

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 13, 2006

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 and served as the meeting's presiding officer. The Pledge of Allegiance was led by the Mayor, followed by the Invocation given by the Mayor.

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Stevens, Brewster, Ruegamer, Ulledalen, Boyer, Jones and Clark. Councilmember Veis was excused.

MINUTES – **February 13, 2006.** Approved as printed.
February 27, 2006. Approved as printed.

COURTESIES – NONE

PROCLAMATIONS

- Week of March 12th through March 18th – Sunshine Week

ADMINISTRATOR REPORTS – Tina Volek

- Interim City Administrator Tina Volek noted the revised items that were in the Council Friday packet: 1) Item 1A contained the list of names of the individuals being considered for appointment to the Library Board, 2) a revised map for Item D – the petition to vacate portions of Falcon Ridge Subdivision, 1st filing, 3) a copy of a proposed late addition of a change order with JTL Group, Inc. for South Billings Boulevard construction project. She said work had to conclude last winter because the utility companies were not available to relocate their facilities causing JTL Group, Inc. to delay completion of the job. She noted that Staff has negotiated with JTL Group to reduce the charges and an agreement has been reached for \$96,000.00. This will allow remobilization on the site to complete the work prior to water release into Suburban Ditch. She asked the Council to add the change order to the agenda this evening and consider it for approval.
- Ms. Volek said the ordinance relating to Item H for the part-time assistant Municipal Court judge was placed on the Councilmember's desk. This version includes the marked up changes, with deletions crossed out and additions underlined.
- She noted that the agenda review meeting for the March 27th agenda will be held in the City Hall Conference Room on March 14, 2006 at 5:30 P.M.

LATE ADDITION: Councilmember Clark moved to add Change Order #4, JTL Group, Inc., \$96,000.00 and 120 days to the agenda, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved. This was added as Item #3.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 & 3 ONLY.

Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. 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.)

There were no speakers.

CONSENT AGENDA:

1. A. Mayor’s Appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Dan Carter	Library Board	3/13/06	12/31/09
2	Lyn McKinney	Library Board	3/13/06	12/31/09
3.	Tony Hines	Library Board	3/13/06	12/31/09

New positions

B. Bid Awards:

(1) **W.O. 03-23: Turn Lane Construction for Yellowstone River Road and Hawthorne Lane.** (Opened 2/28/06). Recommend delaying to 3/27/06.

(2) **SID 1372 – Summerhill Subdivision.** (Opened 2/28/06). Recommend delaying to 3/27/06.

(3) **Water and Wastewater Treatment Plant Chemicals - Chlorine.** (Opened 2/28/06). Recommend DPC Industries, 1 year contract with up to three 1-year renewals, \$80,605.00.

(4) **(AIP) 30 – Commercial Ramp Improvements.** (Opened 2/14/06). (Delayed from 2/27/06). Recommend declaring COP Construction bid non-responsive and awarding to JTL Group, Inc., \$2,421,505.65.

C. Approval of 2006 Cobb Field Stadium Turn Key Agreement between City of Billings and the Billings Mustangs, American Legion Baseball Program and MSU-B Men’s Varsity Baseball Program, term: one year, \$27,144.00 revenue annually.

D. Acknowledge receipt of petition to vacate portions of Falcon Ridge Subdivision, 1st filing and right-of-way and setting a public hearing date for 4/10/06.

E. Acknowledge receipt of petition to annex #06-03: Tracts 1 & 2, C/S 3139, Tract 1, C/S 2379, two unplatted parcels located on the west side of 56th Street West, south of Grand Avenue, Douglas D. and Deborah Frank, Ronald E. Frank, petitioners, and setting a public hearing for 4/10/06.

F. Resolution of Intent 06-18396 to create Park Maintenance District #4031, Copper Ridge Subdivision and setting a public hearing for 4/10/06.

G. Second/final reading ordinance 06-5360 to expand Ward IV boundaries to include recently annexed property described as 63.543 gross acres including 5.502 acres of adjacent rights-of-way of 60th and 62nd Streets West and Rimrock Road, described as the west half of Lots 5 and 28 and all of Lots 6, 26, 27, 38 and 40 of Sunnycove Fruit Farms, Thomas Romine and Paul Hoyer, petitioners. (Annex #06-01)

H. Second/final reading ordinance 06-5361 providing that the BMCC be amended by revising Article 10-200: Judge allowing an elected municipal court judge, with the approval of the governing body of the city, to appoint a part-time assistant judge as allowed under state law.

I. Preliminary Plat of Greer Subdivision, Tract 1A1, C/S 1012 Amended, generally located on the southwest corner of Lake Elmo Road and the Hilltop Road ramp, Robert Greer, owner, Engineering, Inc., agent, conditional approval of the plat and adoption of the findings of facts.

J. Final Plat of Legacy Subdivision.

K. Final Plat of Riverfront Pointe Subdivision.

L. Bills and Payroll.

(1) February 10, 2006

(2) February 17, 2006

(Action: approval or disapproval of Consent Agenda.)

There were no separations. Councilmember Ulledalen asked for an explanation of Item D – petition to vacate portions of Falcon Ridge Subdivision, 1st filing. Public Works Director Dave Mumford said this item concerns a change in the original plat. With the new location this vacation is required to “make them match.”

Councilmember Stevens moved for approval of the Consent Agenda, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE providing that the BMCC Section 24-411 be amended to limit RV parking on commercial lots. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

The public hearing was opened. KENNETH BROWN, 2036 WYNDHAM PARK DRIVE, said he does not currently own an RV. During the times that he did own an RV, he traveled in a number of different cities where most all of those cities welcomed him at all RV parks and WalMarts. He said he would shop in those cities during his stay. If he was not allowed to stay at a shopping center, he would move on to another city. Mr. Brown said it is a big mistake not to allow overnight parking in the city. He feels individual abuses can be dealt with by the stores.

RON BROWN, 4 N. CRESTWOOD, said Kenneth Brown is his brother and he agrees with his statements. He bought an RV last year and has stopped both at WalMart and other campgrounds. In a recent trip to California he saw many instances of RVs using parking lots as a camping facility. He said the people spend money in the towns where they are camping. He noted there are emergencies that arise that may require a stop at a WalMart parking lot. Mr. Brown said the City is missing out on a lot of money by not allowing people to park overnight. He added that he is not sure that 6 hours is enough of a rest period.

PETE HANSEN, 1435 WICKS LANE, said he does not believe in half measures. A 6-hour rest period is not going to do anything but make the RV community angrier. He said either "let them stay 8 hours or 12 hours or not at all." Campground owners don't expect an RVer that arrives at 10:00 PM to leave at 6:00 AM. He said it is better to have an ordinance that is reasonable and enforceable.

MICHELE JOHNSON, 2705 BLUE CREEK ROAD, said the 6-hour limit is not long enough. She suggested a 24-hour time limit is more reasonable. She said WalMart is capable of deciding how they want their parking lots utilized.

CLARENCE BROWN, 914 MOSSMAN, said this RV parking issue is quite upsetting to him. He said it is ridiculous to think that someone will stop in Billings for 6 hours and leave in the middle of the night. He said the entire law barring overnight parking is a bad law and should be rescinded. Parking lot owners should be able to say how their lots should be utilized. Mr. Brown said the City is "missing the boat" and should put up a big sign welcoming RVers stating "we want your money." The City should be grateful that RVers park here because tourism is a big part of Montana.

DAVE BROWN, 544 WIGWAM TRAIL, said the RV overnight parking situation is upsetting. He said Billings has been known as a friendly, welcoming community. Now the City is "setting the WalMart store up as a police department over those people who camp in their lot." He said it is not right. Mr. Brown said RVers are avoiding our area and will eventually drive KOA and other campgrounds out of business because people are not going to come here to stay. They don't feel welcome. He said he believes WalMart can take care of its parking issues.

JOE WHITE, 926 N. 30TH STREET, said he hasn't seen the proposed ordinance but agrees with everything that has been said. He said the 6-hour rest period is too short. He said he does not support parking in grocery store lots. He noted that he has parked in several commercial lots and always gets permission from the owner before doing so. He added that he always leaves early. Mr. White suggested that the City consider allocating a lot for RV parking to accommodate tourists.

TOM ZURBUCHEN, 1747 WICKS LANE, said he agrees that this ordinance is not enforceable. He said the Council hasn't taken into consideration the Federal Highway Safety Commission's studies of truck drivers' rules on hours and off-duty time. In their studies a 6-hour sleep break was never considered adequate. An 8-hour break that used to be allowed is no longer allowed. The regulation now includes a 14-hour work day with a 10-hour off-duty rest period. Mr. Zurbuchen said a 6-hour break is forcing people to drive when they are tired. He expressed concern for the possible liability to the City if a driver struck and killed someone after being forced to drive after a 6-hour rest period. He said the City should have an ordinance that works.

DAVID BOVEE, 424 LEWIS, said he agrees that some kind of ordinance is needed. He said this is not a WalMart issue but applies to the entire City. It is not right that people who pay \$50,000 to \$500,000 for a recreational vehicle can come into Billings and have a "free ride". He agrees that the RVers should share in the costs of the City's infrastructure by paying the "bed" tax via the campgrounds because they are receiving the benefits of those facilities during their stay. He also does not want to see anyone allowed to live in their vehicles anywhere in town. This is why the ordinance is needed. Mr. Bovee agreed that a 6-hour rest period is not long enough and would suggest a 10 or 12-hour rest period.

KAREN SANFORD-GALL, 3110 E. MCDONALD, said she was a member of the Ad Hoc RV Task Force. Most of what she has heard this evening is what the committee members struggled with. The committee was well represented with folks from the RV campgrounds, WalMart, Chamber of Commerce, developers and RVers. She said the "Parking for Camping Purposes" ordinance has been in effect since 1967 and the committee was looking at how this ordinance could be revised to work for the community.

There are two points she wanted to emphasize: 1) there are people living in their vehicles in parking lots that are "scary folks", and 2) RVers want a rest period rather than "a camping experience" which is what they look for at campgrounds. Defining a rest period is difficult. She said this is not just a WalMart issue. If the City were to allow "free rein" - parking wherever, this would be a far less welcoming community. This policy would require every private parking facility to post signs stating "no overnight parking - no trespassing". This is far less welcoming.

Ms. Sanford-Gall said the ordinance is complaint driven and will remain that way. She said she worked with the Chamber of Commerce to develop a welcoming letter that would be distributed to RVers. In the case of WalMart, the security guard would knock on the RV at 8:00 PM and present them with a packet that contains coupons, maps directing them to licensed campgrounds, "goody-bag" items and a "welcome to the community" letter advising of the ordinance regulations and the allowed rest period. Offering a discount for parking at the campgrounds was another suggested insert. She said the City wants RVers to stop, shop and feel welcome in the community while still taking into account the needs and concerns of the businesses in the community. She added that Rimrock Mall currently does not allow overnight camping.

Councilmember Ruegamer asked how the committee arrived at the 6-hour timeframe for a rest period. Ms. Sanford-Gall said it was not arrived at scientifically, but from hearing what the RVers considered was a rest period. She said there is flexibility, but the committee also wanted to honor the concerns of the commercial parking lot owners who desire to see a "turn-over" in their lots.

Councilmember Jones asked what the public safety concerns of the committee were. Ms. Sanford-Gall said the committee addressed the wastewater dumping issue. She said a campground has licensed dumping facilities. The concern of the committee was that RVers whose lifestyle is moving from parking lot to parking lot will need to access a proper dumping facility that is safe for the community. Campgrounds also are a safer place to park, whereas parking in a commercial parking lot could present liability issues. Councilmember Stevens asked if it has been found that RVers are dumping in parking lots. Ms. Sanford-Gall said the dumping has not occurred in parking lots but it has occurred in other areas or down the storm drain which runs into the Yellowstone River.

MIKE GAST, 953 NEPTUNE BLVD., said he was a member of the RV committee and is the Director of Communications for KOA, Inc. He said KOA has 450 campgrounds around the United States and Canada, hosting 8 million campers a year. He said KOA wants to see campers travel safely. Mr. Gast said the RVers that simply want a rest period are not KOA's customers and they would want them to receive that rest period. The longer term campers are the ones that would be utilizing campground facilities. He felt the committee has true consensus building and came to agreement for the 6-hour limit being a good starting point. He said KOA provides a camping experience and RVers parking at WalMart are not campers but are there to rest and shop. Mr. Gast said he did not know at what point one would consider an RVer changing from a short-term rest period user to a long-term camper, but suggested that when they use the parking lot as a base of operations, the use changes. He noted that Cody, WY currently is experiencing the same problems with WalMart "campers" who use that lot as a base of operations while visiting Yellowstone National Park.

Councilmember Ruegamer asked if KOA is open year round and what the lowest fee would be. Mr. Gast said KOA is not open year round and limited services (electric only) would be \$24.00. Councilmember Ruegamer asked if KOA actively markets to RVers that are parking at WalMart. Mr. Gast replied "no, that is not its customer." Mayor Tussing asked how many cities where KOA is located have an RV ordinance similar to this proposal. Mr. Gast said there 10 to 12 cities that have active parking issues ongoing.

MIKE GRAY, 4343 IRONHORSE TRAIL, said he is the manager of the WalMart in the Heights and also served on the Ad Hoc committee. He said he is in a difficult position as a businessman and a resident of the City. He said the City currently has an ordinance that does not work. The committee's goal was to find something that did work and a good compromise for all concerned. As a businessman, he wants every customer he can get and allowing a safe haven type of rest period was the compromise that was formulated. He said the time limit is not "set in stone." Mr. Gray said the Heights WalMart has room in their lot for quite a few RVs, but in several years and with continued growth that will not be the case. He noted that WalMarts in several cities in Colorado have limits on RV parking. He said he believes the policy is "if there is room, RVers are welcome."

Councilmember Boyer asked if there has been an increase in RV parking in his lot in the last two years. Mr. Gray said he has seen an increase and if the trend continues he believes it will be an issue at the Heights WalMart in time. He believes it currently is a problem at the West End WalMart. Councilmember Ruegamer asked why WalMart does not take the initiative to "do something about it." Mr. Gray said WalMart's policy is to follow the law, if there is no law WalMart would proceed to take care of the problem. Mayor Tussing asked if Mr. Gray would be personally opposed to extending the rest time limit. Mr. Gray said he would not.

There were no other speakers. The public hearing was closed. Councilmember Boyer moved that overnight parking or camping in private parking lots within the City limits of Billings is prohibited, however, a rest period of no more than six (6) hours shall be allowed, providing it is permitted by the owners of the parking lot. The rest period shall consist of six (6) consecutive (amending the language from contiguous) hours, after which time the vehicle must be removed from the parking lot, seconded by Councilmember Gaghen. Councilmember Jones said he does not believe 6 hours is safe, hearing from several people that the safety issue is getting enough sleep. He said this is

too restrictive and the current law gives WalMart the authority to police its parking lot. He said the City does not need to be the enforcer for this problem.

Councilmember Brewster amended the motion to change the rest period from 6 hours to 10 hours, seconded by Councilmember Jones. Councilmember Boyer said she would support the amendment. Councilmember Clark said setting actual times for the rest period would make the law easier to enforce. On a voice vote, the amendment was unanimously approved.

Councilmember Jones said he would like to see language added to the ordinance that allows the Council to waive the time restriction in the case of a special or public event. Ms. Volek noted that there is a condition in the zoning ordinance that allows the temporary suspension of zoning requirements for special events. Interim Planning Director Candi Beaudry confirmed there is an ordinance that allows the City to waive the zoning requirements for special events. Ms. Beaudry said the proposed ordinance however, would fall under the category of a site development ordinance and there is nothing in the code specific to the ability to waive site development requirements. She added that zoning only controls the use that allows overnight parking such as state licensed recreational vehicle parks. This ordinance would apply to all commercially zoned districts that allow commercial parking.

Assistant City Attorney Bonnie Sutherland said the Council could consider a temporary ordinance to waive parking requirements for special events, but including special exception by resolution language in the proposed ordinance would allow the Council to more effectively manage parking issues for special events. Councilmember Boyer asked about the covenants of the development at the West End WalMart that restrict overnight parking. Ms. Volek said businesses in a commercial zone can apply for a license to allow self-contained vehicles to park overnight in their lots. The West End WalMart has covenants attached to the property that are not City created or enforced. Ms. Beaudry said the covenants are enforced by the property owners and are stricter than the zoning.

Councilmember Brewster amended the motion to direct staff to draft language in the ordinance on second reading that allows for changes in the ordinance by resolution for special events, seconded by Councilmember Clark. On a voice vote, the amendment was unanimously approved. On a voice vote on the motion as amended, the motion was approved with Councilmember Jones voting “no”.

**3. LATE ADDITION:
APPROVAL OF W.O. 04-11: CHANGE ORDER #4 – compensation for construction delays on South Billings Boulevard, JTL Group, Inc., \$96,000.00 and 120 days. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

Public Works Director Dave Mumford said the change order was due to delays caused by the utility companies and moving a trailer at the north end of the project. The costs are for mobilization of sub and prime contractors, traffic and dust control, and additional supervisory issues. After negotiations, JTL Group was willing to reduce the original charges by 40%. Councilmember Boyer asked if the utilities could share in the responsibility for this change order. Mr. Mumford replied “no”, because there are no franchise agreements in place with the utilities. Councilmember Ulledalen moved for

approval of Change Order #4, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

3. **4. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**
(Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker.)

- DAVE BROWN, 544 WIGWAM TRAIL, asked for an update of his initiative relating to the proposal presented at the November 28th Council meeting by Clayton Fiscus for procedures regarding development of language for future public safety mill levies. Ms. Volek said a draft proposal was on her desk.
- SARAH GRAU, 2619 WOODY DRIVE, asked that the Council complete the investigation of the Billings Police Foundation. She said the BPF is not interested in providing records unless there is a formal request from the Council. She asked the Council to support the process as she does not think all of the assets have been discovered. Ms. Grau also noted the audit did not take the balance sheet approach that she suggested. She said the BPF was not included in the audit process and it is fair to assume that the City does not exercise any fiscal oversight into the BPF's activities. This concerns her because the BPF has been fundraising on behalf of the City. She quoted from the Animal Shelter Volunteer Manual that relates to financial resources and the legal and political ramifications of donations. She also quoted from a response to Councilmember Steven's request for financial records from the BPF that states "we do not have the time or energy to get involved in disputes between the Animal Shelter volunteers and the City of Billings." She said she does not agree with that characterization and asked the Council to complete the investigation that has only just started. She added that any entity that is going to fundraise for the City must have oversight by the City. Ms. Grau asked the City to formalize those relationships.
- PETE HANSEN, 1435 WICKS LANE, said he thinks the sound system in the Council Chambers is inadequate. He said modern technology should be employed to allow someone sitting in the back of the chambers to hear Council deliberations. He also expressed concern about the relationship between the Billings Police Foundation and the Animal Shelter. He said several members of the community are not satisfied with the results of the audit and the investigation into the relationship. Mr. Hansen said these issues need to be resolved to the satisfaction of the concerned taxpayers.
- DAVID BOVEE, 424 LEWIS, spoke about Tax Increment Financing (TIF). He expressed concerns for City plans regarding the "huge" area between "here and MetraPark" which is being considered for a new TIF district. He claimed this area will be absolved from paying property tax "forever". He said the Council operates on information that the public does not have access to especially when it comes to economic development. He asked "where is the economic development", noting, "I haven't seen it." He said 99.8% of the community does not get a benefit from tax increment financing. Mr. Bovee said he would like to see information that says who got the tax increment financing, where the money has gone for thirty years and what the money was spent on. Councilmember Ruegamer said he would answer some of Mr. Bovee's questions, but stated Mr. Bovee does not appear to

understand how a tax increment district works. He said that Mr. Bovee is doing a disservice to the audience and home viewers of the Council meetings by misleading them. Councilmember Ruegamer said the property taxes are not “cut out”, they are “frozen” at their current level but continue to be paid to the state for distribution to local government. The increase in property taxes goes directly to the City for redevelopment of the district. He said recent improvements that used tax increment dollars include the Stapleton Building, the Securities Building, the Lincoln Center, and the DA Davidson Building. After improvements are made, property taxes are increased because of the increased value of the property. When the tax increment district “goes away”, or sunsets, the increased taxes will go to the state where the City will realize about 21% of the taxes. Councilmember Gaghen also noted that Montana Avenue is another area that has benefited from tax increment funding. Mr. Bovee said there is still no comprehensive listing of the recipients of the tax increment funding. Councilmember Boyer said the Downtown Billings Partnership website contains many links that gives information. She added that if the downtown core district is left to deteriorate, “you as the City taxpayer will be paying more taxes to subsidize what is not being paid by the buildings that are run down.” This is what the City has stopped by tax increment funding and now there is a revitalized downtown. Councilmember Ruegamer added that the reason Bresnan Communications decided to locate their operation in Billings was because of the vibrant downtown and that downtown “happened” because of tax increment financing. People are not going to invest in an area when the downtown is blighted. Councilmember Stevens noted that the current Downtown Tax Increment District will end in March of 2008, and noted there is a state law that does not allow tax increment districts to go beyond twenty years.

- MICHELE JOHNSON, 2705 BLUE CREEK ROAD, said she would like to see more information from the Animal Shelter/Billings Police Foundation audit. She would like to see the Animal Shelter privatized. To a City employee this is just a job, but to a private owner it is a passion to work with the animals. She also said the Animal Shelter has hours that are not convenient to the public and the animal care is minimal. County residents are not allowed to use the Animal Shelter now. Councilmember Boyer noted the County decided not to contract with the City to use the Animal Shelter services. Councilmember Stevens asked about the status of the Council initiative about privatizing the Animal Shelter. Ms. Volek said one option has been investigated and Staff is currently in the process of writing a job description that will be advertised for a comprehensive study. Some models have been looked at, but it would still required the City to provide the public health and safety portion of the project, which is the animal control function that deals with animal health. It is anticipated that the study will take two months. Ms. Volek noted that the City has made an investment in the new Animal Shelter and there are ongoing costs associated with that fiduciary responsibility.
- MARY WESTWOOD, 2808 MONTANA AVENUE, said the citizens have a right to have answers to their questions about the Tax Increment Finance districts. She said a policy should be formulated on how it should be run. She said it took twenty years before the downtown property owners had any influence over the funds involved in the TIF district in the downtown. She also stated that some TIF funds

were spent on public projects which do not increase the tax base. Her requests for what tax increment funds have been spent on have gone unanswered. She also expressed concerns about large grants and tax incentives that will not pay any monies back into the tax increment district until it sunsets. Ms. Westwood suggested that site-specific tax increment districts would be a better and cleaner approach.

- KELLY SONDEÑO, FROMBERG, MT, said the Billings Police Foundation funding should be more fully addressed. She said that she worked through PetSmart Charities to obtain approximately \$10,000 in donations for the Animal Shelter that was to be used to help the animals. She said she wanted the money spent on medications. This was a verbal agreement that Mr. Klein agreed to. He also agreed to assisting with donations of food to her animal care shelter (Safe Harbor). This money was not used for this purpose and the agreement was not honored. She also expressed concerns about the results of the audit and how the money at the shelter has been spent.
- MARISSA GODOY, BOX 1484, RED LODGE, MT, asked the Animal Shelter to honor its agreement with Safe Harbor to provide dog and cat food, medical supplies and general support within reason. One of the reasons Safe Harbor is in such dire straits is because the Animal Shelter has not honored its original agreement. She also asked why the Animal Shelter is not staffed with personnel that are educated in animal care. As a taxpayer she is requesting the Animal Shelter honor its original agreement with Safe Harbor.

Mayor Tussing called for a recess at 8:30 P.M.

Mayor Tussing reconvened the meeting at 8:37 P.M.

COUNCIL INITIATIVES

COUNCILMEMBER BREWSTER: Councilmember Brewster moved to direct staff to add to a future agenda a discussion item regarding interest of the City of Billings annexing Lockwood, seconded by Councilmember Ruegamer. Councilmember Brewster said Lockwood is in its planning stages and it is important to the planning process to know the City's interest in annexation. If the City states it is not interested in annexing Lockwood, then it can incorporate. On a voice vote, the motion was approved with Mayor Tussing voting "no".

COUNCILMEMBER RUEGAMER: Councilmember Ruegamer asked if there is work being done on the Council Chamber's sound system. Ms. Volek noted that two years ago several thousand dollars were expended to fix problems with the system. City Clerk Marita Herold is currently working with a sound technician who is spending time with Channel 7 listening to how the transmission is going. He also spent time early today in the chambers doing sound checks and investigation into the wiring system. Part of the problem is the configuration of the room and the ceiling elevation that was created specifically for a court system to concentrate the sound to the forward portion of the chambers. Councilmember Boyer said another venue had been proposed and maybe another facility is more appropriate. Ms. Volek said all of those suggestions have additional costs attached to

them. She said the Staff can investigate those costs and report back to the Council along with the options for improving the sound system.

COUNCILMEMBER ULLEDALEN: Councilmember Ulledalen moved to direct staff to contact the Mansfield Center to ascertain costs of the facility for use as a Council Chambers, seconded by Councilmember Brewster. Councilmember Ruegamer amended the motion to include investigating availability and costs of the MSU-B Downtown Facility in the old Masonic Temple, seconded by Councilmember Brewster. On a voice vote, the amendment was unanimously approved. On a voice vote, the motion as amended was unanimously approved.

COUNCILMEMBER JONES: Councilmember Jones said he would like to see Council Contingency used for improvements to the sound system and that Staff move forward as soon as possible. Ms. Volek said Council Contingency can only be used by action of the Council, so she would suggest that the Council take action after the report to this body is completed and presented.

COUNCILMEMBER ULLEDALEN: Councilmember Ulledalen said there is a situation in his ward relating to what the City just approved with the Big Ditch Trail. When the Shiloh Point Subdivision was platted, the developer was asked to leave a space between two lots to allow access from the subdivision to the Big Ditch Trail. When the Big Ditch Trail phase that was just approved was completed there was no provision for the connection, so there is a gap between the two lots that opens up to the irrigation ditch with the Big Ditch Trail on the other side of the ditch. What is necessary is to pave this down to the cul-de-sac and bridge the ditch to the trail. Rush Subdivision has the same situation on the other side of the ditch. He confirmed that the developer was asked to leave that space but there was no funding source to complete that project. He wanted to call attention to the "loose end" that should have been dealt with when the Big Ditch Trail was approved. Councilmember Jones asked if any cash-in-lieu of parkland could be used to complete this. Ms. Volek said she would have to investigate if park development funds can be used.

COUNCILMEMBER ULLEDALEN: Councilmember Ulledalen moved to request Billings Police Foundation (BPF) minutes be provided to the Council that address the relationship between the BPF and the Animal Shelter and relating to records of donations and expenditures, seconded by Councilmember Boyer. Councilmember Ruegamer said he will support the motion but does not want to spend any more money on this issue unless someone comes up with something of substance. Councilmember Ulledalen said he believes the request should only pertain to a "handfull" of minute items with minimal cost associated. He said the Council could then review the minutes and see what pertains to any discussions between the Police Foundation and the Animal Shelter as to how this relationship came about. Councilmember Stevens amended the motion to include that financial records (that were provided to the City as a basis for the audit) also be provided, seconded by Councilmember Ulledalen. Councilmember Stevens said she requested these records before the City received them for the audit and did not receive them. Mayor Tussing expressed concern about the chilling effect this will have on people who volunteer their time to help the City, that without specific evidence has spent \$10,000 on an official

audit, and is now asking for additional information with no plan for what will be done with the information once the Council receives it. Councilmember Stevens said this information should be available because it is public information; it does not matter what will be done with the information. Councilmember Boyer said she would like to know where the \$65,000 that “flew” into the Animal Shelter budget came from and why it was the first time the Council has seen this. Councilmember Stevens said she believes that Mayor Tussing should recuse himself from this discussion and voting on this issue because of his position on the Board of Directors for the Police Foundation. Mayor Tussing clarified that he has never been on the Board of Directors. Councilmember Stevens said that is not what the “990’s show.” She said it shows that he is affiliated with that group. Mayor Tussing said he was not a director, but was affiliated with the group during his term as Police Chief when he was a non-voting member of the board. Councilmember Brewster said he hopes this request will answer his questions at the December council meeting because he does not think the audit even approached answering those questions but was solely an issue of policy and intent. On a voice vote, the amendment was unanimously approved. On a voice vote, the motion as amended was unanimously approved.

ADJOURN – With all business complete, the Mayor adjourned the meeting at 8:59 P.M.

THE CITY OF BILLINGS:

By: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Susan Shuhler, Deputy City Clerk