

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
June 22, 2009

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Gaghen gave the invocation.

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Brewster, Veis, Ruegamer, McCall, Ulledalen, Astle, Clark

MINUTES – June 8, 2009, approved as presented

COURTESIES

- Army Community Covenant Signing Ceremony – POSTPONED.
- Councilmember Pitman announced that his son, Joseph Pitman, and Planning Director, Candi Beaudry, were both celebrating their birthdays.

PROCLAMATIONS

- Juvenile Arthritis Awareness Month – July 2009
- Montana State Rally Days – June 25, 26, 27, 2009

ADMINISTRATOR REPORTS – Tina Volek

- Ms. Volek referenced the staff report received in the Friday packet with the Mayor's recommendation to appoint Marieanne Hanser to the Yellowstone Conservation District Board. She said the report was also in the ex-parte notebook in the back of the room.
- Ms. Volek requested that the amended resolution for SILMD 307 be added to the consent agenda. She said the original resolution of intent to create approved on 6/8/09 included an incorrect date. She said a copy of the staff report and resolution were included in the Friday packet and filed in the ex-parte notebook in the back of the room.
- Ms. Volek asked Council to remove Item 1P from the Consent Agenda and place it after Item 5 of the Regular Agenda.
- Ms. Volek referenced Item 4 and said the correct variance number was CC-09-02 and not CC-09-09 as indicated on the agenda.
- Ms. Volek advised there would be no work session held on June 29th because it was the 5th Monday of the month, and work sessions were held twice a month on the 1st and 3rd Mondays.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Item: 1 ONLY.
Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)

The public comment period was opened. There were no speakers, and the public comment period was closed.

Councilmember Veis moved to add the Resolution of Intent to Create SILMD 307 as Item S of the Consent Agenda, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

CONSENT AGENDA:

1. A. Mayor Tussing recommends that Council confirm the following appointment:

| | Name | Board/Commission | Term | |
|----|------------------|---|----------|----------|
| | | | Begins | Ends |
| 1. | Marieanne Hanser | Yellowstone Conservation District Board | 07/01/09 | 06/30/12 |

B. Bid Awards:

(1) W.O. 09-07, Water Treatment Facility Chemical Building MCC Replacement 2009. Recommend Ace Electric; \$42,390.

(2) Passenger Facility Charge Funded Terminal Emergency Generator Replacement Project. Recommend General Contractors; \$861,781.

(3) Airport Terminal Building Roof Replacement Project. (All bids rejected on 5/26/09). Recommend Commercial Roofing; \$157,565.

C. Contract with Montana Department of Transportation for FY 2010 Operating Assistance through the Federal Transit Administration Section 5316 JARC Grant Program, for paratransit operating assistance; \$120,096.50 grant revenue.

D. Contract with Montana Department of Transportation for FY 2010 Operating Assistance through the Federal Transit Administration, Section 5317 New Freedom Grant Program, for paratransit operating assistance; \$60,001 grant revenue.

E. Contract with Montana Department of Transportation for Paratransit Operating Assistance through the Federal Transit Administration TransADE Grant Program; \$60,098.82 grant revenue.

F. Annual Agreements for Landfill Use with Bighorn County, Carbon County, Musselshell County, Stillwater County, Treasure County, Town of Columbus, Town of Fromberg, Town of Hysham, Town of Bridger, Town of Joliet, City of Laurel, and City of Red Lodge (7/1/09 – 6/30/10); and **3-year Landfill Use Agreement** with Yellowstone County (7/1/09 – 6/30/12, with annual amendments).

G. Amendment No. 1, W.O. 04-26, Zone 4 Reservoir and Facilities,
Professional Services Contract, HDR Engineering, Inc.; \$594,700.

H. Acknowledge receipt of petition to vacate a portion of Clark Avenue within the 2300 block; Paul and Renae Parkins, owners; and setting a public hearing date of July 13, 2009.

I. Street Closure:

(1) The Billings Depot 100-year celebration, 7/10/09–7/12/09, 7:00 a.m. to 8:00 p.m., closure of the south lane of Montana Avenue from North 25th Street to the Underpass for train rides from Thomas the Train™.

(2) Carpet One Relay for Life Fundraiser, 6/27/09, 11:00 a.m. to 4:00 p.m.; Canyon Drive east of 24th Street West between Carpet One on the south side of Canyon Drive and Connelly's, Big Horn Fly & Tackle, and Badge West Awards on the north side of Canyon Drive.

J. Acceptance of Donation to the Billings Police Department Crime Prevention Center from the Breakfast Exchange Club; \$1,000.

K. Approval of the Energy Efficiency & Conservation Block Grant Application and Energy Efficiency & Conservation Strategy; up to \$1,003,000 in funding.

L. Approval of hourly rate increase with Guardian Security for Library guard service from \$16.25 to \$16.75; 3-year agreement approved on 6/23/08 included annual hourly rate negotiation.

M. Resolution #09-18839 closing Special Improvement/Sidewalk Bond Debt Funds to the SID Revolving Fund - \$10,200.

N. Resolution #09-18840 rescinding Tax Incentive for RSP Holding, LLC, Carrie's Quilts and Iron located at 1737 King Avenue West; approved by Council in November 2008.

O. Amended Plat of Dedicated Park, Block 2, Twin Oaks Subdivision, connecting Sioux Lane from Whitetail Subdivision to Twin Oaks Drive, \$2,055 to PRPL.

P. Preliminary Plat of Mont Vista Subdivision; 122 lots on approximately 63.88 acres of land generally located on the southeast corner of the intersection of Rimrock Road and 54th Street West; conditional approval of the plat and adoption of the Findings of Fact; Krutzfeldt Ranch, LLC, applicant; C & H Engineering and Land Design, Inc., agents.

Q. Cancellation of Checks and Warrants, \$6,122.78

R. Bills and Payroll

- (1) May 22, 2009
- (2) May 29, 2009

S. Amended Resolution of Intent to Create #09-18841 for SILMD 307-Shiloh Road from Rimrock Road to Pierce Parkway.

(Action: approval or disapproval of Consent Agenda)

Councilmember Pitman separated Item L. Councilmember Veis separated Item P. Councilmember Ruegamer moved for approval of the Consent Agenda excluding Items L and P, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Ruegamer moved for approval of Item L, seconded by Councilmember Brewster. Councilmember Pitman asked if the security guard for the Library was still needed since the Police Officer had been hired to patrol downtown. City Administrator Volek advised the security guard patrolled around the library building, inside the library building, and after hours to ensure the building's integrity. On a voice vote, the motion was unanimously approved.

Councilmember Veis moved to have Item P moved to the Regular Agenda as Item 6, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #09-18842 APPROVING AND ADOPTING FOURTH QUARTER BUDGET AMENDMENTS FOR FISCAL YEAR 2008/2009. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no staff presentation, but staff was available for questions. The public hearing was opened. There were no speakers, and the public hearing was closed.

Councilmember Veis moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION #09-18843 EXPANDING DOWNTOWN BUSINESS IMPROVEMENT DISTRICT NO. 0001 to include the new MET Transfer Center located at 2nd Avenue North and North 25th for an estimated annual assessment of \$2,645. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no staff presentation, but staff was available for questions. The public hearing was opened. There were no speakers, and the public hearing was closed.

Councilmember Brewster moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #CC-09-02: A variance from Section 1208(h)(5) pertaining to the number of curb cuts

allowed for property located on Lot 1-A-1, Block 2 of Southgate Subdivision, 1st Filing; Mark Rite Lines Holding Company, LLC, owner and petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no staff presentation, but staff was available for questions. The public hearing was opened. There were no speakers, and the public hearing was closed.

Councilmember Pitman moved for approval, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #851: A zone change from Residential 9600 and Public to Planned Development with underlying zoning districts of Residential 9600, Residential 7000, Residential 7000 Restricted, Residential 6000, Residential Multi-Family Restricted, Residential Multi-Family, and Public on a 60.4 acre parcel of land described as Tracts 1 and 2 of C/S 2054 with the exception of 4.29 acres in the northwest corner of Tract 1; generally located on the southeast corner of the intersection of Rimrock Road and 54th Street West. Krutzfeldt Ranch, LLC, owner; William Krutzfeldt, agent. Zoning Commission recommends approval and adoption of the 12 Zoning Commission Determinations. (Action: approval or disapproval of Zoning Commission recommendation.) Zoning Coordinator Nicole Cromwell advised the item was a resubmitted zone change. She said it was a Planned Development, so it was a specialized zoning district developed in partnership with the developer, Planning Division, Zoning Commission, and surrounding properties. She said a pre-application meeting was held in March prior to the re-application on April 6; and subsequent to April 6, a preliminary meeting was held with city staff, the applicant and agent, and all property owners within 300 feet, as well as representatives from Yellowstone Club Estates Subdivision. Ms. Cromwell began her PowerPoint presentation showing the location of the property at the intersection of Rimrock Road and 54th Street West and describing the surrounding properties. She said the property was annexed in 2006 and included a one-acre park that was dedicated a number of years ago as part of the Yerger Heights Subdivision. She said there was a proposed parkland swap in process between the City and the applicant. Ms. Cromwell showed an area at the intersection of 54th and Rimrock that was not included in the Planned Development zone change but included in the subdivision preliminary plat. She said it would remain Residential 9600; but sometime in the future the applicant or a subsequent owner could apply for another zone change to either amend the Planned Development zone or to re-zone it to another zoning district. She said the average density on the 60-acre parcel was planned to be 5.4 dwelling units per acre, and there would be a mixture of land uses including higher density multi-family dwellings in the southeast corner, single family only zoning in the north and west central portions, and patio home zoning to the west. She said there was no commercial zoning proposed. Ms. Cromwell said there was significant wildlife and tree habitat on the property that would be preserved through the zoning and subdivision. Ms. Cromwell advised the Zoning Commission conducted a public hearing and was recommending approval. She said there were existing and planned city services available for the subdivision, and the surrounding neighborhood was involved in the plan redesign.

The public hearing was opened.

- **Stacy Robinson** said he was a landscape architect with Land Design Architects. He said he had been working with the applicant for the last six months on the re-design. He said there was great opportunity for a linear open space along the Cove Ditch and a central neighborhood park. Mr. Robinson said there was a desire to provide connectivity to existing and future development in the area. He said the Heritage Trail was currently being built along Rimrock Road; and Cottonwood Park and the school parcel were adjacent to the west. Mr. Robinson said the parkland dedication made up 13.89 percent of the development. He said considering the open space being held by the developer, the percentage would bump up to 22 percent. He said there would be hard surface trails to the south and to the center and more natural trails through the nature park area.

Councilmember Ulledalen commented that council had heard a more extensive presentation a couple of months before. He said he was pleased to see the trees had been saved and complimented Mr. Robinson on the job that had been done.

- **Dan Mazel, 2811 Helen Lane**, said he lived at the very top center of the new subdivision on the other side of the ditch. Mr. Mazel said everyone had pulled together, was on the same page, and everyone was excited about the project. He said one of the goals was to save the trees, and everyone worked together to make it happen. Mr. Mazel asked the Council to support the project.
- **Joe White, Billings, MT**, said he wanted to comment on the west end of Billings. He said for years the city had needed a master plan. He wanted to make sure there was sufficient area for water fowl. He said he had two Mallards in his roadway this month. (Parts of Mr. White's testimony were inaudible.)
- **Sterling Starr, 3713 Tommy Armour**, said he wanted to add to Mr. Mazel's comments. He said what had happened was a good example of what should happen in our City. He said after the initial rejection, the developer invited several representatives from the surrounding subdivisions to meet with him and offer ideas for what would be appropriate. He said Mr. Krutzfeldt took all of the ideas to heart and hired a landscape architect to apply them. Mr. Starr said an excellent job was done at reflecting what the community had in mind. He asked the Council to support the plan.

There were no other speakers, and the public hearing was closed. Councilmember Gaghen said this project was a good example of how worthwhile community conversation worked and complimented everyone on the success of the project.

Councilmember Gaghen moved for approval, seconded by Councilmember McCall. Councilmember McCall said she would like to compliment Mr. Krutzfeldt, Mr. Llewellyn, and the rest of the representatives in the community on a well-done project. On a voice vote, the motion was unanimously approved.

6. Preliminary Plat of Mont Vista Subdivision; 122 lots on approximately 63.88 acres of land generally located on the southeast corner of the intersection of

Rimrock Road and 54th Street West; conditional approval of the plat and adoption of the Findings of Fact; Krutzfeldt Ranch, LLC, applicant; C & H Engineering and Land Design, Inc., agents. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised the item did not require a public hearing because it had been moved from the Consent Agenda. She said there would be no staff presentation, but staff was available for questions.

Councilmember Ronquillo moved for approval, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #855: A zone change from Controlled Industrial to Central Business District on Lots 18-24, Billings Original Town, located at 2123 1st Avenue North; Robert D. Schaak, applicant; Jay Shearer, agent. Zoning Commission recommends approval and adoption of the 12 Zoning Commission Determinations. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator Nicole Cromwell began her PowerPoint presentation showing the location of the subject property and explaining the zoning and uses of the surrounding properties. She said the boundary for the Central Business District zoning was determined by a previous Council-initiated zone change in 1985 when the Central Business District zone was expanded from 20 city blocks to over 70 city blocks. Ms. Cromwell said the current application was based on difficulties the existing businesses were having complying with the site development regulations and other types of regulations that applied in Controlled Industrial zoning but not in Central Business District zoning; primarily off-street parking requirements and site development requirements for landscaping, pavement, etc. when doing any type of change of use or remodeling of a building. Ms. Cromwell said the Zoning Commission was recommending approval based on the 12 criteria for zoning. She said the proposed zoning was compatible with the existing zoning in the surrounding neighborhoods and supported infill, improvement of remaining land, and expansion of the existing facility. She said the Billings Industrial Revitalization District (BIRD) testified in support at the Zoning Commission hearing. Ms. Cromwell pointed out the boundary of the East Billings Tax Increment Finance District and said next month Council would see the master plan for the area that would include recommendations on zoning, land uses, financing, infrastructure, etc. She said the proposed small zone change was not considered significant enough to upset the master plan.

The public hearing was opened.

- **Jay Shearer, 505 Rimrock**, said he was the registered agent for the zone change and also one of the partners with Yellowstone Valley Brewing Company. Mr. Shearer said they started the brewery in 1996 and when they rented the building, it was an empty warehouse. He said they had since made some major improvements and incurred SID improvements for curb and sidewalk. Mr. Shearer thanked the Planning Department for making a very thorough presentation of their request. He added there were three other microbreweries within six blocks west of them, so they were not a significantly different business than some already in the Central Business District. Mr. Shearer said their public

retail operation ended at 8:00 every night because they operated under a brewer's license and not a liquor license. He said their hours of impact for retail traffic and off-street parking use was from 4:00 p.m. until 8:00 p.m.

- **Lee Stadtmiller, 2502 Howard Avenue**, said he was a relative of a partner of the brewery, and it was his job to talk to every business and resident within 300 feet of the brewery. He said he received no negative comments from anyone about the brewery.
- **Dennis Cumin, 1712 1st Avenue North**, asked what the master plan was since they were already making amendments to it. Mayor Tussing said they had not seen the master plan. Mr. Cumin asked how amendments could be made to it if it had not been seen. Mayor Tussing said they were not amending the master plan and were just reviewing a proposed zone change. Mr. Cumin said it should be in the master plan and that was why he was there. He said it should not be done before the master plan and if that were the case, he and anyone else with special interests should apply now and get it before the master plan. Mr. Cumin said he would like to see the BIRD district proceed and he had nothing against the brewery, as he patronized it, but would like to see the Council finalize the master plan before they made changes. Mayor Tussing advised Mr. Cumin that Council had no control over when people submitted zone changes, and they had to hear them according to the rules that applied. He said he understood what Mr. Cumin was saying, but they could not tell people they had to wait until BIRD gave them their master plan. Mr. Cumin said he felt the other businesses had equal rights, too; and asked where the parking for the brewery would come from. Ms. Cromwell advised the brewery had three off-street parking spaces currently, and they had not received any complaints from any of the surrounding property owners about the on-street parking. Councilmember Ulledalen advised that Mr. Cumin would not be precluded from requesting a similar request for his property. Mr. Cumin said he did not have a similar request because he had industrial property, and he was trying to protect it. He said if other property in the area was changed to Central Business District and it bordered Industrial Commercial, it would be a conflict. He said spot zoning in the BIRD district would really mess it up.

There were no other speakers, and the public hearing was closed.

Councilmember Clark moved for approval, seconded by Councilmember Astle. Councilmember Veis advised he had met with the property owners to discuss the request in general. He said he could not imagine that anything that they talked about at that meeting was any different than what was talked about at the public neighborhood meeting. Councilmember Gaghen said she attended the public neighborhood meeting, and she was the only one there other than the partners. She said it was apparent that there was no resistance from anyone in the surrounding neighborhood. Councilmember McCall asked Councilmember Veis if there were any negative views expressed during the meeting he attended. Councilmember Veis said he had met with the partners to discuss what they were doing and to answer questions about the process but not with anyone else. Councilmember Pitman said he had a conversation with Mr. Stadtmiller

earlier, and Mr. Stadtmiller had told him the same thing he had testified about that evening. On a voice vote, the motion was unanimously approved.

8. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.
(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

The public comment period was opened.

- **Joe White, Billings, MT**, said the new MET Bus Transfer Center had electrical problems. (The remainder of Mr. White's testimony was inaudible.)
- **Kipp Gjerde, 2504 Rancho Road**, said he was the vice chair of the Billings Energy Conservation Commission. He said the State Department of Labor and Industry was considering adopting the 2009 International Energy Conservation Code, which would govern new buildings in the state. He said there would be a meeting on June 24th in Helena on the topic. Mr. Gjerde said the Montana Energy Code Project was a group that had looked at amendments to the code to better reflect the climate and maximize energy savings and economic benefits such as increasing wall R-value to 25, ceilings to R49, insulating basement walls to R19, tighter building sealing, and lower tests in mechanical ventilation to preserve indoor air quality. He said it would add about \$4,260 to the cost of a 1,600 square foot house and provide a homeowner approximately \$335 a year in savings. Mr. Gjerde said the Commission recommended by a 9-0 vote to support the amendments, and they were recommending that Council support the adoption of the new code and the amendments.

Councilmember Ulledalen asked Mr. Gjerde to breakdown the specifics in practical terms. Mr. Gjerde said R20 to 25 would be a 2 x 6 wall with a good sheathing on the outside and insulated. He said R40 in ceilings would be increased to R49. He said basement walls of R19 would probably be a 2 x 4 wall with approximately 4 inches of insulation. He said the issue that gave them the most angst was blower testing. He said if there were good building inspectors with time and resources to make sure buildings were sealed, blower testing may not be needed; but given the workload that building inspectors had, blower testing would be a good idea. Councilmember Ronquillo commented that he used to do the energy audits for MDU, and when homes were sealed almost airtight, carbon dioxide fumes could be drawn back into the homes without outside combustion air. He said fresh air was necessary. He said they also put inserts on the water line to restrict the flow of water; and when inspecting basements or crawl spaces, they would advise the homeowner to either insulate the surrounding or insulate the floor. Councilmember Ronquillo said the most important item would be to make sure there was some type of combustion air brought into the homes. Mr. Gjerde said the amendment talked a lot about air-to-air heat exchangers. He said he was not an expert, but he thought air-to-air heat exchangers had to do with conditioned air. He said if combustion air was not addressed in the code, it should be. Councilmember

Ronquillo said it could also be called tempered air where they cut a hole in the cold air return and bring it in throughout the house. He said the outside combustion air was where they had the problems because people would plug the combustion air off during the winter months to keep the cold out. Councilmember Ronquillo said he thought they were on the right track, but it needed to be stipulated that combustion air needed to be brought in.

Councilmember Astle asked Mr. Gjerde to confirm the amount of return on investment per year. Mr. Gjerde said the group calculated \$335 per year, or an 8% return on investment. Councilmember Astle asked if they had considered the approximate 6% interest rate that would be charged on the \$4,260 by the lender. Mayor Tussing said he thought that the \$335 return on investment factored in the tax incentives the homeowner would receive for complying with the standards. Mr. Gjerde said the reference to the available tax credit only said it would significantly improve the figures. He told Councilmember Astle he did not see anything on the interest rate, but he could get back to him on it.

Mayor Tussing asked if the Council was prepared to take any action that evening. Councilmember Ulledalen said he did not feel there was any way they could take action at that point in time. He said he felt there was a lot of merit to what Mr. Gjerde presented, but there was not enough time to hear from the community. Councilmember McCall agreed and said they needed to wait until they could further review the information.

City Administrator Volek pointed out that, if the State approved the plan, the City Council would be asked in the future to consider adopting the same code for the City's use. She said there was an item on that evening's agenda for approval of the Energy Efficiency and Conservation Block Grant Application that included training for staff to administer the new code. Mayor Tussing asked if the City would have a choice if the State adopted the code. Planning Director Candi Beaudry advised the state was considering adopting the 2009 Energy Code and if they did, the City of Billings would have to adopt it and there would be no opportunities to modify it. Councilmember Ulledalen said he was concerned it could be contrary to affordable housing initiatives. He said there was a lot of merit in what Mr. Gjerde presented, but he thought they could not take action that evening to make a recommendation without broader input from the community. Ms. Beaudry advised Council should address the State on whether they should adopt it or not. She said the meeting in Helena was scheduled for June 24th. Councilmember Clark asked if the State paid for the training of the inspectors. Ms. Beaudry said it did not but the State would allow charging for the permits that would support the program. Councilmember Clark advised the City already charged for the permits. Ms. Beaudry said that was correct. Ms. Beaudry said they had been told through the International Code Council that a household could expect a 15% savings over the 2006 Energy Code. She said the City would be going from the 2003 Code to the 2009 Code, so the savings would be greater. She said studies had been done expecting a 15% energy conservation savings. Councilmember Ulledalen asked Ms. Beaudry if she had any idea how much construction had already been done using the codes. Ms. Beaudry said she did not. Councilmember Ronquillo said it would be hard for anyone to say what the savings would be because of the price

fluctuations of natural gas, electricity, and water. Councilmember Brewster said he would like to see what market was used to calculate rates because they could be using California market rates. Councilmember Gaghen said they needed to recognize the effort the Conservation Commission put into the project, and it was unfortunate that the timeline was so tight. She said it would be too cumbersome to do anything without more input.

There were no other speakers, and the public comment period was closed.

Council Initiatives

- **Councilmember Astle** asked for an explanation of the two lawsuits referenced in an e-mail earlier that day involving Mr. Kevin Nelson. Attorney Brooks advised that Mr. Nelson was challenging the way the Council formed the two urban renewal plans and the tax increment financing components of the plans. He advised Mr. Nelson had filed complaints on similar issues in the past not only against the City but also the Department of Revenue, and the Legal Department was currently reviewing the complaints. Attorney Brooks said Mr. Nelson's original complaint against the City filed a couple months ago was dismissed by the District Court, and Mr. Nelson had appealed the dismissal to the Supreme Court. He said Mr. Nelson was representing himself.
- **Councilmember Ronquillo** complimented the staff responsible for the landscaping on King Avenue West. He said it really looked nice.
- **Councilmember Veis moved** to have staff bring back a recommendation from the Parking Board within 30 days on selling Park IV and the minimum amount the City should receive if it was sold, **seconded** by Councilmember Brewster. Councilmember Ulledalen asked how a minimum amount could be determined because it was probably something that should not have been built in the first place, and it didn't make sense to keep it in the inventory. He said the City could "paint themselves into a corner" with an artificially high number that may not make any sense. He said the City would not build Park V or VI without selling Park IV because there was not enough money. Councilmember Veis said he did not want it to be a "fire sale", and they needed to have an idea of its value so bids did not come in at \$2 or \$3. Councilmember Ulledalen said he felt they should set a minimum bid and auction it. He said there was no way it would sell for replacement value. Mayor Tussing asked if the information could be obtained in 30 days. City Administrator Volek advised that the Parking Board had a meeting on July 7th, so it could be added to the agenda. She said she was not certain if an appraisal could be done in that time. Assistant City Administrator Bruce McCandless advised that Strategy 5 was contracted by the City approximately nine months ago, and they had established a suggested market value of the property. He said he did not remember exactly the basis for the evaluation, but it was in a report presented to the City Council. Mr. McCandless said he would provide the report to the Parking Board to use as a starting point. Councilmember Ronquillo said he would like the report to include how much money the Parking Garage was generating. Councilmember Veis said he would like to see some

type of minimum value to use as a starting point for discussion. Councilmember Ulledalen said the problem was that the City was not making any kind of economic return on the garage so it would be very difficult to have any kind of market-based appraisal. He said they could come back with a credible methodology to be used to defend a minimum bid. Councilmember Clark requested information on current occupancy and revenue. Mr. McCandless said he did not believe the garage was full, and he would provide the occupancy information to the Council. On a voice vote, the motion was unanimously approved.

- **Councilmember McCall** said she had put out a schedule in February for the City Administrator's ongoing evaluation. She said some of the councilmembers were on the schedule twice and some three times. She said they had gone through two quarters, and she wanted to remind everyone of the process. She said Councilmembers Ronquillo, Ulledalen, Gaghen, Clark, and Veis were on the schedule to meet with Ms. Volek in August, and she would be sending the evaluation summary from 2008 by e-mail as a reminder of the goals. She said the last evaluation would be in October. Councilmember McCall said it would be good to have their comments in writing. Councilmember Veis asked who would be in charge of scheduling the next meeting. Councilmember McCall said Councilmember Ronquillo would be scheduling it.
- **Councilmember McCall** said she would like to briefly discuss the results of the meeting last week on Gracious Space and the updated plan from the work group for the Citizens Survey. She said the meeting was attended by approximately 20 people, three Councilmembers, the Mayor, and 14 to 15 staff members. She said it was a good experience overall. She said they definitely were able to hone in on what they would like to do with the survey and how to proceed with the community conversations. She said they made modifications to what they had thought about initially. She referenced her handout that listed meeting dates for September 9, 10, 15, and 16 from 9 a.m. to 11 a.m. and 7 pm to 9 pm, or she said they could meet the first two weeks in August. She said the specific dates would depend on the City's goal planning session. Councilmember McCall said they agreed the meetings needed to be held on the west end, south side, central Billings, and in the Heights and said they had identified tentative meeting locations. She explained the desirable agendas, activities, and results for the meetings. She said they would then like to hold one common meeting the end of September or early October to report the Council decisions and goals from the process to the community. Councilmember McCall asked for the Council's input, especially for the series of meeting dates.

Councilmember Astle said he thought September 9, 10, 15 and 16 would work best because people would be back from vacations. Councilmember Ulledalen said a fair amount ties back into the strategic planning process and said at some point in time they needed to sit down and set out goals and objectives. He said there were issues that would transition to the next council, and there should be structure in place on things they had been working on. He asked if the Council wanted to wait until all the information had been gathered and then have some type of process after September or did they need to have a

meeting the next few weeks prior to September, such as a work session, to talk about issues they wanted to see discussed, edits to questions, etc. He said his concern was a balance between wants and necessities. Councilmember Brewster agreed with Councilmember Ulledalen. He said they should at least set some sort of direction and would like to spend time at a work session discussing it further. Councilmember Clark agreed. Councilmember Ulledalen suggested devoting a whole work session to the citizen survey discussion. Councilmember Gaghen asked if it had been decided not to go to the various neighborhood entities and service organizations at this time. Councilmember McCall said it was still in the process, but they would not be doing 85 presentations. She said there were several service clubs that wanted presentations and possibly some task forces, but there would not be a huge campaign.

Councilmember Ruegamer said he was overwhelmed. He said there were a lot of things going on. He said the City had a budget crisis that could not wait, and they needed to start on it now. He said with an election in November and the possibility of new councilmembers, they could not wait. He said they waited for the Cost of Services Study that did not materialize. He said a lot of things were put on hold because of it, and they had put things on hold for too long. He said they needed to start talking about the budget issue now and decide what they were going to do a year or two from now. City Administrator Volek reminded the Council that the budget crisis begins in the year 2014, and that staff was working on business plans. She asked that Council allow staff to complete their plans and present them before final discussion was held on where budget cuts would occur. Mayor Tussing said he thought Council needed to wait on significant budget discussions until after hearing the business plans. He said he would like to see what the public had to say and the work session should be oriented more towards what they wanted to get out of the public discussions rather than any goals prior to the public discussions. He said it was too premature to get too nuts about the budget issues when they did not even know what the public thought. Councilmember Ulledalen said he thought they should be gathering basic comments from people about what they wanted and be able to tell them how much it would cost to provide that specific service. The Council decided to hold further discussion on the citizen survey at the August 3rd work session.

- **Councilmember Ruegamer moved** to form a short-term ad hoc committee to address the graffiti problem in Billings, **seconded** by Councilmember McCall. Councilmember Ruegamer suggested that the committee consist of a Billings Police Officer, a Yellowstone County Deputy Sheriff, Judge Mary Jane Knisley, and a couple councilmembers. He said it should be a small group with a very short duration. Councilmember Ruegamer suggested that the people caught painting the graffiti should be held responsible for cleaning it, and the city employees who currently clean the graffiti should be the supervisors. Councilmember Ruegamer said the fact that toxic materials are used for the cleanup should not matter. He said a lot of the cleanup could be done with paint and brushes. He said the City needed to create a way to prevent graffiti. City Administrator Volek reminded Council that, according to city ordinance, an ad hoc committee needed to be created by city resolution, which could be prepared

for the July 13th meeting. Mayor Tussing asked if they really needed another committee. Councilmember McCall said she felt a committee was needed to put thought behind a fix for the graffiti instead of just covering it.

Mayor Tussing asked Detective Lt. Mark Kirkpatrick, who was present, what his thoughts were. Lt. Kirkpatrick said he would ask that the committee be kept low key. He said following a previous news release interview on graffiti, tagging quadrupled for the following two weeks. He said the more attention the media puts on the gangs, the more they tag. Mayor Tussing asked if he knew if meetings were still being held between the Police Department, prosecutors, and school officials. Lt. Kirkpatrick said the meetings were still being held. Mayor Tussing said he would not support another committee. Councilmember Ulledalen asked Lt. Kirkpatrick for his opinion on gangs and gang imitators in Billings. Lt. Kirkpatrick said the local gang element was very unstructured as compared to other parts of the country. He said it had been calm this summer compared to last summer. He said when the gangs get active, the police get pro-active. Lt. Kirkpatrick said the purpose behind tagging and graffiti was to proclaim a gang and claim turf.

Councilmember McCall said she did not want to organize another committee if there was already a committee actively doing the same thing. Lt. Kirkpatrick said there was already a committee addressing the problem. Councilmember Ruegamer withdrew his motion, and Councilmember McCall withdrew her second.

- **Councilmember Ruegamer** said he would like to hear from Chris Mallow and the Parking Advisory Board as to what they learned from the Parking Survey after they have reviewed the information. He said he did not know what the City learned from it, and he questioned the validity of the numbers. Councilmember Ruegamer said he did not know exactly what the consultant was saying. Assistant City Administrator Bruce McCandless advised that Council would receive a follow-up memo concerning the report within the week. He said Council had received a preliminary report and not the final report. He said within the last few days since the delivery of the preliminary report, additional information had been developed and reported to staff. He said it would be further developed and the final report would be submitted no later than July 27th. He said the Parking Advisory Board had a special meeting planned for July 7th where they would be reviewing additional information.
- **Mayor Tussing** said "I did have a request of a constituent who volunteered to be a special ambassador of goodwill to a potential sister city in Greece. Ed Kemmick has a personal relationship with the Mayor of Leonidio, so the chair would entertain if anyone wants to appoint Ed and if you could attach a salary to it or not." Councilmember Veis said he did not think it was a bad idea, but it was more complicated than that. Mayor Tussing said he thought Ed was just being facetious. City Administrator Volek advised that sister cities were very common and Billings had one at one time. She said if Council would like information on sister cities, staff could provide that information.

ADJOURN - The meeting adjourned at 8:20 p.m.