

## **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

**April 12, 2010**

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

**ROLL CALL** -- Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Cimmino, McFadden, McCall, Ulledalen, Clark. Councilmembers Ruegamer and Astle were excused.

**MINUTES: March 22, 2010** -- approved as distributed.

**COURTESIES** – None

### **PROCLAMATIONS**

- **National Library Week, April 11-17, 2010**
- **Crime Victim's Rights Week, April 18-24, 2010**

### **ADMINISTRATOR REPORTS - TINA VOLEK**

- Ms. Volek requested adding an item to the evening's consent agenda to change the April 19 work session to April 20, to allow councilmembers to attend a public hearing on legislative districting. She noted that a three-fourths vote of the Council would be needed to add the item to the agenda.
- Ms. Volek advised that a protest letter from Harry Lahey regarding Item 7 was previously received, and just that day, a second letter was received from Mr. Lahey that indicated his project had been taken off the list and he was satisfied with it. She said a copy of Mr. Lahey's letter was placed on council desks and in the ex-parte notebook at the back of the room. Ms. Volek noted that Public Works Director Dave Mumford would discuss the item later in the meeting and would recommend a two-week delay to revise some assessments.
- Ms. Volek advised that an email from Downtown Billings Development Director Greg Krueger in support of Item 8 was placed on council desks that evening and also available for public viewing in the ex-parte notebook at the back of the room. She said Library Director Bill Cochran would request a two-week delay on the item when it came up for discussion on the agenda.
- Ms. Volek advised that numerous emails had been received regarding quick response vehicles and they were available for public viewing in the ex-parte notebook at the back of the room. She added that an email from Mike Martin, Vice President of Local 521, was received that day and a copy of it was placed on council desks that evening and also in the ex-parte notebook.

Councilmember Ronquillo moved to add the work session schedule change item to the Consent Agenda, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved. Ms. Volek noted that the April 20 work session could be televised on

Channel 8.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, 2, 3, and 9 ONLY. Speaker sign-in required.** (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.)*

- **Dan Cottrell, 3415 McGirl Road**, said he represented the Billings Firefighters IAFF Local 521 and was present to urge the council to vote against the purchase of two quick response vehicles. He said the Local 521 members overwhelmingly felt that the implementation of the concept, as proposed, would have a negative impact on the ability to respond to emergency alarms, would put the public at risk, and would expose the City to liability due to the delay in response times to transfer personal protective equipment and for showing up at a scene with the wrong vehicle. He stated that he respected the position Chief Dextras had taken, but hoped the Council would take into consideration the over 1200 years of combined fire experience of the members of the Fire Department. He referred to correspondence sent to Council by command staff regarding staffing vehicles that would decrease the level of safety and service. Mr. Cottrell advised that he compared comparable cities himself and reviewed the results of his comparison. He said Chief Dextras used only one community as a true example, and that community had staff for the QRV that in addition to staff for engine companies. Mr. Cottrell stated that the QRV concept was an expensive experiment that had more cost than benefit, and he concluded from his research that it was a successful concept when the smaller vehicles were used in conjunction with additional staffing, but did not work with cross-staffing or as unstaffed.

Councilmember Ulledalen asked Mr. Cottrell if he would be okay with the concept if there were four people in a station. Mr. Cottrell said there would be more options with four, and with five they could do the concept. He explained that the majority of comparable departments staffed the engines with three people and the QRV with two.

Councilmember Ulledalen mentioned that the project was approved by the Council a year ago when the Equipment Replacement budget was approved, and he asked why the firefighters waited until it was time to approve a contract before they came forward. Mr. Cottrell stated that they learned of the concept about a year ago, and asked about the details multiple times, and then decided to oppose it when no answers were provided. Councilmember Ulledalen stated there were two other items in the ERP that had not been voted on, and there were comments at the last meeting that suggested there were extra vehicles in the Fire Department, so he wanted to know how Mr. Cottrell felt about those two. Mr. Cottrell said he was not aware of why those were being purchased and would have to know more.

- **Joseph Sands, 2512 Terry**, stated he was speaking on behalf of the 110 members of the Local 521. He said the issue was not about shorting the customers of service they deserved, it jeopardized firefighter safety, and ultimately jeopardized public safety and community response. He said Chief Dextras tried to explain that the vehicles were used in various places, but the difference was that the vehicles in other departments were staffed separately. He reviewed staffing, operational procedures, and experience with quick response vehicles at other Montana communities. He said the community in Kansas that supported the concept supported it because two of the firefighters were co-

owners of Unruh Fire and one of the fire district commissioners was on the Unruh Fire board. He said the program was highly unsuccessful unless staffed, which was the true problem associated with the program and its implementation in Billings and related back to the daily staffing problem. He said that the decision to not hire the eight firefighters was the only reason that four engines and a truck company responded to structure fires to maintain the same amount of manpower prior to the passage of the 2004 public safety mill levy. He explained that prior to 2004, the same amount of manpower was on the scene that now took four engine companies because there was no guarantee to the public that a truck company was staffed every day. He said there had been comments in the community that if the program was tried and failed, there would be more brush rigs, but he asked how it would fail if it was so great and proven in other places. He said there was a lot of talk about the safety, yet those vehicles did not meet the 2009 NFPA 1901 standard for fire service vehicles, nor could they be retrofitted to meet it. He suggested talking with the ambulance crew that was just hit at an intersection to find out how safe their smaller vehicle was. He asked the Council to vote against the purchase or work together with the firefighters on it. He suggested reading the letter from the Nampa, Idaho, fire department that was the most comparable to Billings.

Councilmember Ulledalen advised that he heard from community members that they did not understand what the issue was and why the firefighters did not support it. Mr. Sands responded that he felt the community was uneducated about the role of the fire service. He said he would ask the business community how the City could even think of undertaking a trial project like that with the decreased tax revenue and re-evaluation that the Council knew was coming.

Councilmember Ronquillo explained that he visited with a fire department in California that had 35 QRVs. He was told that they addressed their staffing issue by working 10 days per month. Councilmember Ronquillo advised that he also visited with a fire department in Arizona that leased the vehicles after the fire season ended. Mr. Sands responded that a program like that used to be in place but it had stopped and he did not know why.

Councilmember McCall asked Mr. Sands if it was true that the firefighters had a grievance against the administration to allow them to attend family functions while on duty. Mr. Sands said he would defer to Mr. Cottrell, but added that he had attended games before and when he did, the crew stayed together, was no more than two minutes from the truck and there was no delayed response. Councilmember McCall said it was her sense that there were people that went to events and the team was split up and the vehicles were quite a distance from the station. She asked if attending personal activities while on duty was putting themselves in the same situation as cross-staffing if the quick response vehicles were implemented. Ms. Sands said that was not the same because the contract specifically stated that the crew stayed together at all times. Councilmember McCall asked if he was saying that if one team member wanted to attend a personal function, the whole crew went. Mr. Sands said they would, if it was permitted by the battalion chief or unless that individual had someone work for them. Mr. Cottrell clarified that the crew stayed together at all times and while attending events, they often gave tours of the fire truck and talked with the people in attendance. He said the firefighters were directed to cease those activities, and because there were timelines for grievances, it was grieved. He said the grievance had since been suspended because the Joint Labor Management Committee was trying to talk through the issue.

Councilmember Ulledalen asked if there were guidelines about how far the truck could be taken from the station. Mr. Cottrell explained that if the truck did not stay in its response area, engine companies traded areas. He said he was not aware of that ever

happening, but that is how it would be handled.

Councilmember McCall commented that she found that confusing because one of the rationales of not having a quick response vehicle was the risk if there were two structure fires at the same time, and if one team was covering at another station, it would be a similar situation as what Mr. Cottrell described with the QRVs. Mr. Cottrell said he did not see that because they frequently covered each other's areas. Councilmember McCall asked if they would do the same thing with QRVs. Mr. Cottrell said that in essence they would.

- **Kevin Bentz, 3038 Canyon Drive**, urged the council to not approve the bid for quick response vehicles for the Fire Department. He said that after extensive discussion, it seemed like the administration had failed to produce a quantifiable number related to savings for the vehicles, so it was purely speculation. He said it was not necessarily true that the Billings Fire Department had supported the notion of cross-staffing. He stated that the lack of personnel provided to the Fire Department over the last few years had eliminated dedicated staffing for the brush and tender operations housed at Station 5 on the west end. He said the lack of proper staffing had also reduced the number of personnel assigned to adequately staff the City's only truck company, which was evidenced by Local 521's continued efforts to staff the vehicle. He said the information provided about the full-sized vehicles being unsafe to operate was based mostly on personal opinion. He stated that as an apparatus driver and operator, he did not feel there were control or maneuverability problems with the current apparatus, because of the engineering and design of the vehicles, and the training and expertise of the drivers. He said it was undeniably true that cross-staffing of QRVs would reduce the Fire Department's capabilities. He commented that if four trucks were dispatched to a structure fire, only two stations would be left to cover the remainder of the City. He said there were unresolved issues and the lack of an acceptable plan. He said he would support the program if it had an acceptable plan and dedicated staffing.

Councilmember Ulledalen referred to the annual report that indicated Station 7 had low call numbers, so he did not understand the staffing issue. Mr. Bentz said his testimony was about the brush and tender at Station 5 that used to have dedicated staffing.

Councilmember McFadden asked for a comparison of wheel base length between a QRV and a full-sized truck. Mr. Bentz said he did not have exact numbers, but knew they were very close.

Councilmember Ulledalen asked Mr. Bentz about a comment he made in an earlier email about previous experience with a similar truck in another department. Mr. Bentz explained that he worked for the Lockwood Fire District prior to his service with the Billings Fire Department. He said his point was that sometimes the call turned out differently than what the caller reported.

Councilmember Cimmino asked if the QRV had the capability to hook up to a hydrant. Mr. Bentz responded that he was not sure. Councilmember Cimmino asked what they would do if the truck ran out of water and the truck could not hook up to the hydrant. Mr. Bentz explained they would have to wait for another truck or drop their hoses and go fill the truck with water.

Councilmember Ulledalen advised that he checked on mileage figures that differed from what Mr. Bentz provided. Mr. Bentz said he got his information from Station 1, and noted that the trucks were heavy and not driven the same as a personal vehicle.

- **Alan Lohof, 3712 Hayden**, urged the Council to reject the plan to purchase the QRVs. He said many concerns and questions had been brought forward already and he wanted

to draw attention to response times to emergency medical calls. He explained that the firefighters started getting ready to go as soon as a dispatch began, but with a QRV, the captain would have to listen to the entire dispatch to determine which piece of equipment to respond with, and equipment might have to be transferred from one truck to the other. He stated the QRV would travel to a call using the same speed and route, but would be less visible in traffic. He advised that in his own research, QRVs worked in small departments where they were staffed. He said that if QRVs were valid for Billings, it should not be hard to find comparable cities that used them, and the lack of that comparison should give the Council pause.

Councilmember McFadden asked Mr. Lohof about his statement in an email that the QRV was a \$300,000 roll of the dice. Mr. Lohof said that was a private email he sent to Sedgwick County, Kansas, that was the closest comparison to Billings he could find. He noted that after the fact, he found that that department staffed its QRVs. He said he felt like the email turned out to be a sales pitch and after further checking, he found out that the Sedgwick County department had someone from Unruh Fire Trucks as one of the fire commissioners.

Councilmember Ulledalen asked how the size of a community made a difference. Mr. Lohof stated that he had not been able to find data that indicated it would work in Billings. Councilmember Ulledalen asked if he was saying that a QRV would not work in the Billings Heights for the kind of call volume it had. Mr. Lohof said he would want to find information that showed whether it would.

- **Brian Corneliusen, 575 Tabriz**, stated that he was present as a citizen and 21-year member of the Billings Fire Department to ask the Council not to approve the QRVs. He provided an example of a recent call to a motor vehicle accident and how it would have turned out if a QRV responded to it. He said there would be delays waiting for other equipment to help out if the QRV did not have the proper equipment, such as extrication for motor vehicle accidents. He stated that it would cost more than \$300,000 for the QRVs, and equipment would be an extra expense. He said response time would be delayed due to the time it would take to transfer equipment from the big truck to the QRV. He referred to an email from a councilmember that stated the City was not in a budget crisis, but in a spending crisis, although a budget crisis was coming. He said with that in mind, the Council was being asked to spend money on those units, for a savings of only about \$15,000, and he wondered if that was good stewardship of City funds. He stated he hoped the Council would look at it from a clear point of view and not let past happenings influence the vote. He said the vote was for public safety of everyone in Billings, not about trying to make someone's life harder, but what best served the taxpayers, while considering the stewardship that they had been charged with in taking care of City funds.

Councilmember Ulledalen stated that reasonable protocol could be established to eliminate some of the situations Mr. Corneliusen talked about. Mr. Corneliusen said he had heard that the captain would make that decision, and he preferred using the big truck for a motor vehicle accident because it was equipped, blocked traffic better and was not much more hassle driving through city streets.

Councilmember Pitman said they kept talking about being at a call with a QRV and then there was a fire. He stated that there were situations that did not require the big truck. He said the QRV had a specific use for situations that did not require the full rig and the calls for those situations were usually very clear about what was requested. Mr. Corneliusen said captains had to go by the information received from the dispatch, and if the QRVs were implemented, it would eventually end up that a QRV was the first vehicle at a structure fire. He said he was also asked why the big truck responded to

some calls and after he explained why, the person understood.

Councilmember McFadden advised that he toured the Cody, Wyoming, fire station that had a quick response vehicle that was not being used and was told it was purchased for vehicle extractions, but was not big enough. He asked if the jaws could be carried on a QRV. Mr. Corneliusen said he thought those tools weighed about 250-300 pounds and the smaller vehicles were already overweight.

Councilmember Ulledalen asked how there could be a common sense solution to a request from a caller not to send the big truck with sirens, etc, and then it arrived that way anyway. Mr. Corneliusen said that would be up to Chief Dextras and Anne Kindness to set up a priority dispatch.

Councilmember Gaghen commented that some facilities were required to call for assistance when someone fell, and in those situations, it seemed like a small likelihood that the larger vehicle would be needed. Mr. Corneliusen stated that most of the calls to provide assistance for a person that had fallen were to private residences.

- **Skip Godfrey, 4146 Clevenger**, stated that he was the Chair of the Emergency Medical Services Commission. He said he respected the work done by firefighters and police officers, but he was perplexed at some of the things he had heard. He said 70-80% of the Billings Fire Department calls were medical and the other 20% was a mix with roughly 1-2% being structure fires, with a call volume of approximately 10,000 calls. He said it seemed that most of the discussion was about beefing up the department for structure fires and then adjusting when the QRV was needed. He suggested keeping personal gear and equipment in the QRV if that would handle the majority of the calls. He added that it seemed to be a question of revising some of the protocols that could address some of the issues. He said the discussion seemed to be geared to the most extreme examples that had a very low likelihood of happening. He advised that at the last meeting of the EMS Commission, it voted unanimously in favor of the QRV concept, and he felt the concept was worth trying. Councilmember Clark pointed out that he served on the EMS Commission, but abstained from the discussion and vote on the QRV issue. Mr. Godfrey reviewed the makeup of the committee and stated that he was pleased with the working relationship it had with AMR, the local ambulance service.

Councilmember Cimmino asked Mr. Godfrey if the EMS Commission maintained minutes that could be reviewed by the general public on the City's website. Mr. Godfrey stated that minutes were maintained but he did not know if they were posted on the website. Councilmember Cimmino said Mr. Godfrey indicated that the Commission had reviewed the concept for the past year, but the letter provided by Chief Dextras indicated that it had reviewed it at the March meeting. Mr. Godfrey explained that the issue had been discussed almost since the discussions first began a year ago, but the Commission decided at its March meeting that a position statement would be provided to the Council since the item was being reconsidered.

Councilmember Ulledalen said Mr. Godfrey's comments mirrored comments he heard in the community. He asked Mr. Godfrey if the Commission had considered a tiered response system or if that was something that should be tasked to the Commission. Mr. Godfrey said if asked, the Commission would be happy to address that issue.

Ms. Volek clarified that the EMS Commission's minutes were posted on the City's website.

- **Sean Biggins, 5416 Cornerstone Avenue**, said he was a firefighter and paramedic and wanted to express his concern over the proposed QRV concept. He stated that the union was here for the safety of the firefighters and the public. He stated that in hard economic times, the Council was considering an expense of \$300,000 on a program that

had not been proven to work unless staffed correctly. He reviewed the various types of services and calls of the Fire Department. He stated that it was true that there would be other engines from other stations that responded to fires, but on a daily basis, there were multiple calls for multiple stations at the same time and there were large holes that had to be protected by stations farther away. He said the staffing study completed several years ago indicated that two or three more fire stations were needed. He said the concept reduced the level of protection by putting firefighters/EMTs on units that could not handle all the emergencies, but the current apparatus carried all the equipment to handle the calls he just listed. He said he did not feel that the statistics provided were a direct reflection of the fire service because it did not take into consideration possible structure fires. He referred to a recent fire alarm at the Cowne Plaza in which one truck was sent and it was not enough. He said the City was not adequately staffed to safely and efficiently fight high-rise fires but continued to do that anyway. He said to imagine if a crew responded to that alarm with a QRV. He stated that it was bad enough that the truck company was shut down more than 90 times during the last year and that truck company was crucial to safety because the guys assigned to it were trained for search and rescue, ventilation, salvage and to secure utilities. He said he did not know how to safely put the QRV into service because all the trucks were in place for the "what ifs." Mr. Biggins said the letters from other departments that supported the concept did not state that those units were staffed. He suggested comparisons to like cities. He said the Billings Fire Department was already short-staffed. He invited councilmembers to stop at any station to ask questions or to find out more information about the department. He asked that the Council to not play the odds with public safety or firefighter safety that could possibly result in a death.

Councilmember McFadden said he got the impression from Mr. Biggins's speech that he felt the true equipment need was additional high-rise fire equipment. Mr. Biggins said that was not correct, the true need was more staff. He said a high-rise fire could not be treated the same as a residential structure fire and it would be hard to get all seven stations at the fire if needed. He said it would be done, but it would not be done smoothly. He noted that although fires were a low-frequency event, they were also the most dangerous things. He provided examples of types of calls and said the best way to educate people was to have them spend 24 hours at the station.

Councilmember Ulledalen said it was obviously a question of priority and what was the key mission. He asked if a reduction of medical calls would help with the staffing issues. Mr. Biggins said he did not think the medical calls could be reduced in a growing community. Councilmember Ulledalen said there may not be a way to reduce the medical calls, but the community may need to be informed of that. Mr. Biggins said the community was growing and every department had to grow with it, including the Fire Department.

- **Robert Golubski, 3540 Duck Creek Road**, stated that one of the concerns was response delays. He said the firefighters conducted a test and found that transferring gear from one apparatus to another took two minutes seventeen seconds, which meant there would be a delay in response time. He said another concern was getting a quick response vehicle through traffic. He said there was an advantage with the larger truck being able to see above the rest of traffic and to provide blockage at emergency scenes. He stated that vehicle accidents were coded as medical calls, so they were included in the 70% of the calls considered medical. Councilmember Clark said he did not think that was a true statement, that vehicle accidents were included in the 29% category. Mr. Golubski advised that vehicle accidents with and without injuries were both classified as EMS calls. He added that dispatchers' hands were tied as to how the calls had to be

dispatched.

Councilmember McCall said it seemed that the protocol needed to be reviewed so a better system could be implemented.

Councilmember Pitman stated that the two-minute issue kept coming up, but at the same time, firefighters felt it was acceptable to be two minutes away from the truck if they were at a personal function or at a store, but it was not acceptable if the equipment needed to be moved from one truck to the other. Mr. Golubski explained that if they were in a store, they left as soon as the call came in. He said if they had a QRV, they had to listen to the entire call before they knew which truck to take.

Councilmember McFadden asked how the bigger truck handled on icy/snowy roads as compared to a smaller vehicle. Mr. Golubski said that the drivers were trained to drive for the conditions. He said the fire trucks typically handled the streets very well.

Councilmember Clark asked how often the Fire Department arrived at calls prior to the ambulance service. Mr. Golubski referred to information provided by Mr. Godfrey.

Councilmember Gaghen asked for clarification about being at Albertsons and asked if they were buying food for their dinners. Mr. Golubski said that was correct and explained that the truck and crew went everywhere together.

- **James Knox, 661 Garnet**, stated that it seemed like there was a lot of opposition from the firefighters, rather than a willingness to try something and work on a model change. He said administrators and the Council were perfectly reasonable and if the implementation of the QRV did not work out, the model would revert to something else. He said he was alarmed at hearing that the vehicles were unable to handle extra weight, because they had more capacity than that. He stated he heard comments that it was the union's responsibility to protect the City, when it was the union's responsibility to protect and negotiate contract issues with the City and it was the Council's responsibility to hire qualified people to staff the Fire Department. He said he felt it was perfectly reasonable to consider changes without a constant challenge of power, which had gone on for years because the union felt like it ran the City when the Council or the citizens should.

Councilmember Cimmino asked Mr. Knox if, in the event that would not be a workable plan, the City could afford to spend a quarter of a million dollars to try it out. Mr. Knox responded that he understood the money was already allocated, and since there were brush trucks that would be replaced in 2015, purchasing the trucks would actually save money from what the price would be in 2015 if they did get rotated out. Councilmember Cimmino said the City also had the ability to save some money and buy at a different time. Mr. Knox said the overall savings was the life of the engines. He said that as a member of the EMS Commission, he saw the numbers and the types of calls and if one of the larger rigs could last 20% or longer, the savings would come out in the long run. Councilmember Cimmino said she agreed it was the City's responsibility to run the City and to protect the citizens, police, and firefighter staff. She said it was also her belief that they needed to respect what the union did for the staff. Mr. Knox said they needed to respect what the fireman needed and the union was nothing but negotiation of services and pay scales, representing them as a whole. Councilmember Cimmino pointed out that there were three groups that represented the City organization, not just for the firefighters. Mr. Knox said he saw the continual challenge from the fire union. He stated that all that was being requested was to look reasonably at the model to see if it made sense. He said they could always decide not to spend anything, but in that case, the money could be spent to save money down the line.

Councilmember McFadden asked Mr. Knox if he was being a little judgmental with his comments about the union because the union members were friends and neighbors, and also firefighters. Mr. Knox said he was responding specifically to the



comment that the union was responsible for the safety of the public. He said the fireman were held responsible for the services they provided and if there was an issue with a fireman not cutting the grade, the City would not go to the union about it, but would discuss it with that fireman. He said it was the firemen that did the hard work for the City, not the union.

- **Jason Manley, 136 Carroll Trail, Lewistown, MT**, advised that he was the Lewistown Fire Chief. He said Chief Dextras and Assistant Chief Frank Odermann asked him to speak about his department's First Responder Program and use of the quick response vehicles. He provided an overview of the staffing, equipment, and types of calls of the Lewistown Fire Department. He noted that the QRV was the primary vehicle used on a daily basis and firefighters kept their gear on it, and transferred it to the larger vehicles as necessary. Chief Manley commented that during a staff meeting earlier that day, he asked his union firefighters about responding to medical calls, and the firefighters indicated they preferred using the QRV to respond to medical calls. He explained that more than once the QRV was the first apparatus on the scene of a fire and firefighters were able to handle the situation with that truck alone, or in conjunction with the larger fire apparatus. He stated that the QRV worked well for his department.

Mayor Hanel asked Chief Manley if he was a career firefighter. Mr. Manley advised that he moved up through the ranks with the Lewistown Fire Department and had been there about 20 years.

Councilmember Gaghen asked if the QRV could hook up to a hydrant. Chief Manley said it could.

Councilmember Ulledalen asked Chief Manley if the stress on the fire truck required replacement of one every 20 years. Chief Manley explained the criteria that determined when a truck was retired and said the industry standard was about every 20 years. Councilmember Ulledalen said he was looking at whether use of the QRV would be a way to extend the life of the larger trucks which resulted in cost savings. Chief Manley said he viewed the QRV as a cost savings measure in that way also.

Councilmember Pitman said he heard from the firefighters that they would not be opposed to the QRVs if there was additional staffing in the department, and he wondered if the Billings Fire Department could supplement its staff with volunteers. He asked Chief Manley how well it worked for his department to have both paid and volunteer firefighters. Chief Manley explained that it worked for his jurisdiction, but he thought there would be issues with state law for a city the size of Billings.

- **Kevin Nelson, 4235 Bruce Avenue**, advised he was speaking about Items 1T and 2. He said that the county-wide mill levy was growing government and he was not sure that the Federal dollars would supplement the staff that would be hired, especially when that staff retired. He noted that future councils would have to justify pension and retirement dollars to fulfill staffing that could be hired if the mill levy passed. Mr. Nelson suggested not passing or amending the laws regarding Item 1T, because as proposed, the revenue from that parking district would be kept in that parking district only. He said the City Charter would be violated because it indicated that the community revenue was for all. He said if small liberties were continually taken away, they would eventually be big things.

Councilmember Pitman clarified that Item 2 was just giving the voters the opportunity to vote on the levy. Councilmember Clark added that the County Commissioners would decide whether or not it was put on the ballot.

- **Michele Johnson, 2705 Blue Creek Road**, referred to the resolution supporting the proposed increase in the planning mill levy. She said it was apparent that the Planning Department was not just planning, but regulating the way people lived. She questioned

whether the zoning regulations would be similar to the Federal Government's intention to require people to license their homes prior to selling them. She said sustainable growth and smart growth were interchangeable terms and the City had already implemented smart growth that contained things like high density housing, compact neighborhoods, social equity, and pedestrian and bicycle route design. She said she did not wish to fund that type of control. She stated that social equity was another term she was not interested in because it was nothing more than redistributing wealth, or another term for legal plunder or communism. She said she was not interested in her tax dollars supporting any planning that department wanted to impose.

- **Frank Odermann, 1312 Cheryl Street**, stated that he was the Assistant Fire Chief and had been with the department for 15 years. He spoke about Chief Dextras's qualifications, and pointed out that Chief Dextras effectively and successfully brought QRVs into three departments. He said that Chief Dextras was highly sought after and respected for his expertise and new ideas. He shared his experience with the "get on board" concept that resulted in success if everyone got on board and said that was needed with the QRV issue if it was implemented. He stated that the City hired an extremely qualified chief that had direct experience with the QRV program that the Council approved a year ago. He asked the Council to keep the "get on board" concept in mind as they considered the item that evening.

Councilmember Ulledalen commented that it sounded like a training issue whether the QRV or larger apparatus was used when a call came in. Mr. Odermann said the program was new to him and he was not aware of anyone else in the Billings department that had ever worked with the concept. He said it would require training just like any new procedure, and training would be provided to everyone from battalion chiefs on down.

Councilmember Ronquillo said he had a call from a former firefighter that told him the concept had been tried sometime around 1997. Mr. Odermann said he had no knowledge of that.

Councilmember Gaghen stated she hoped the firefighters would be willing to work with the concept if approved, and it would not be a standoff. Mr. Odermann said there were politics involved, but he had no doubt that when the direction was given and training was provided, that politics left the minds of the firefighters the minute a call came in. Councilmember Gaghen said that would be the Council's hope, but she knew that there was resistance to outside training opportunities. Mr. Oderman said he hoped that comments in support of the concept, similar to Chief Manley's comments, would be heard in years down the road.

- **Donna Forbes, 1116 8th Street West**, spoke in support of the proposed 1-mill county-wide planning levy increase. She said if good planning was not continued, the question would be asked in 15 or 20 years why it was not done. She urged the Council's support of the levy increase.
- **Tara Wolf, 5955 Helfrick Road**, expressed her opposition to Item 1U. She said she tried to get a zone change a few years ago and was told she was trying to spot zone and that she purchased the lot she owned knowing the zoning. She said the owner of the lots purchased them knowing their size, but wanted to split the 13 lots into 21, which meant smaller homes and lower prices compared to the larger homes on the larger lots around the area. She said she was a real estate broker and knew the smaller homes would impact the other property values. She said she was opposed to approval of the plat. Ms. Wolf stated that her husband submitted a letter to the Planning Board about the issue.
- **George Richards, 1824 Bannack**, asked the Council to take the time to study the

process further. He suggested spending some time with the firefighters to see what they did. He said the QRV concept may work in some areas, but Billings did not have the staffing. He said the reason the guys did not want to go to outside training, was because equipment was shut down if guys were out for training rather than paying overtime to have the coverage. He said the firefighters did not feel that was proper, so they would not go to the training. Mr. Richards agreed that some protocol needed to be addressed and suggested looking at the QRV concept again after the lawsuit was paid off and the staff could be in place to staff the equipment. He said if the QRVs were implemented, he believed the firefighters would do their best to make them work without shorting the citizens. He suggested putting it on hold until the staffing level was up and calls could be revamped.

Councilmember Ulledalen asked Mr. Richards if all the stations needed to be open 24/7. Mr. Richards said he believed they did, but he did not believe that Station 7 should have been opened until the staffing situation and equipment was adequate at all the other stations.

Councilmember Gaghen asked if the firefighters did not think it was valuable to have additional training in refinery fire suppression or trench rescue. Mr. Richards stated that the firefighters wanted to attend the training, but the shifts were covered by allowing the staffing to fall to the minimum staffing level, so the firefighters decided not to attend the training.

Councilmember Ulledalen asked if the scholarship that was offered by Conoco to attend the refinery training was used by anyone. Mr. Richards advised he was not familiar with the scholarship.

- **Kjersten Olson, 3510 McDuff**, stated she was an engineer for Sanderson Stewart and represented Ron Hill, the applicant for Item 1U. She said the item concerned a preliminary plat, not a zone change. She explained that the property would remain R9600 zoning and the new lots would have to conform with that zoning.

Councilmember Pitman asked Ms. Olson if the plat was presented to the Heights Task Force. Ms. Olson responded that it was not.

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

*A brief recess was taken 9:02 p.m. to 9:10 p.m.*

## 1. **CONSENT AGENDA**

### A. **Bid Awards:**

1. **W.O. 09-13, Staples Redundant Water Main**, construction contract. (Opened 3/23/10). Recommend Western Municipal Construction, Schedule 1 plus Additive No. 2-Schedule 2, \$1,887,083.00.
2. **W.O. 10-01, Water and Sanitary Sewer Replacement Projects**, construction contract. (Opened 3/30/10). Recommend Schedule 1 to Western Municipal, \$1,053,934.50; Schedule 2 to COP Construction, \$1,049,277.00; and delay award of Schedule 3 to April 26, 2010.
3. **Replacement of Airport's Fluid Cooler**. (Opened 3/23/10). Recommend Williams Plumbing, Heating and Utilities, \$159,800.00.

4. **MET Transit Engine Overhauls.** (Opened 3/30/10). Recommend Cummins Rocky Mountain for ISM Cummins Diesel Engines (Schedule 1), \$31,778.21.
- B. Change Order #1,** W.O. 10-03, 2010 Street Maintenance City Chip Seal, Knife River, \$57,000.00.
- C. Approval** of Scheduled Airline Operating Permit with Worldwide Flight Services, Inc., renewable for one-year periods, with no financial impact to the City.
- D. W.O. 09-26 Wastewater Treatment Plant Clarifier Infrastructure Replacement,** Professional Services Contract, Morrison-Maierle, Inc., not to exceed \$53,925.00.
- E. Compensation Agreement** for Private Contract #610, M&K Blue One, LLC, for extension of sanitary sewer main to Lenhardt Square Subdivision, \$38,018.
- F. Amendment #3,** W.O. 08-21, Lake Elmo Drive - Main Street to Wicks Lane, Professional Services Contract, DOWL HKM, \$126,590.00.
- G. Amendment #8,** W.O. 04-12, Alkali Creek Road Maintenance and Slope Reconstruction, Professional Services Contract, Kadrmas, Lee & Jackson, Inc., \$231,942.50.
- H. Confirmation of Probationary Police Officers** Benjamin Milam and Paul LaMantia.
- I. Approval** of Medical Marijuana Ad-Hoc Advisory Committee appointments.
- J. Street Closures:**
  1. **Salvation Army Global Youth Service Day,** April 24, 2010, 7 a.m. to 5 p.m., N. 21st Street beginning at the alley, north to 6th Avenue North, and the alley between N. 21st Street and N. 22nd Street.
- K. Acceptance of Donation** to the Parks Department from the Sons of Norway to purchase trees for City parks, \$700.00.
- L. Acceptance of Donation** to the Parks Department from the Billings Kiwanis Sponsored Specialty Vehicle License Plate program to purchase and plant trees in City parks; donations to date \$11,791.83.
- M. Ratification** of Federal Aviation Administration Airport Improvement Grants for 2010; up to \$2,976,969; City Match - \$156,853.
- N. Resolution #10-18923** to refund outstanding Airport, Series 2000, revenue bonds and issue additional bonds to finance the costs of a car wash and maintenance facility as an economic recovery zone facility bond; call a public hearing; authorize the City Financial Services Manager to select an underwriter through a Request for Proposal process, and make certain declarations to satisfy the reimbursement regulations of the Internal Revenue Code.

- O. **Resolution of Intent #10-18924** to create SID 1388, and set a public hearing for May 10, 2010.
- P. **Second and final reading Ordinance #10-5507** for Zone Change #857: An amendment to the City of Billings Zoning Map, an amendment to the Zoning Regulations to create an overlay district to allow separate off-street parking regulations to apply within the East Billings Urban Renewal District (EBURD), and inclusion of property owned by R. Clawson located on the east side of N. 12th Street north of 6th Avenue North.
- Q. **Second and final reading Ordinance #10-5508** for Zone Change #862: A zone change from Community Commercial (CC) to Highway Commercial (HC) to allow the expansion of a limited pharmaceutical manufacturing facility on Tract 2A1 of C/S 1965 and Lot 5 of Block 1, Bergquist Subdivision, located at 2414 Roundup Road and 621 Pemberton Lane. Vacant Land, LLC and Tom & Cheri Bergquist, applicants; Ernie Dutton, agent.
- R. **Second and final reading Ordinance #10-5509** for Zone Change #863: a text amendment to Section 27-614(e) of the Billings, Montana City Code (BMCC) regulating temporary uses of land related to construction projects.
- S. **Second and final reading Ordinance #10-5510** amending Billings City Code Section 6-1203 to remove off-street minimum parking space requirements within the East Billings Parking Overlay District to accomplish parking management goals for the East Billings Urban Renewal District.
- T. **Second and final reading Ordinance #10-5511** amending Billings City Code Section 24-400 - Division 4 - Parking Meters and Zones, by revising Sections 24-451, 24-452, 24-454, 24-456, 24-457, 24-462, and by adding new Sections 24-480 - Use of Revenue from Parking Permit Sales within Parking Permit Districts, and 24-490 - East Billings Parking Overlay District, to accomplish the parking management goals for the East Billings Urban Renewal District.
- U. **Preliminary Major Plat** of Lake Hills Subdivision, 32nd filing, and **variance request** for 4.715 acres generally located near the intersection of Clubhouse Way and Cherry Hills Road, Ron Hill, applicant, Sanderson Stewart, agent. Approval or disapproval of variance; conditional approval of the plat, and adoption of the Findings of Fact.
- V. **Bills and Payroll:**
  - 1. March 5, 2010
  - 2. March 12, 2010
  - 3. March 19, 2010
- W. **Approval** of changing the City Council's April 19 Work Session to April 20, 2010.  
**(Action: Approval or disapproval of Consent Agenda).**

Councilmember Cimmino separated Items 1A1, 1V1, 1V2, 1V3. Councilmember Pitman separated Item 1U. Councilmember Ronquillo separated Item 1T. Councilmember McCall moved for approval of the Consent Agenda with the exception of items 1A1, 1T, 1U, 1V1, 1V2, and 1V3, seconded by Councilmember Pitman. Councilmember Pitman referred to Item 1H and noted that he met Officer Milam earlier that day and commended the job he did investigating vandalism at his business. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino stated she would recuse herself from Item 1A1. Councilmember McCall moved for approval of Item 1A1, seconded by Councilmember Pitman. On a voice vote, the motion was approved 8-0.

Councilmember Cimmino advised she would recuse herself from Items 1V1, 1V2, and 1V3. Councilmember Ulledalen moved for approval of Items 1V1, 1V2, and 1V3, seconded by Councilmember Pitman. On a voice vote, the motion was approved 8-0.

Councilmember Pitman explained that he separated Item 1U because there had not been any neighborhood discussion and he felt Ms. Wolf's concern was valid. He indicated he wanted the task force to review it. Ms. Volek advised that there was a 60-day limit for Council action, and that a public hearing was held before the Planning Board. She stated that staff had just advised her that based on the 60-day timeline, the plat would automatically be approved April 23. She said a special meeting could be held April 20, the night of the next work session. Councilmember Pitman stated that the task force did not meet until April 27. Councilmember McCall asked if it made a difference that the request was not for a zone change. Planning Manager Wyeth Friday advised that it was a preliminary major plat and no zoning was involved in it. He explained the review process the plat went through. He explained that a variance request for curbswalks rather than sidewalks was part of the application, which was a variance from the subdivision regulations, not from the zoning regulations. He said the lots in question were large enough to be split and still conform to the current R9600 zoning.

Councilmember Cimmino asked if it was true that the Planning Board recommended denial of the variance request. Mr. Friday said that was correct.

Ms. Volek advised that the applicant could request an extension, or the Council could deny the plat. Ms. Volek asked the applicant's representative Kjersten Olson if the applicant might request an extension and Ms. Olson said she could not answer for the applicant. Councilmember Pitman withdrew his request.

Councilmember Clark moved for approval of Item 1U and denial of the variance, seconded by Councilmember Gaghen. On a voice vote, the motion was approved 9-1. Councilmember Cimmino voted 'No.'

Councilmember Ronquillo asked for an explanation of Item 1T. He said he agreed with Mr. Nelson on the issue of parking revenue. He asked if the district would pay for parking meters if they were installed. Assistant City Administrator Bruce McCandless explained that the ordinance called for revenue made in the district to remain in the district and also included reimbursement of direct expenses the City had for the creation or management of parking regulations. He said he did not know if it was discussed with the property owners, but believed the City should be reimbursed for any expense related to creation of those parking districts. Councilmember Ronquillo asked if it was that way in any other part of town. Mr. McCandless advised that was essentially how the downtown parking area operated even if it was not regulated by ordinance. Councilmember Clark said he thought about \$230,000 was transferred to the City on an annual basis. Mr. McCandless explained the annual transfer from the parking fund to the City's General Fund.

Councilmember Gaghen mentioned that it was part of the agreement for the East End TIF District that any cost of installing meters would be borne by the entity that required the meters. Ms. Volek added that the Parking Department would be in charge of the expenditure of the funds and the funds would be dedicated to the use of that district. She reviewed the

allowable expenditure of those funds.

Councilmember Gaghen moved for approval of the ordinance amending Billings City Code with revisions and additions indicated in Item 1T, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

2. **RESOLUTION #10-18925 IN SUPPORT OF PLACING A 1-MILL COUNTY-WIDE PLANNING LEVY INCREASE ON THE NOVEMBER 2010 ELECTION BALLOT.** Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek advised that the item was discussed at the last work session so an additional presentation would not be made, but staff was available to answer questions. Councilmember McCall moved for approval of Item 2, seconded by Councilmember Cimmino. Councilmember Clark advised that a County Commissioner told him that they were not ready to deal with that issue yet because they were still working through the public safety mill levy. On a voice vote, the motion was unanimously approved.

3. **RESOLUTION #10-18926** relating to Special Improvement District Bonds 1389; awarding the sale and fixing the form and detail of the bonds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek advised that staff did not have a presentation on the item, but was available to answer questions. Councilmember Ulledalen moved for approval of Item 3, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

4. **PUBLIC HEARING FOR SITE DEVELOPMENT ORDINANCE VARIANCE #CC-10-01:** A variance from Section 1208(h) (5) allowing one additional curb cut onto Lot 3 of Frontier Drive, Riverfront Pointe Subdivision. Dan Marsich, property owner/developer; Sanderson Stewart, agent. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek advised that staff did not have a presentation but was available to answer questions.

The public hearing was opened.

- **Kjersten Olson, 3510 McDuff**, said she was an engineer with Sanderson Stewart and was present as the owner's representative to answer any questions.

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

Councilmember Ulledalen moved for approval of Item 4, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

5. **PUBLIC HEARING AND RESOLUTION #10-18927** ordering construction of improvements identified in W.O. 04-12, Phase 3, Alkali Creek Road Maintenance and Slope Reconstruction. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek advised that staff did not have a presentation but was available to answer questions.

The public hearing was opened.

- **Steven Aaberg, 215 E. Alkali Creek Road**, stated that he was not opposed to the idea of a multi-use path, but had not seen the final design and wondered if one was available, because he had questions about items such as trees and mailboxes. He stated he had questions on bid protocol of the rechanneling project and the funding sources.

Public Works Director Dave Mumford explained that the funding came from arterial fees, Federal ARRA funds, and from property owners based on the SID. He provided a brief explanation of the project and said plans were made available during public meetings that were held and could be viewed at the City Engineer's Office.

Mr. Aaberg stated it was his presumption that the original contract with KLJ was amended to include archaeological excavation. Mr. Mumford explained that the ARRA funds required some archaeological excavation that was completed by KLJ. Mr. Aaberg advised that an archaeological crew was currently excavating a site as part of the Alkali Creek rechanneling project. He said it was not an issue whether or not it had to be done, but he asked why the three local archaeological firms did not have any opportunity to bid on the excavation. Mr. Mumford explained that KLJ was a local firm that also had offices in other states. He said the experts in charge of the excavation were from the North Dakota office of KLJ and he was not aware that further excavation was being done. He added that the excavation portion of the project was not bid because a contract was already in place with a firm that could complete that portion of the work.

Ms. Volek asked Mr. Aaberg if he knew who was doing the excavation work he referred to. Mr. Aaberg said it was KLJ of North Dakota. He said he wondered why the City would go to an out-of-state firm for the excavation when there were three local firms that could have done it. Ms. Volek explained that the project had to be completed by October 1, 2010, to be eligible for the ARRA funds and the components had to be integrated well. She said having a division of the company under contract that had a local office was likely the most expeditious way to complete the project. Mr. Mumford explained that parts of a project were not bid; the entire package was put together for a Request for Proposals process. Mr. Aaberg stated that the original contract did not include archaeology. Mr. Mumford stated that he would be happy to meet personally with Mr. Aaberg to discuss his concerns.

Mr. Aaberg suggested tabling the item because he had serious questions about the bid process.

Councilmember Ulledalen asked if he had made himself available to engineering firms that could include him as part of a bid package. Mr. Aaberg said his firm was known and had worked with DOWL HKM on the Airport Road project. He stated that engineering firms stated at the public hearing he attended that the site had fallen through the crack. Councilmember Gaghen asked Mr. Aaberg if the three firms he referred to would have the capability of completing the whole project. Mr. Aaberg said the three firms he was talking about were archaeological firms. Councilmember Gaghen said she thought the archaeological component was not known when the project was bid. Mr. Aaberg said he was sure that project had to be amended to include that component.

Ms. Volek explained that she knew that at least one of the residents refused to allow the archaeological team on its property, which delayed the project two weeks. She said the project was at the point that any postponement would mean that the project could not go forward because the ARRA funds had to be expended by October 1, or the funds would be lost, and the City did not have the resources to complete the project itself.

Councilmember McFadden asked if there were public safety issues with the road.



Mr. Mumford explained that the road was undermined, but the biggest concern and time constraint was the short window with permits in the creek due to nesting of ducks, and if the window was missed, the construction would have to stop and the ARRA funds would be lost.

Mr. Aaberg asked if it was possible to review the contract, expenditures, and the process because he wondered why an out-of-state firm was doing the work. Ms. Volek advised that there was not a requirement in the City's purchasing policy that local firms had to be given preference.

Councilmember Pitman suggested that he, Councilmember Cimmino and Mr. Mumford meet with Mr. Aaberg.

- **Joe White, Billings, MT**, said he was not familiar with the specific project, but supported Mr. Aaberg's remarks.

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

Councilmember Pitman moved for approval of construction of W.O. 04-12, Phase 3, Alkali Creek Road Maintenance and Slope Reconstruction, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

6. **PUBLIC HEARING AND RESOLUTION #10-18928 ordering construction of improvements identified in W.O. 08-21, Lake Elmo Drive - Main Street to Wicks Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mr. Mumford reviewed the project that was initially started to find a safe way for kids to get to school. He explained that the project grew as needs were identified and it went beyond funding ability. He said it was determined available funding could construct a trail and sidewalks, but there was a parcel that would not have sidewalks because it was a county property and the resident would not sell what was needed for the sidewalk. He added that he hoped it would be done in the future as the property could develop into the City. He said the road would be resurfaced, parking would remain along the street, and some drainage would be installed. He explained the swales that would be along the road to address drainage. He said the project was ready to go to bid and he hoped construction would be complete by the start of the next school year.

Councilmember Pitman advised that he had questions on behalf of residents. He asked who would maintain the trail. Mr. Mumford said the trail would be maintained by the Public Works Department. Councilmember Pitman asked for an explanation of the swales process. Mr. Mumford provided an explanation of that concept of using grass to biofilter water and said they would be more common in the City in the future. Councilmember Pitman asked about assessments for future stormwater improvements. Mr. Mumford said residents would not be assessed for future drainage improvements.

The public hearing was opened.

- **Dale Davis, 3130 Myrtle**, said he had property on the lowest point of Lake Elmo, and one inch of rain resulted in 100,000 gallons of water there. He said adding curb and gutter would keep the water from dissipating and fixing one problem was creating another. He said Lake Elmo needed to be shut down for another five years until it could be done right. He suggested more study or engineering before moving forward on the project.
- **Lynn Schrader, 18 Heather Heights**, spoke about the poor condition of Lake Elmo

Road that was full of potholes and rough. He said he had wondered when the road would be done. He stated that the west end got taken care of and it was time that Lake Elmo was taken care of.

Mr. Mumford explained that the project was ready to bid and would be constructed during the summer.

- **Janet Croy, 142 Wyoming**, said she had run a business on Lake Elmo for the past 30 years. She said she was sold a bill of goods three years ago when easements were sold because she was told she would get storm drains, curb, gutter, sidewalks, driving lanes and a resurfaced road. She said she recently found out that the project was moving forward and instead of what she was told she would have, there would be a trail, a gravel parkway, and a concrete apron on the side of the pavement. She said she thought something was going to be done after waiting 30 years, but was disappointed that she would still have a drainage problem that would keep her from making improvements on her property. She said she would like to have it in writing that there would not be future assessments for storm drains when they were ever put in. She stated she thought there should be a better way to do it. She noted that it was a very busy street and suggested that the project be waylaid longer so it could be done when it was right.
- **Bobbi Mead, 1509 Lake Elmo**, stated she was concerned with drainage. She said her property was between Sioux and Crow Lanes and water normally overflowed into her driveway and garage, and she did not see a point in doing it if that would not be fixed. She commented that she disagreed with a third lane because the traffic was already heavy and a third lane would make the traffic worse. She said she agreed the road needed to be improved, but it should wait unless it was going to be done properly.

Councilmember Clark asked Mr. Mumford about the third lane. Mr. Mumford explained that it was not a passing lane, but was a center turn lane and it would be illegal to use it as a passing lane.

Councilmember McCall asked Mr. Mumford to address the drainage issues mentioned. Mr. Mumford explained that Lake Elmo was a collector street, not an arterial, so the available funds were limited. He said a complete upgrade would mean that property owners would be assessed millions of dollars. He said the Heights had the worst drainage area of the City and areas where the drainage was so extensive that it resulted in property damage were being addressed first. He said the drainage could not be fixed with the funds available, but the proposed work should make it better. He added that the residents were correct that there were stormwater issues. Councilmember Pitman asked if trenches were being dug to alleviate some of the issues. Mr. Mumford explained that excavation of the soil should help, but drains were not being put in. He noted that the amount of rock in the soil caused problems also. He said they hoped the grass would help absorb the water.

Councilmember Cimmino asked who would maintain the swales. Mr. Mumford said the property owners would generally mow the grass because they were in front of the property, and the City would do other types of maintenance.

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

Councilmember Cimmino moved for approval of the resolution ordering construction of improvements identified in W.O. 08-21, Lake Elmo Drive - Main Street to Wicks Lane, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

7. **PUBLIC HEARING AND RESOLUTION** ordering construction of improvements identified in W.O. 09-02, 2009 Miscellaneous/Developer Related Project. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

Mr. Mumford requested a two-week postponement on the item to make necessary adjustments to some of the property assessments. Ms. Volek advised that a public hearing was advertised for the evening and Council could postpone the entire item, or could open the public hearing and continue it along with the action for two weeks.

The public hearing was opened. There were no speakers.

Councilmember Clark moved to postpone the action on the item for two weeks and to continue the public hearing at that time, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

8. **PUBLIC HEARING AND RESOLUTION** approving the sale of Lots 7 & 8, Block 53 Fosters Addition to Stockman Bank for \$220,000, with reversion conditions and a first right of refusal to purchase two lots from Stockman Bank in the future. Library Board and staff recommend approval. (**Action:** approval or disapproval of Library Board and staff recommendation.)

Library Director Bill Cochran reported that discussion was still in progress with Bill Coffee of Stockman Bank. He said Mr. Coffee was still working on the agreement and requested a two-week delay to continue working on it to make sure the language of the contract addressed the best interests of both Stockman Bank and the City. Mr. Cochran advised that he agreed with the request for the delay and suggested opening the public hearing and continuing and the action to April 26.

Councilmember McCall asked if two weeks was enough time for the Library Board to review the agreement. Mr. Cochran explained that the Board had reviewed the item twice and was comfortable with the draft agreement. He said the Board agreed it was up to staff and Council to make the final decision, especially since further revisions would be improvements of what had already been presented. Mayor Hanel asked if the current revisions were received too late for proper review. Mr. Cochran said that was correct and because it was complicated, adequate review was necessary.

Councilmember Gaghen stated that she felt there was value in having two individuals, namely Charles Hamwey and Al Swanson, review the agreement and assess it differently. Ms. Volek advised that staff did not have any objection. She pointed out that Stockman Bank was under some time constraint.

The public hearing was opened.

- **Joe White, Billings, MT**, said he supported the delay in the hearing. He said there had been discussion about what to do with that corner previously. *The remainder of Mr. White's testimony was inaudible.*

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

Councilmember McCall moved to extend action for Item 8 for two weeks and to continue the public hearing, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.

9. **RECONSIDERATION OF BID AWARD: Two (2) Quick Response Vehicles (QRV) for Fire Department.** (Opened 2/23/10). (Failed on roll call vote 3/8/10). (Approved for reconsideration 3/22/10). Staff recommends Unruh Fire Equipment for Base Bid #2,

\$232,400.00, picked up at the factory, and options #1 and #6, for a total bid award of \$233,906.00. (Action: approval or disapproval of staff recommendation.)

Fire Chief Paul Dextras thanked Council for the opportunity to revisit the quick response vehicle concept. He said a lot of information had been provided to Council over the past few weeks, and some of it was misleading, some with good intent, and some with malice. He stated that the vehicles were not overweight, were not unsafe, it was a nationally-recognized and long-standing concept, and did not jeopardize the public. Chief Dextras advised that the payment for the lawsuit that was filed by the union prior to his arrival was paid from the Fire Department budget and had a huge impact on it. He said the annual payments of about \$475,000 would go through 2017, and the previous chief determined that in order to make those payments, staffing had to be modified, which left a truck company unstaffed about 86 times per year.

Chief Dextras reported that approximately one year ago, he presented the concept of cross-staffing the ladder truck with Engine One, to allow that truck to be in service every day of the year. He said there were six other fire engines that could respond to a fire. Chief Dextras stated that he had never advocated the use of quick response vehicles as a principal apparatus that would be used to fight fires, and he stood by the idea of two full-sized fire engines in each fire station. He suggested considering his experience with the QRV concept and stated they were easier to operate in traffic and met safety standards. He said it was frustrating that the Council was provided incorrect information related to big decisions it had to make. He referred to the information that ISO ratings would be diminished if the QRVs were implemented and said he received a letter from ISO that confirmed the ratings would not be impacted if the QRVs were used as proposed. He said two key stations were identified for QRVs, and those stations primarily responded to calls that had nothing to do with fires. He pointed out that regardless of what vehicle responded to a call for something like a broken arm, the firefighters did not leave that incident to respond to a structure fire because there were four other engines that could. He noted that the QRV could hold up to 300 gallons of water, could charge pre-connect hose lines, and could be used for grass or vehicles fires, but its principal responsibility was not structure fires.

Chief Dextras explained that a majority of the firefighter shifts was spent in the fire station. He explained that in his cross-staffing experience, he knew it did not take minutes to transfer gear from one vehicle to the other. He said the concept was financially feasible, was safe, and made good sense.

Chief Dextras referred to the previous discussion about the money. He advised that the funds were in the Equipment Replacement Program and no funds were taken from the Public Safety Fund or the General Fund. He said the vehicles lasted approximately ten years, and when replaced, only the cab and chassis were typically replaced for a significant lower cost. He added, that when full-sized fire engines were replaced, the whole vehicle had to be replaced at a price of approximately \$400,000. He said the QRV concept worked in Montana and across the nation and made sense. He pointed out that Billings Firefighters worked the most very lucrative schedule of anyone in the nation, and on every shift, at least one-third of the department was off-duty. He said the department was not short of people, the work schedule did not maximize the people it had. He said that if sometime in the future the department transitioned that or was able to hire more people, he would advocate for a separate crew on the QRV. He said that since he did not have that luxury, he would try to do the best he could by maximizing the number of people he had and benchmark it with the service to the community while on a limited budget. He asked the council for its support and trust in him, and to allow him to purchase the QRVs. He said he believed Billings was an ideal community for that concept.

Mayor Hanel stated that there was no question of the quality of the Billings Fire Department, and stressed it was a top-notch fire department. He stated he respected the testimony from the administration and the firefighters, and asked the Council that the majority

was supported regardless of the final vote.

Councilmember Ulledalen moved for approval of Item 9, seconded by Councilmember Gaghen.

Councilmember McFadden stated he felt it was not a lot of truck for the buck and the money could be spent on other equipment. He said he would like to see more high-rise equipment.

Councilmember Cimmino asked City Attorney Brent Brooks about his statement that the prevailing side could put an item back on the agenda and how he could determine the prevailing side on the previous 5-5 vote. Mr. Brooks explained that according to Roberts Rules of Order, the prevailing side was the side that voted against the motion. He noted that according to the Council's rules and Roberts Rules of Order, it was done properly.

Councilmember Cimmino moved to appoint an ad-hoc committee to review the item and to delay action on the bid award for 30-60 days to determine if that was the necessary purchase for the Fire Department during the current fiscal year, seconded by Councilmember McFadden. Ms. Volek asked for clarification of the type of committee. Councilmember Cimmino stated she believed it would be a combination of all parties. Councilmember Ulledalen asked why the Council would not make the decision because he felt it was ready to vote on it. Mr. Brooks explained how an ad-hoc committee was formed and said a resolution would have to be brought back to the Council. Councilmember Gaghen pointed out that the bid process would have to start over if the bid award was delayed further. On a voice vote, the motion failed 2-6. Councilmembers Ronquillo, Gaghen, Pitman, McCall, Ulledalen and Clark voted 'No.'

Councilmember McCall stated that she initially voted against the proposal based on the lack of adequate information to make a decision. She said she had more than enough information to make a decision, and even though she respected the job the firefighters did, she could not justify the issue of needing additional staff to make the concept work, when at the same time, they had a grievance against administration to allow additional personal activities while on duty. She said that based on that discrepancy in their testimony and thoughts, she would vote for it.

On a voice vote, the motion was approved 7-2. Councilmembers Cimmino and McFadden voted 'No.'

**PUBLIC COMMENT** on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Please sign up on the clipboard located at the back of the Council Chambers.*)

- **Sandra Wulff, 2942 Old Hardin Road**, asked about procedures to address violations of a contract with the City. She stated she felt the City's contract with Yellowstone Valley Animal Shelter had been violated because a person that had been accused of animal cruelty had been allowed on the premises. She distributed a copy of the appendix of the contract with Yellowstone Valley Animal Shelter with the language in question.

Mr. Brooks explained that he would have to review the language of the contract and the related documentation of the breach of it. Ms. Wulff said she attempted to contact Ms. Volek prior to the meeting but was unable to do so. She reviewed documents she had that supported her claim of the violation. She pointed out that one person involved had been a part of the contract negotiations. Ms. Volek stated that the person was not at the contract negotiations. Mayor Hanel suggested that Ms. Wulff provide a brief explanation, and then the City's legal counsel would have to review it. Ms. Wulff stated she found it upsetting that the President of the YVAS brought the person onto the property when the contract was only six months old.

Mr. Brooks advised he would report back to Council after the information was

reviewed.

Councilmember McCall thanked Ms. Wulff for waiting so long for the public comment period.

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

## **COUNCIL INITIATIVES**

**Councilmember Gaghen** asked for Council's reaction to her suggestion of having people in the real estate business review the Stockman Bank transaction. Councilmember McCall stated she felt it was a good idea. Councilmember Ronquillo stated he agreed with Councilmember Gaghen. Mayor Hanel stated he did not disagree with the concept, but cautioned the City because someone's comments or advice involved a great deal of liability. He said he felt legal counsel was best suited to review the transaction. Councilmember Ulledalen stated he did not think those individuals were involved in the sale with Stockman. Councilmember Clark commented that it was a public document that anyone could review. Councilmember Gaghen said she would ask those individuals to review it. Mr. McCandless advised that the revised version would be posted as soon as possible after the meeting with Mr. Coffee later in the week. Councilmember Ulledalen commented that when the subcommittee met prior to the Stockman deal, there was real worry that the real estate market was topping and the deal being considered at that time was very vulnerable. He said he was glad the previous deal was not made and he did not think a better deal would come along in the near future, so he wanted this sale to go through.

**Councilmember McFadden** advised he wanted to direct staff to explore the possibility and expense of installing GPS systems on fire trucks. Ms. Volek explained that the Fire Department had already submitted that item as a supplemental budget request, but she was not recommending it because the firemen used fire books. She said detailed information on all the supplemental budget requests would be provided to Council soon.

**Councilmember Pitman** moved to direct staff and the Fire Chief to look into the tiered response system and report back to Council as soon as possible, seconded by Councilmember Cimmino. Councilmember Ulledalen asked if that was something that should be tasked back to the EMS Commission. Chief Dextras stated it was something that could be brought to the attention of the EMS Commission, but it was actually an internal process. He explained the software program that was in place. He said he would prefer that all calls were responded to because they never knew what could happen on the call, and he believed the community expected the Fire Department to respond to all calls. Councilmember Ulledalen suggested an educational program for the public to know which entity to call when it might not be a 911 emergency. Chief Dextras said they did the best job possible to screen the calls to determine emergent or non-emergent calls, and agreed it was a good idea to provide education to the public. He said he knew there were programs in other cities that used a different number for non-emergency calls. Councilmember Pitman said he would like some clarity and suggested a presentation at a work session. On a voice vote, the motion was unanimously approved. Councilmember Clark commented that the 911 dispatchers did a good job.

**ADJOURN** -- The meeting adjourned at 11:18 p.m.