

# City Council Work Session

September 17, 2007  
5:30 PM  
Community Center

## ATTENDANCE:

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

ADJOURN TIME: 8:40 p.m.

## Agenda

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

- Mona Seward, 18 Maier Rd., Lockwood – opposed to sewer agreement with Billings. Thought it was an incredible cost to residence. What makes you think now is any different from when Billings rejected the original agreement’s renewal?
- Keith Broyals, 2220 Old Hardin Rd., Lockwood – Tour America RV owner. Feels the homeowners really need a sewer. If it makes sense to Billings, makes sense for Lockwood to utilize the Billings Treatment Plant and not to build a new plant.
- Tim Cramer, 245 Supuren: Lockwood Sewer & Board member. Has been a Lockwood resident for approximately 10 years. Neighbors have been waiting for a sewer, but know it’s a long way off. Best for the environment to share treatment plant. Feels 90% of Lockwood shop and work in Billings – we’re almost Billings residents.
- Ivan Andrick, – Emerald View Park owner. Built the park 25 years ago and put in sewer pipes and package thinking they would connect to sewer when available. Still waiting and still want the sewer.
- Eileen Johnson, 1033 Noblewood Dr. - Lockwood School District Superintendent. – We in the process of building a new middle school, costing \$230,000 for septic. Being able to hook up to a sewer system would have cost a great deal less.
- James Seward, 18 Maier Rd. – Most of the people you will hear from are business owners, Board members, etc., who can afford this. Poor Lockwood residents can’t afford the central system and hooking up to Billings.
- Dan Belk, 1744 Robin – Replaced septic lift pump today and would not have had to do that if there was a sewer system.
- Tom Zurbuchen: contract needs to be fair for all parties, last contract was only fair for Lockwood sewer and water board, not to the City or it’s residence. The last contract was supposed to have a “cost” attached. You can’t collect this cost twice.
- Carlotta Hecker, 3325 Dove Ave - Surveyed after last election – most residents and businesses support a sewer system. Everyone agreed Lockwood needed a sewer system.

- Mary Westwood, P.O. Box 3334 – I’m a downtown resident. I’ve been well aware of the situation in Lockwood, since I first did a story in 1974. Unplanned development makes everything expensive for Billings.
- Tony Reed, 1644 Old Hardin Rd. – works for the water and sewer district. He gets calls everyday with someone having problems with their sewer. Everyone asks when the sewer will be available.
- Don Reed, 1039 Cedar Canyon Rd. – most people are interested in system. Willing to pay for what they use. Sharing makes sense.
- Connie Wardell, – concern is that growth in Billings will use all sewer capacity; we’ll have 300,000 people in 20 years (5% growth per year). Who will pay when we get to the max. operating limit? Lockwood?
- Nancy Belk, 1744 Robin – in favor, feels it’s beneficial to both parties. Feels we need to share facilities.
- RichCoehn, 1620 6<sup>th</sup> St. W. – Manager of sewer and water district. Billings resident. Lockwood has grown tremendously. Believes Lockwood could benefit Billings.
- Merrill Walker, 1035 Palomino Pl. – district board member. Been in Lockwood for 23 years. Nothing changes except the cost, which continues to be higher. Population growth requires sewer. Don’t necessarily want to be annexed, but sharing facilities and services makes sense.

<b>TOPIC #2</b>	<b><i>Board &amp; Commission Reports</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- None

<b>TOPIC #3</b>	<b><i>Legislative Representatives Elsie Arntzen and Arlene Becker</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- Councilmember Veis introduces State Representatives Elsie Arntzen and Arlene Becker. Three Issues: Local Option Tax, Tax Increment Districts and Transportation/Infrastructure.
- Arntzen: chaired Local Government Committee. Rural and urban split caused the local option defeat. Growth areas are demanding services and facilities. Statewide tax would be better, but political reality is that new taxes won’t be supported by Governor and maybe not Legislature. More local support will help eventually. Hope you’ll talk to other Legislators.
- Councilmember Brewster: Yellowstone County rural legislators told us Resort Tax wouldn’t negatively impact them. If that’s the case, we can’t explain why the Resort Tax was so badly defeated.
- Arntzen: Consistent contact with Legislators is key and makes a better sounding board.
- Becker: Rural legislators did not support Resort Tax when they were in Helena.

- Councilmember Brewster: We're caught between local and statewide tax.
- Councilmember Stevens: only asking for permission to ask our residents what they want. What is more democratic that asking our own citizens what they want and what they are willing to pay for?
- Councilmember Ruegamer: patchwork of taxes is a garbage excuse. Wyoming has it and they do just fine. Let us ask our residents. Red Lodge doesn't send us money.
- Becker: hear lots of frustration and lots of infrastructure needs. Personally support local option but not statewide sales tax. At Legislature it became 7 cities vs. everyone else.
- Councilmember Gaghen: rural people say we should be happy to have their business, don't also collect tax from them and then not share it.
- Becker: missing the point. Point is to develop infrastructure and services for residents and visitors.
- Councilmember Boyer: taking time for Legislators to realize that we're transitioning to an urban state.
- Arntzen: agree with local control. Lots of distrust about who votes; if it's a city tax, do only city residents get to vote? Had a 28 page bill on elections to try to address this.
- Becker: how wide a tax and how wide a vote is one of the troubling issues.
- Councilmember Ulledalen: conflict that this Council feels between businesses who want the community to grow, while residents end up paying higher taxes and fees. We're growing our own opposition to further property taxes and fees that are collected primarily from residents.
- Councilmember Veis: Tax Increment – defensive stance. Discussion about 95 school mills by Veis and Brewster.
- Councilmember Jones: explains about TID and how it works
- Councilmember Gaghen: East Billings TID will be successful in future.
- City Administrator Volek: DOR problems; not doing what they say they will do. May need your help getting DOR to meet with stakeholders.
- Councilmember Boyer: need delegation to support retention of TID.
- Councilmember Ulledalen: each district has a different focus. Downtown needed parking, east end needs underground utilities and streets. Public investment multiplies private investment by 5 or 6 times.
- Arntzen: give us DOR contact information and we'll try to help
- Councilmember Veis: transportation and other infrastructure. Any help you can give is appreciated. MDT takes too long to bring projects to construction. Holding up projects that help spur millions of dollars of investment.
- Councilmember Brewster: Airport Road 11 years in planning. Each year's delay costs more in construction. Right of way acquisition is now holding up things. We own the right of way, so there's no reason for a delay.
- Councilmember Ulledalen: ICAP a problem because it's applied to all Federal program appropriations and we have to pre-fund to DOT which makes the projects unaffordable. Too difficult and expensive to work with them.
- Councilmember Clark: City built three arterial streets while the DOT is delaying projects and not building anything.
- City Administrator Volek: Explains Zimmerman Trail failure. Local office is still cooperative but their hands are tied.

- Councilmember Ulledalen: Upgrade on Rimrock Road is supposed to be done next year. Not on state’s bid list because when they assess ICAP, it puts the project over the estimate and makes the whole project subject to ICAP even though project started before ICAP was being charged.
- Arntzen: Direct conversation with DOT?
- City Administrator Volek: Yes, teleconference. Locals are working well with us. Problem is in Helena. Up front ICAP payment is a huge problem.
- Councilmember Brewster: and delays.
- Councilmember Gaghen: delays cost too, on top of ICAP.
- Councilmember Veis: Legislature view on Billings asking for TSEP money?
- Becker: TSEP program is political hot potato, but individual city applications were not a visible problem. Rural legislature makes sure that rural areas get money. Stable amount of dollars, so whether Billings gets funds probably depends on how many other cities ask for the money.
- Becker: thanks the Council for working on streets in her neighborhood.
- Arntzen: make sure you listen to the citizens.

<b>TOPIC #4</b>	<b><i>Lockwood Sewer Contract</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- Dick Larsen: Were hoping to have DEQ and City-County Health Dept. representatives here, but were not able to attend. Have their letters. 2-3 other presenters, all have material to pass out to you. Gave you a report earlier; couple of specifics to talk about. Population and growth areas of Heights and Lockwood were included in growth plan and utilities plan, dating back to 1969. Design population used in Federal grants included these areas. Environmental assessment in 1973 also included areas in Alternative 4 and Alternative 5 – all areas in plan to be served by the plant in Billings.
- Councilmember Brewster: material never discussed annexation, but Heights had to annex to get the service.
- Councilmember Stevens: annexation policy in place since at least 1972. City said it will not annex Lockwood, but the question of whether city will serve without annexation is still not resolved.
- Larsen: agreement says service area can’t be expanded without City approval, so capacity won’t be further eroded. Point of connection to still be decided by engineers. Construction standards will match City’s. No construction costs to the City. Rate study will be contracted by City, but paid for by Lockwood. Some additional definition needed here. Out of city rate and rate of return for a non-owner customer (15%).
- Councilmember Ruegamer: service area – could people opt to not connect?
- Larsen: DEQ controls this and if property is within 500’ of line and system fails, property has to connect. Annexation provision says that if 55% petition for annexation, the District will be dissolved so City doesn’t end up with Heights Water District situation. SDFs are not addressed in agreement but should be and would have to be determined by a rate study – fair and equitable. SDFs should be divided into 2 parts and the part for the plant should be paid to the City.

- Carl Peters – Chairman of District Board; four handouts. Alt 4, treatment by Billings, projected to save \$10 million capital and \$310,000 annually in operating costs. Invited residents to suggest other remedies. None received. 1998 election to form district; over 70% approved. First bond issue gained 51% approval, but needed 60% supermajority. Next one got 53% and third one was 58%. Last election was only 42% approval. State law change allows simple majority with 40% turnout, need 60% if less than 40% turnout. Map created August 2006, 1000 acre sub-district sewer collection area. Trunk would serve whole area. Need about \$10 million SID; \$6.7 million federal grant. Voters from sub-district only. Grants extended to Oct. 2008.
- Councilmember Veis: district boundaries don't include Emerald View?
- Peters: not in this sub-district, nor is the school.
- Councilmember Veis: OK with City not allowing the service area to expand?
- Larsen: agreement is for whole district, not this sub-district.
- Councilmember Clark: residents in the District boundary?
- Larsen: 128 commercial, 1531 residential, 31 trailer parks (1 has 106 units) in the water district.
- Councilmember Ulledalen: 1969 Black and Veatch study says interim facilities could be constructed, but that hasn't happened.
- Woody Woods, Morrison and Mairle – option four to cross River and use Billings plant is preferred. Analyzed eight alternatives and settled on four. Most cost effective is to connect to Billings. Others involve land acquisition for sludge disposal or discharge to River. Both are difficult to permit and expensive. Completed FONSI and there were no comments on environmental issues.
- Larsen: Kylander was supposed to attend, but couldn't. Submit letters and photographs from him.
- Carlotta Hecker. Steering committee: support funding, design and construction of system that allows the area to grow. Nitrates are high and getting higher with septic disposal. Survey after last election says that residents favor the sewer and that area needs one. Met with many residents and many have used last remaining area for drainfields. Need the sewer connections.
- Councilmember Ruegamer: how many hookups will Lockwood contribute?
- Larsen: same as number of water connections except the trailer parks could add more. 7,200 residents projected long term.
- Councilmember Brewster: a really small area will vote and get the sewer initially. Surprised that Schools aren't critical. Why doesn't the plan include the school?
- Carl Peters: this is a proposed subdistrict and after public hearing, it can be expanded.
- Woods: core system will get close to the school. Could probably have hooked up if it had been available when the septic was designed and constructed.
- Councilmember Stevens: Health Department letter says that commercial area needs sewer due to greater water use and grease in restaurants. Nitrate removal on-site will be very expensive.
- Larsen: ask to be put on the September 24<sup>th</sup> agenda. Not presently there. We need it as soon as possible.
- City Administrator Volek: Council will have to add with a 3/4 majority. We have a lengthy agenda already.

- Councilmember Ulledalen: frustrated with lack of support for local option, including Lane Larsen, who said he didn't support due to opposition from Lockwood residents. Comment?
- Hecker: wasn't aware that residents opposed local option but we shop in Billings.
- Councilmember Ulledalen: city doesn't get anything when non-residents buy from retailers, only from property taxes.
- Larsen: Lockwood pays for everything plus 15% profit. Some in Lockwood are opposed to sewer, probably means there are opponents to local option tax.
- Councilmember Boyer: agreement has to be beneficial to both parties; need future support for local option.
- Councilmember Stevens: City will lose business recruitment competitiveness over Lockwood if they have a sewer too.
- Councilmember Brewster: difficult issue. Agreed to bring this forward because Council said it would not annex Lockwood. This makes the question different than previously considered. Impact fees not part of this agreement, but if City someday implements them, the agreement needs to be flexible to allow them to be charged to Lockwood at that time.
- Councilmember Ruegamer: Stevens has good point. Lots of land available in Lockwood. Can we restrict the number of hookups?
- Larsen: can't predict hookups at this time. Board voted recently to not expand the district because it has made a commitment to Billings to serve only the established district.
- Councilmember Veis: cap the amount of wastewater we take expressed in MGD, not number of hookups.
- Councilmember Boyer: capacity?
- Al Towlerton: 26 MGD capacity. Treating 16 MGD now. Lockwood would contribute 1 MGD, so we have capacity.
- Councilmember Ruegamer: Wardell says we'll have 300,000 population in 20 years. Can we expand onsite?
- Towlerton: can expand on site but don't know the limits because discharge limits and treatment processes will change due to updated permit requirements from state. Original plan says that the land is available to double the capacity.
- Councilmember Gaghen: past growth?
- Towlerton: 1% to 1.5% per year.
- Hecker: steering committee said it wanted to explore a local option tax, so don't know where the earlier statement came from.
- Councilmember Stevens: don't like MGD limit.
- Councilmember Veis: upholding the MGD limit depends on Council at the time and we can't predict how they will respond.
- City Administrator Volek: didn't put this on the September 24th agenda because staff needs some guidance. How do you want to handle this?
- Councilmember Brewster: not enough votes to add it to the agenda.
- Councilmember Ulledalen: how do we give east end a better deal than what we're going to charge Yellowstone County Club to hook up to sewer.
- Councilmember Brewster: impact fees have to be part of the agreement.

- Councilmember Ruegamer: need a public hearing and won't vote for it if we don't. Oct. 9th is the best date and include a public hearing.
- Consensus is to put this on the Oct. 9th agenda.
- Councilmember Clark: confusion about how much SDF will be and 15% rate of return.
- Councilmember Jones: SDF for Yellowstone Country Club?
- City Administrator Volek: SDF will be based on lot size, same as everyone else.
- Councilmember Brewster: issue is that residents pay use rate plus SDF. SDF wasn't in the original agreement.
- Larsen: SDF is in the new agreement.

<b>TOPIC#5</b>	<b><i>Handicapped Parking Signage</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- City Administrator Volek: not necessary at this time because complainant didn't come back to me to discuss.
- Councilmember Stevens: someone at airport read my newsletter on the subject, read statute and not clear. Suggested go to Brent.
- Brent Brooks: no contact.
- Councilmember Stevens: will send the email to Brent
- City Administrator Volek: will report in a future Friday packet.

<b>TOPIC #6</b>	<b><i>Zoning Text Amendments (Neighborhood Services; Accessory Dwelling Units; Minimum Property Standards)</i></b>
<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- Candi Beaudry: text amendment in the Friday packet. Short amendment. Would allow things like Poly Food Basket to exist in a residential zone.
- Councilmember Clark: allow fuel sales?
- Beaudry: No. Can't exceed 3000 sq. ft., has lighting standards, trash receptacles screening, etc., but no fuel sales. 1500 foot separation. Would allow multiple businesses in one building, but not multiple buildings.
- Councilmember Stevens: require off-street parking?
- Beaudry: Yes, but the amount is greatly reduced from standard requirements. Without the standard, customers will park in front of homes and that is what starts the complaints. Also limits truck deliveries to stores.
- Councilmember Gaghen: are present neighborhood stores grandfathered?
- Beaudry: Yes, but if damaged over 50% of their value, could not rebuild. 1 owner was shaken by that information.
- Councilmember Ulledalen: where does 3000 sq. ft. come from?
- Beaudry: Residential Professional standard and is considered an acceptable standard.
- Councilmember Boyer: signage?

- Beaudry: Special review gives Council lots more discretion than if they were allowed by Councilmember right. Allows one illuminated wall sign of 24 sq. ft. and Council could modify that as part of Special Review.
- Councilmember Clark: what restricts on-premise consumption?
- Beaudry: would only allow beer/liquor without fuel sales. Still requires Special Review and conditions could be crafted to restrict uses and changes of use. Retail uses only.
- Councilmember Ulledalen: would work well in a redevelopment area and also as part of a neo-traditional development.
- Beaudry: McCall has a store, due to PUD zoning.
- Councilmember Ulledalen: struggling with 3,000 sq. ft. because small footprints may make it non-viable.
- Beaudry: most small markets are less than 3,000 sq. ft., such as Poet Street Market, Poly Food basket, etc. Lots of this ordinance is lifted from other cities.
- Councilmember Jones: want something that prevents alcohol sales, or at least limits it to a small % of the use. Same for tobacco sales. Percentage of sales or floor space. Prefer floor space because it's more objective and easier to enforce.
- Beaudry: OK, will revise and send to Zoning Commission for hearing and recommendation to Council.
- Beaudry: accessory dwelling units. Came out of the 2003 Growth Policy that calls for more housing choices in neighborhoods. Allow 1 accessory dwelling unit, at least one unit must be owner occupied, can't house more than 2 people in accessory unit and can't be more than 800 sq. ft. This means this is a studio apt. over garages, small accessory house, etc.
- Councilmember Boyer: what if this conflicts with covenants?
- Beaudry: stricter of the regulations apply, but covenants must be privately enforced.
- Councilmember Boyer: why do we need this? Problems ahead.
- Beaudry: need more rental units, changing family dynamics, etc.
- Clark: why now? Haven't heard any citizen demands for this.
- Beaudry: mostly from staff
- Councilmember Stevens: in right places, this will work well.
- Beaudry: In North Elevation and North Park neighborhoods, that have existing rental units and under present zoning, resale and loans may be more difficult.
- Councilmember Boyer: think there will be a negative outcry from neighborhoods.
- Beaudry: this regulation has lots of restrictions.
- Councilmember Brewster: I like the idea. Maybe don't allow in all zoning districts.
- Councilmember Ulledalen: deal with lots of aging people and housing options are limited for elderly due to costs and availability.
- Councilmember Ronquillo: OK as long as one unit is owner occupied.
- Beaudry: accessory dwelling units and neighborhood commercial uses will go to Zoning Commission in November.
- Beaudry: Minimum standards; goes beyond nuisance code, which focuses on public health and safety. Nicole did lots of research. State law allows cities to regulate some aesthetics. 10 day notice, abate nuisance with contractor if owner doesn't respond during the 10 days. This regulation might penalize low income property owners. Map showing poor conditions in housing, mostly in low income areas. Unintended consequences.



Have only two code enforcement people. Will need more people or redistribute work load. Also need to have Legal take a close look at it.

- Councilmember Ronquillo: Jackson Street house that is burned but boarded. Would this ordinance allow us to deal with this?
- Beaudry: already have that ability under nuisance or dangerous building code.
- City Administrator Volek: only deals with owner occupied. KC Mo. deals with rental units and it's a big program. Could amend existing codes to set minimum standards when property affects property values of surrounding properties.
- Councilmember Boyer: I brought this forward. Get more complaints on this than anything else. Shady Lane house is a mess. Impacts neighbors' ability to sell their homes. Another instance of divorce that stops house construction.
- Beaudry: knew those were the problems. May be able to more cleanly deal with this through building code or nuisance code.
- Councilmember Stevens: want something like this, but don't know if this is the right way. "The Tipping Point" (book) describes how little differences can make a difference in a neighborhood. Broken window syndrome.
- Beaudry: CDBG housing rehab and Rebuilding Together help with this kind of problem.
- Councilmember Stevens: how do people find out about these programs.
- Beaudry: most social organizations know about our programs, but some people don't have outside contacts, such as with social services.
- Councilmember Ulledalen: dilemma: nice homes that don't water lawns in the middle of summer would violate this.
- Councilmember Boyer: there has to be a middle ground that allows us to catch the bad ones.
- City Administrator Volek: Amend building code on low end, create rental standards ordinance. on the high end or do the minimum standards owner program that is proposed here.
- Councilmember Ulledalen: impact on renters?
- Connie Wardell: if too strict on landlords, will tear down the units or close them to renters.
- Councilmember Boyer: would still like to deal with structures only, not other property features such as fences, lawns, driveways, etc.
- Beaudry: Legal needs to do more work on this but if Council wants this, need to look at priorities and whether this is one and if you're willing to fund its enforcement.
- Council: send back to Legal, but focus on finishing incomplete construction.
- Councilmember Stevens: comments from people about low standards on landscaping.
- Councilmember Clark: new areas have it but old areas do not have much. If redeveloped, they have to meet new standards.
- Beaudry: outlines landscaping standards.
- Councilmember Stevens: Angry Hanks supposed to do something?
- Beaudry: don't know but I'll check.
- Councilmember Ulledalen: does Billings require green belts around everything? Natural Resources guy says that we should not require greenscape because it's bad for the environment.
- Discussion about whether we have high enough design and improvement standards.

<b>TOPIC #7</b>	<b><i>End of Year Meetings</i></b>
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<b>PRESENTER</b>	
<b>NOTES/OUTCOME</b>	

- City Administrator Volek: Agenda for September 24<sup>th</sup> Council Meeting and end of year meetings. Normally have work sessions on 3<sup>rd</sup> and 17<sup>th</sup>. Business sessions on 10<sup>th</sup> and 24<sup>th</sup>. Work session on 3<sup>rd</sup>, business sessions on 10<sup>th</sup> and 17<sup>th</sup>? Consensus – YES. No meetings on 12/24 and 12/31? YES. 9-24 agenda has 13 public hearings. Have advertised public hearings, but city initiated changes on downtown signage and e-signs could be delayed. Hearing will have to be opened, but could be continued. Outlines everything that will likely be contentious and long hearings, such as 4-plex at 13<sup>th</sup> and Lewis. Consensus – OK  
 Need to add a September 24<sup>th</sup> agenda item: Unified Planning Work Program. Consensus – OK
- Councilmember Boyer: Wells’ letter about litigation bar us from dealing with the Gundlach subdivision?
- Brent Brooks: civil case only, and it’s not linked to the plat.
- City Administrator Volek: Plat approval deadline is September 25th.
- Councilmember Stevens: deer in headlights look from Legislators; prepare written material that could be shared with them before meeting so that they are more prepared for our meetings.

<b>Additional Information:</b>
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- None