

**BUDGET COMMITTEE OF THE WHOLE
CITY COUNCIL CHAMBERS
140 WEST PINE STREET
MISSOULA MONTANA
September 28, 2010, 11:05am**

Members present: Ed Childers, President; Stacy Rye, Marilyn Marler; Renee Mitchell; Pam Walzer; Jason Wiener; Dick Haines; Lyn Hellegaard; Roy Housemen; Dave Strohmaier; and Jon Wilkins; Bob Jaffe.

Others present: Jim Nugent, Dan Jordan, John Hendrickson, Brentt Ramharter, Marty Rehbein, Dee Andersen, Gary Bakke, Susan Ash, and Roy Koegen by conference call.

I. Administrative Business

A. Approve committee minutes dated: [September 8, 2010](#) approved as submitted.

B. Public Comment on items not listed on the agenda-None

II. Regular Agenda

A. Resolutions amending protest tallies for Road District 1 and Park District 1. ([memo](#)) –Regular Agenda (Bruce Bender) (Referred to committee: 09/27/2010) **HELD IN COMMITTEE FOR DISCUSSION 10/13/10**

Links for Discussion:

- [Special Districts Final Protests](#)
- [Resolution Park District 1](#)
- [Resolution Road District 1](#)
- [FY11 Adopted Budget](#)

Bruce Bender, Chief Administrative Officer, said in summary that we received 1800 protests and 1400 were valid. He has never seen this number of protests before and more staff time was needed to process them.

Dan Jordan, Public Works, reviewed a [PowerPoint](#) presentation of the final protest numbers and the validation process. He said his staff used the following four sources of information to verify ownership:

- City Special Districts Assessment Calculator created from downloads from the Department of Revenue.
- Orion Data Portal –Department of Revenue application that has latest ownership information.
- County Clerk and Recorder’s recorded document website.
- Montana Secretary of State Business Entity Search.

He showed several examples of the protest forms and described how each form was/was not validated.

Roy Koegen, Koegen and Edwards, was available by conference call to answer questions.

Renee Mitchell expressed frustration on how several people she knew did not fill the forms out correctly and their protests were not counted. She asked for ways to get them validated now. She said the final numbers will be incorrect without them.

Mr. Jordan said if a property deed was transferred yet not recorded, then his staff would have no way of knowing who actually owned that property.

Mr. Koegen said, it sounds like the city did more than required by law. Property transfers ownership all the time and a government must rely on their County and Department of Revenue records. If you wanted to be more cautious and count the invalid protests in the total it would still only reflect a little more than 10%.

Mr. Bender discussed the difficult commercial protests

Lynn Hellegaard commented on the property owners who were denied due process. She said the resolution states that all properties are going to be assessed within the district, but on 8/18/2010 the Administration decided that the currently un-assessed properties would not be charged, but can be added in and assessed later. So they have no recourse to protest being that their properties were valued at zero. Her suggestion is to rewrite the original resolution to exclude the un-assessed properties and later when we find out how/what to assess them, amend the resolution giving them a right to protest. But then how would they reach the 50% if the un-assessed were excluded. How can we deal with this?

Mr. Koegen said it sounds like they could have protested the formation of the district; they were not counted in the protest of the assessment because they didn't have one.

Ms. Hellegaard said they weren't counted in the 50% so we would have never gotten there.

Mr. Bender said the Mayor had sent out a letter in late August that stating that the Administration had determined that we could not assess them.

Mr. Koegen said there were two different things; they could protest the formation of the district and they could protest the method of assessment. They would count toward the formation of the district that is correct. The way the statutes works is, that the City needs to determine the method of assessment, then you count your protests based upon that. Then, it also gives you the flexibility to change the method of assessment to meet various needs as the years go on. The method of assessment can vary from year to year and the statutes contemplates that.

Ms. Hellegaard said but you can't protest the assessment once the district is formed, we could double or quadruple it and no one has the right to protest even those properties valued at zero. She doesn't think they have been given due process.

Mr. Koegen said next year you could change the method of assessment and assess everyone-even those who could not protest the formation of the district and that is up to the Council as to how they want to handle it.

Dick Haines referred to Montana State Code state code 7-11-108 section 5d. He expressed concerns that the process was unlawful.

Mr. Koegen said he would like to look at that statute and said he can email Mr. Bender with an answer.

Mr. Bender explained that what Mr. Haines is referring to, is that after speaking with the DOR and Mr. Koegen, the Administration made the determination that we could not assess the value. Mr. Haines feels the Council is the body that should have made that determination.

Mr. Koegen said the DOR sets value. For the parcels that did not have a taxable value, the City was going to determine the value based on a methodology that the DOR used and the DOR said no it's not legal and you can't do that.

Mr. Wilkins said since they didn't have a taxable value, they didn't have a protest and this concerns him.

Mr. Koegen said he understands the concern and thinks the statute contemplated that.

Mr. Childers said we have two resolutions on the floor that we will not consider today as they are not complete. He suggested continuing the conversation on October 13, 2010 at 11:00am and has Mr. Koegen available by telephone.

Mr. Houseman asked if there was a new method in place for handling future protests.

Mr. Bender said they discussed some different tracking methods and its still being worked out.

Ms. Mitchell wanted to know how she can validate her neighbor's protests.

Public comment:

John Hendrickson, MBIA, asked what the assessed value is on 10.22%.

Mr. Bender said that is the assessed value.

Mr. Haines asked if the conversation that occurred with the DOR was by email or phone.

Mr. Bender said it happened over 3 phone conversations.

Mr. Haines requested something in writing that verified the DOR's response. He questions weather this is true.

Bob Jaffe said he his issue was not with the tallies or protests, as it seems pointless to continue to debate a protest that was not even close. What he does feel is relevant is the the only opportunity for the tax-exempt properties to protest was at the formulation of the district. He said your protest is based on your percentage of value, so you are entitled to protest, but the weight of the protest counts as zero. That is the most questionable piece to him.

Mr. Bender said it's the way the state law is written, you still have the right to protest. Where the protest amount comes in is when you make your decision, if it's less than 50% the Council gets to decide weather to create the district.

III. Held in committee

- A. Update on the quarterly budget report ([memo](#)).—Regular Agenda (Lyn Hellegaard) (Referred to committee: 04/26/10)
- B. Review and make recommendations on a proposal to create two City-wide maintenance districts for the purpose of funding a portion of the costs to provide public street and park maintenance ([memo](#)).—Regular Agenda (Carla Krause) (Returned from council floor: 06/21/10) (*Tabled 06/23/2010*)

IV. Adjournment

The meeting adjourned at 12:05pm

Respectfully submitted,

Dee Andersen

Administrative Secretary