issue of that type had not occurred. Mr. Brooks said mediators from the western side of the state could be used if they were unfamiliar with the situation and they were given confidential position papers. He noted that an out-of-state mediator would probably increase the cost.

Councilmember McCall said she assumed both parties had to agree on the mediator and asked who took the lead on the process. Mr. Brooks answered that either party could take the lead. Councilmember Clark commented that if the City stated it would not pay anything, the responsibility to seek mediation would be on MMIA. Mr. Brooks responded that a statement to that effect could also indicate that the City was open to mediation.

Councilmember Astle asked if the question about whether MMIA was a public or private agency was answered conclusively. Mr. Brooks said it was answered in his mind, but MMIA had been ambiguous in the past and even though it publicized on its website that it was a public agency, it did not cite the normal open meetings/public agency statutes. He added that MMIA cited the interlocal government agency statutes upon which they were created. Mr. Brooks said it seemed that MMIA was leaning toward the opinion that it was a public agency. He said if that was the case, the discussion would be held in the open and it was also up to MMIA to make sure it complied.

Councilmember Clark asked if a formal vote was needed. He suggested placing the item on the next regular Council meeting agenda. After some discussion, it was determined that the August 11 meeting was the earliest meeting date to allow the City to comply with advertising deadlines. City Administrator Volek stated she had visited with Alan Hulse of the MMIA who indicated that the City's deadline to respond to the MMIA letter could be extended to allow the item to be on the August 11 agenda. Mr. Hulse indicated his Board was scheduled to meet the first week of August and he could make

that recommendation. Mr. Brooks said if MMIA wanted an answer by July 31 and did not receive one from the City; it was up to them to act.

It was consensus of the Council to place the item on the August 11 agenda for discussion and a vote regarding a response to MMIA’s letter.

TOPIC #6	<i>Council Strategic Planning – State Legislation, Transportation</i>
PRESENTER	
NOTES/OUTCOME	

Councilmember Ulledalen distributed a copy of the prior year’s legislative brochure. He said there were two points to consider about the legislative issues: first the Council had to review its issues and secondly, staff’s issues could be different. He said he knew Public Works had an idea related to enabling the Council to issue revenue bonds for transportation projects. He said it could not be done currently, but if the law was changed, Council would have the ability to issue revenue bonds to pay for road projects backed by the arterial fee, which would provide flexibility for future projects. He said priorities needed to be set by Council before trying to blend with MLCT, the Chamber or others. He said the resort tax did not get anywhere and legislators had stated that any local option tax without revenue sharing would be dead on arrival, so a revenue sharing component was needed. He said he knew that Jeff Essman and the Chamber were both working on something. He said the idea with the resort tax was narrow and a full-blown local option tax would be a bigger tax on more items which should be easier to share with outlying communities.

Councilmember McCall said the Chamber of Commerce was considering a bill similar to 2007 with a revenue sharing component. She said she did not think a broader tax would be successful. She suggested a narrow tax based on luxury items and tourism with a revenue-sharing component and a significant property tax reduction component. She said past bills usually had a 5-10% property tax reduction which was not enough to move rural legislators. Councilmember Ulledalen said he felt the point was that an expanded local option sales tax would generate more local opposition.

Councilmember Ruegamer asked why a property tax reduction made it more palatable to rural areas. Councilmember McCall said it was a local control issue. Councilmember Ruegamer said he was not opposed to the property tax reduction but did not want it locked down in the law. City Administrator Volek explained that Mr. Essman’s bill addressed percentages of the tax going back to the zip codes, which meant the percentage went to the home district and the individuals who paid the tax and a portion remained with the entity that collected it. Councilmember Clark stated that was cumbersome to keep track of. Ms. Volek said Alec Hansen of MCLT suggested a portion of it routed to the Treasure State Fund to be used for a more liberal distribution. Councilmember Ulledalen said his concern with Mr. Essman’s bill was that it would be opposed by small business owners. He said the other problem with the Treasure State endowment was that the City was not eligible for many of those grants so that was another needed legislative change. Councilmember Ulledalen said Councilmember Clark mentioned statewide tax reform.

Councilmember McCall reviewed previous revenue sharing bills. She explained that each region contained a certain number of counties and the entity that had the tax received 75% of it, and 25% went to the counties around it with 15% of that to the closest county and the remaining 10% to the outer counties. Councilmember Ronquillo asked if Red Lodge would be grandfathered so it did not have to share. Councilmember Ruegamer said it was difficult to figure out how much would be shared. He suggested contacting Bruce McIntyre to review the information he had about the distribution. Councilmember Ulledalen stated that Financial Services Manager Pat Weber was developing a breakdown of what made sense to share.

Councilmember Ruegamer said if the percentage was too high, the smaller communities got more than a fair share. Councilmember Ulledalen suggested providing feedback about his bill to Mr. Essman now so it could be addressed prior to the legislative session. It was consensus that revenue sharing was supported. Councilmember McCall said it was important to be united on the issue.

Councilmember Ulledalen said the existing bed tax funds were kept by the state and was an item that some felt should be negotiated since the state was in a surplus situation and that was a possible source of revenue. Mayor Tussing said he was not sure that would fly since the TBID was approved. Councilmember Ulledalen said that was a different item.

Councilmember McCall said many issues identified were issues that would be supported if specific legislation was proposed, but none had been proposed.

Councilmember Ulledalen said another comment from the Public Works area concerned the inner belt loop and the fact that there was so much state land there, and an attempt could be made to draft a bill to encourage the state to help finance it because it would benefit if the land was opened.

Councilmember Ulledalen said there were reappraisal issues regarding how much the state allowed the reappraisal to increase the revenue versus the potential of a reduction in the millage and a revenue decrease. Assistant City Administrator McCandless said he learned at a recent meeting that the Department of Revenue would not have reappraisal information until November. Councilmember Clark commented it was hard to get anyone to help since Billings was in a different situation and it did not have the same impact as other communities since Billings could not float the mills. Councilmember Ulledalen noted that a charter change could be proposed to allow the City to float the mills. Discussion followed about putting it on the November 2009 municipal election. It was agreed that a community committee should be appointed to review options and whether to propose it and how.

Councilmember McCall suggested consideration of the change to the street maintenance assessment process so that commercial areas were assessed their proper share.

City Administrator Volek noted that staff was due to submit legislative priorities by the end of the month and they would be presented at the August 18 work session.

Councilmember McCall referenced the last two pages of the 2007 legislative brochure regarding philosophical support. She said the items should be reviewed to make sure they still applied.

Councilmember McCall stated it was important to put the groups together that collaborated in the past, such as the Chamber, City, and County. She suggested including hospitals, MSU-B, etc. Councilmember Ulledalen noted that Big Sky EDA hired a new executive director who was a former legislator in Colorado.

Councilmember Gaghen advised she received input from people who were frustrated with the ongoing DUI infractions and there was strong public perception of leniency. She said she felt it was not unwise to implement tougher penalties. Councilmember Ulledalen said it was a state mandate and it could be considered with other items.

Councilmember McCall stated that portions of the legislative brochure could not be finalized until just prior to the start of the legislative session. It was agreed that it was important to be united during the October MCLT conference.

Councilmember Ulledalen referenced transportation issues and said many had already been discussed.

Councilmember Ronquillo asked Ms. Volek if the City had trouble selling revenue bonds. Ms. Volek said there had not been a sale during the summer but the bond market was dynamic. Councilmember Ulledalen explained that the regular bond market functioned fine and was distorted by the media. Councilmember McCall asked if he assumed the other large cities would support that as well. Councilmember Ulledalen said Billings and Missoula addressed most of the issues. Ms. Volek said the cities would get together at the MCLT meeting.

Councilmember Ulledalen said staff had hinted that the CIP would need revision because the money did not stretch as far as needed. He said Council should consider priorities. He said a great deal of focus had been on Shiloh Road but he felt that Zimmerman Trail needed to be addressed as well. He said Commissioners were adamant about a Bench connector and if there was not support for it, the funds could be moved to another project.

The remainder of the meeting was not recorded and the minutes are based on notes.

Councilmember Ulledalen noted there were no funds left for Zimmerman Trail.

Councilmember Pitman suggested asking staff to find out how much money was left for the Bench Boulevard project and if it could be used on Zimmerman Trail.

Councilmember Ulledalen stated that strategic planning and the citizen survey would be discussed at the next meeting.

Additional Information:

None.